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COMMISSION STAFF WORKING DOCUMENT

Methodology regarding the statistical evaluation of reported irregularities for 2015

Accompanying the document

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Protection of the European Union's financial interests - Fight against Fraud 2015 Annual Report

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TABLE OF CONTENTS

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1. **INTRODUCTION**

This commission staff working document accompanies the Annual Report from the Commission to the Parliament and the Council on the protection of the European Union's financial interests and the fight against fraud (further referred to it as 'Report'), adopted on the basis of article 325 of the Treaty on the Functioning of the European Union (TFEU).

This document describes the main information sources on which the Report is based, the legal framework which foresees the obligation to submit them to the Commission and the methodology followed regarding the statistical evaluation of irregularities reported as fraudulent and other irregularities, in the areas where Member States implement the EU budget (expenditures for natural resources, cohesion policy and pre-accession funds), regarding the collection of the EU's traditional own resources, as well as in the area of expenditure managed directly by the Commission.

EU legislation requires Member States to report to the Commission, on a quarterly basis, irregularities that have been detected in the areas of shared management and Traditional Own Resources[1].

Member States must inform the Commission whether the reported irregularities constitute suspicions of fraud (if they give rise to the initiation of administrative and/or judicial proceedings at national level in order to establish the presence of intentional behaviour, such as fraud) and must update the reported information in relation to the completion of the relevant proceedings for the imposition of sanctions.

Regarding expenditure managed directly by the Commission, it is the Commission services that have to qualify[2] the recoveries and whether they encountered errors, irregularities or suspected fraud.

In relation to recoveries, preventive and corrective measures for the protection of the EU's financial interests, the analysis presented in the Report is limited to the information published in the EU's annual accounts. For this reason it mainly concerns interruptions, suspensions and financial corrections by the Commission *vis-à-vis* Member States, although, it also presents information concerning recoveries made.

Data sources

There are three main data sources used for the analyses in the Report:

(1) Irregularities reported by Member States under a specific legal obligation. These are described in detail in paragraph 1.1 to 1.3. Irregularities related to expenditure areas of the budget are reported via an IT tool known as the Irregularity Management System (IMS), managed and maintained by OLAF. Irregularities concerning Traditional Own Resources (TOR) are reported via an IT system known as OWNRES and managed and maintained by DG BUDG.

(2) Recovery orders recorded in the Commission's Accrual Based Accounting System (ABAC). Authorising Officers by Delegation specify whether a given recovery order is linked to an irregularity, a case of potential fraud (defined as 'OLAF notified') or other.

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[1]   Provided they do not fall under the derogations specifically set out in the relevant provisions.
[2]   According to the relevant budgetary and financial rules, an irregularity constitutes any infringement of regulatory and/or contractual provisions; where an irregularity gives rise to suspicion of fraud, OLAF must be notified.

(3)   Annual Reports published by competent DGs in relation to expenditure and the Provisional Accounts of the EU published by DG BUDG, in particular in relation to preventive and corrective measures (interruptions and suspensions of payments, financial corrections and recoveries).

1.1.   The legal framework for irregularity reporting

European legislation provides for the protection of the Union's financial interests in all areas of activity[3]. The Financial Regulation[4] sets the principles and rules for the correct implementation of the budget. Member States are required to report to the European Commission (EC) evidence of fraud and other irregularities. This need is particularly evident in those sectors of the EU budget where the main responsibility for management is with the Member States, namely, in the field of Agriculture and Cohesion Policy (on the expenditure side) and Own Resources (on the revenue side). In these areas, Member States must inform the Commission about all irregularities involving more than EUR 10 000 of EU finances. This applies at all stages in the procedure for recovering monies unduly paid or not received.

Regulation No 1150/2000 specifies the requirement for the reporting of irregularities on the Traditional Own Resources. Furthermore, in 2015, the Commission adopted a package of four delegated and four implementing regulations on the reporting of irregularity provisions in the area of shared management for the MFF 2014-2020. The acts entered into force in November 2015. The objective is to improve the quality and consistency of the information on irregularities and fraud reported by the Member States while imposing a minimal administrative burden on the national authorities. In particular:

1. Commission Delegated Regulation (EU) 2015/1970 of 8 July 2015 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund[5].

2. Commission Delegated Regulation (EU) 2015/1971 of 8 July 2015 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European

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[3]   See in particular for traditional own resources: Article 6(5) of Council Regulation (EC, Euratom) No 1150/2000; for expenditure: Articles 3 and 5 of Council Regulation (EC) No 1848/2006 of 14 December 2006 (OJ L 355, 15.12.2006) for Agriculture; articles 3 and 5 of Commission Regulation (EC) No 1681/94 of 11 July 1994 (OJ L 178 of 12.7.1994), as amended by Regulation (EC) No 2035/2005 of 12 December 2005 (OJ L 328 of 15.12.2005) for the Structural Funds until the programming period 2000-2006 included; articles 3 and 5 of Regulation No 1831/94 of 26 July 1994 (OJ L 191, 27.7.1994), as amended by Regulation (EC) No 2168/2005 of 23 December 2005 (OJ L 345 of 28.12.2005) for the Cohesion Fund until the programming period 2000-2006 included; articles 28 and 30 of Commission Regulation (EC) No 1828/2006 of 8 December 2006 (OJ L 371, 27.12.2006) as amended by Commission Regulation (EC) No 846/2009 of 1 September 2009 (OJ L 250, 23.9.2009) for the Cohesion Policy 2007-2013; Articles 55 and 57 of Commission Regulation (EC) No 498/2007 of 26 March 2007 (OJ L 120, 10.5.2007) as amended by Commission Regulation (EC) No 1249/2010 (OJ L 341, 23.12.2010) for the European Fishery Fund (EFF).

[4]   Regulation No 2015/1929 amending the Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union

[5]   With respect to Cohesion Policy, Regulations Nos 1681/94 and 1831/94 for the programming periods until the 2000-2006 and Regulation No 1828/2006 for the period 2007-2013 and, Regulation No 498/2007 covering the European Fishery Fund (EFF) still apply for the previous programing period.

Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development and repealing Commission Regulation (EC) No 1848/2006[6].

3. Commission Delegated Regulation (EU) 2015/1972 of 8 July 2015 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the Fund for European Aid to the Most Deprived.

4. Commission Delegated Regulation (EU) 2015/1973 of 8 July 2015 supplementing Regulation (EU) 514/2014 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

5. Commission Delegated Regulation (EU) 2015/1974 of 8 July 2015 setting out the frequency and the format of the reporting of irregularities concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, under Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

6. Commission Delegated Regulation (EU) 2015/1975 of 8 July 2015 setting out the frequency and the format of the reporting of irregularities concerning the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development, under Regulation (EU) No 1306/2013 of the European Parliament and of the Council.

7. Commission Delegated Regulation (EU) 2015/1976 of 8 July 2015 setting out the frequency and the format of the reporting of irregularities concerning the Fund for European Aid to the Most Deprived, under Regulation (EU) No 223/2014 of the European Parliament and of the Council.

8. Commission Delegated Regulation (EU) 2015/1977 of 8 July 2015 setting out the frequency and the format of the reporting of irregularities concerning the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, under Regulation (EU) No 514/2014 of the European Parliament and of the Council.

However, the following Regulations continue to apply for the reporting of irregularities in respect of assistance granted under the legal framework of the previous programming period:

1. Regulation No 1848/2006 specifies for the agriculture sector.

2. For the Cohesion Policy, which runs over multi-annual programmes, the legal framework is more complex and is covered by Regulations Nos 1681/94[7] and 1831/94[8] for the programming periods until the 2000-2006 and by Regulation No 1828/2006[9] for the period 2007-2013

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[6] This repeals Regulation (EC) No 1848/2006. It shall, however, continue to apply for the reporting of irregularities in respect of assistance granted under Regulation (EC) No 1290/2005.

[7] Regulation 1681/94 applies to the Structural Funds; European Regional Development Fund (ERDF), European Social Fund (ESF), European Agriculture Guidance and Guarantee Fund (EAGGF) – Section Guidance and Financial Instrument for Fisheries Guidance (FIFG). It was amended by Regulation No. 2035/2005 of 12 December 2005

[8] Regulation 1831/94 applies to the Cohesion Fund. It was amended by Regulation No. 2168/2005 of 23 December 2005.

[9] Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European

3. Regulation No 498/2007 covers the European Fishery Fund (EFF).

The obligation to report irregularities in the area of pre-accession assistance is established in the Financing Agreements/Memoranda signed between the acceding countries, Candidate countries and the European Community/Union and for the programming period 2007-2013 is in accordance with the provisions of Commission Regulation (EC) 1681/1994[10] and 1828/2006[11] and for the programming period 2014-2020 is established in the Framework Agreements signed between the Candidate countries or potential Canditate countries and the European Union[12]. .

1.2. Expenditure – the reporting obligation and derogations

1.2.1. *The reporting obligation*

Member States shall report to the EC (OLAF) any irregularities which have been the subject of a primary administrative or judicial finding, within two months, following the end of each quarter. Therefore, the reporting period is divided in four quarters, the last of which has as deadline of the end of February of the following year[13].

The first communication of an irregularity is also known as 'Initial Communication'

The information to be submitted constitutes, among others:

(1)   The identification of the operation or budget line (for agriculture) affected by the irregularity;

(2)   The detection method and the *modus operandi*;

(3)   The financial impact of the irregularity;

(4)   The natural and legal persons having committed the irregularity.

Member States may give further information when updating the communication, which they do not dispose at the moment of the initial communication.

Updating communications provides relevant information about the administrative and judicial follow-up of the irregularities. In the areas of Cohesion and Pre-Accession information about the financial follow-up has to be provided for irregularities of previous programming periods (until 2000-2006 included)[14].

The reporting of irregularities happens by electronic means, using the modules provided by the EC (see chapter 4 of this document about the electronic reporting systems).

In certain sectors, namely Cohesion Policy and Pre-accession, financial information has to be expressed in Euro by countries which have not adopted it as their currency.

Regional Development Fund, OJ L 371, 27.12.2006. This repeals Regulations (EC) No 1681/94 and (EC) No 1831/94. Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund.

[10]   As amended by Regulation (EC) No 2035/2005.
[11]   As amended by Regulation (EC) No 846/2009.
[12]   Commission Decision C-2014-6014-1- ANNEX H.
[13]   For the Agriculture sector, however, the financial year, which is also taken as a reference for the analysis of reported irregularities, runs from October 15 to October 14 of the following year.
[14]   Regulation (EC) No 846/2009 has simplified the reporting obligation specified in Regulation (EC) No 1828/2006.

1.2.2.   *Derogations to the reporting obligation*

As a general rule, where irregularities concern amounts less than EUR 10 000 chargeable to the general budget of the EU, Member States shall not send the irregularity communication to the EC, unless the Commission expressly requests it.

Further specific derogations to the reporting obligation exist for Agriculture, Cohesion and Pre-accession policies. More concretely, cases should not be reported:

– where the irregularity consists solely of the failure to partially or totally execute a (co-)financed operation owing to the bankruptcy of the final beneficiary or the final recipient; however, irregularities preceding a bankruptcy and cases of suspected fraud must be reported

– if the case has already been brought to the attention of the administrative authority by the final beneficiary or the final recipient voluntarily and before detection by the relevant authority, whether before or after the payment of the public contribution

– where the administrative authority finds a mistake regarding the eligibility of the financed expenditure and corrects the mistake prior to payment of the public contribution.

1.3.   Revenue – Traditional Own Resources

Traditional own resources (TOR) mainly consist of customs duties that are charged on imports of products coming from a non-EU state and to a lesser extent on sugar levies. Member States are responsible for making traditional own resources available to the Commission within the deadlines set by Regulation No 1150/2000.

Established amounts of TOR, which are recovered or are guaranteed and not under appeal are to be made available via the A-account. Member States are authorised to retain a share of the collected amounts as collection costs, for the 2014-2020 period this share will amount to 20% as opposed to 25% during the 2007-2013 period. About 98 % of established TOR are recovered without any particular problem and, therefore, entered in the A-account and made available to the EU budget. This covers most of the 'normal' import flows where release for free circulation gives rise to a customs debt.

However, if TOR are established by a Member State but not yet recovered, and if no security has been provided or the secured amount has been disputed, Member States may enter these TOR amounts in the B-account. These amounts of TOR are not made available until they are actually recovered. Most irregularities – reported as fraudulent and as non-fraudulent - relate to B-account items.

Under Article 6(5) of Regulation No 1150/2000, Member States are required to communicate to the Commission, via the OWNRES system, irregular cases if the TOR amount exceeds EUR 10 000. The OWNRES database is an internet-based application and a key tool for obtaining data for analyses on cases reported as fraudulent and as non-fraudulent, and presents valuable information to the Budgetary Authority.

Reliable information must be entered in OWNRES regarding the number of cases reported as fraudulent and as non-fraudulent and their development. Member States have a responsibility to ensure that appropriate statistical information on fraudulent and non-fraudulent cases is provided to the Commission. Understandably, the Budgetary Authority has a particular interest in recovery.

1.3.1. *Monitoring of the establishment and recovery of TOR*

In its capacity as Authorising Officer responsible for executing the EU budget, the Commission (with DG Budget as the delegated Authorising Officer) monitors establishment and recovery of TOR by Member States in various ways. The monitoring is carried out in partnership with different Commission departments, including OLAF. The following three methods are used:

(1) Overall monitoring of recovery of TOR via the write-off procedure as provided for in Article 17(2) of Regulation No 1150/2000;

(2) Regular inspection in Member States of the establishment and recovery of TOR and B-account entries as provided for in Article 18 of Regulation No 1150/2000.

(3) Specific monitoring (in close cooperation with the European Anti-Fraud Office (OLAF), the Directorate-General for Taxation and Customs Union (TAXUD) and the Directorate-General for Agriculture and Rural Development (AGRI)) of Member States' follow-up of recovery in individual cases that have a significant financial impact and may involve Mutual Administrative Assistance and financial responsibility for administrative errors made.

1.3.1.1. Procedure for managing Member States' reports for write-off

Member States must take all requisite measures to ensure that established amounts of TOR are made available to the Commission. This requirement, stipulated in Article 17(1) of Regulation No 1150/2000, also implies that a Member State is only released from its obligation to make available TOR if it can prove that the debt is irrecoverable either:

(1) for reasons of force majeure; or

(2) for other reasons, which cannot be attributed to that Member State.

There are two ways of concluding that amounts of TOR have become irrecoverable. The first is when a Member State declares that they cannot be recovered — this declaration can be made at any time. However, TOR must be deemed irrecoverable by a Member State at the latest five years from the date on which the debt was established, or in the event of an administrative or judicial appeal, the date of the final decision, or the date of the last part-payment to the debt, whichever is the later. If Member States conclude that the non-recovery is attributable to them, the case is not communicated to the Commission via WOMIS[15], but the Member State compensates the loss of TOR via the A account or a separate payment. Cases considered not-attributable to administrative errors are communicated to the Commission, provided the amount written-off exceeds EUR 50.000. Then, the Commission checks whether the necessary conditions have been fulfilled in order to release the Member State from the obligation to make the TOR available. Amounts written-off below EUR 50.000 are at regular intervals checked via the Commission's on-the-spot inspections.

Member States submit their request to be released from the obligation to make the TOR available directly via an application called WOMIS.

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[15]   WOMIS: **W**rite-**O**ff **M**anagement and **I**nformation **S**ystem

1.3.2. Commission's inspection

The Commission regularly carries out inspections in Member States of the establishment and recovery of TOR and B-account entries, in accordance with Article 18 of Regulation No 1150/2000.

A report on the operation of the inspection arrangements for traditional own resources system is produced every three years and sent to the Budgetary Authority[16]. Also, the Commission services frequently draft thematic reports based on the outcome of Commission inspections which are regularly discussed with Member States.

1.3.3. Particular cases of Member State failure to recover TOR

If TOR are not established because of an administrative error by a Member State, the Commission applies the principle of financial liability[17]. The main objective of these procedures is to encourage individual Member States to improve their administrative performance and to address weaknesses leading to the loss of TOR. Payments for these cases are made available via the A-account and they reduce, in effect, the contribution of the Member States via GNI resources, in proportion to their contribution to the EU budget.

1.3.4. Detection and reporting

Cases should be included in OWNRES upon the initial discovery of the irregularity or fraud case or establishment of the duties. As a result, the year of the customs operation and the year of discovery of the irregular case can diverge. Member State must indicate the year and the quarter when the OWNRES case was first discovered or the duties were established. Member States are constantly adding new cases and updating existing cases related to previous years. The OWNRES information for this report was generated on 18 March 2016 (cut-off date)[18].

1.3.5. Classification of cases as fraudulent or non-fraudulent

The distinction in OWNRES between cases as fraudulent and non-fraudulent may not be fully comparable between different Member States. In their reports, Member States may make this distinction on subjective grounds and before any court judgment is given. Such subjective grounds vary between national administrations depending on their national practises and legislation.

The concepts of *suspected/established fraud or irregularity reported as fraudulent/non-fraudulent* are not used in the OWNRES system. It should also be noted that the classification of a case as fraudulent or non-fraudulent is not static in OWNRES and can be changed by the Member State at any time during the national process. Only when a case is closed in the OWNRES system, does it obtain its final classification as a fraud case or an irregularity case.

1.3.6. Monetary values - estimated, established and recovered amounts

In the report, three monetary values are used to express the financial impact of cases of fraud and irregularities. Generally, the estimated and established amount is used in

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[16] See COM(2013)829 final of 27.11.2013.

[17] Case C-392/02 of 15 November 2005. These cases are identified on the basis of Articles 220(2)(b) (administrative errors which could not reasonably have been detected by the person liable for payment) and 221(3) (time-barring resulting from Customs' inactivity) of the Customs Code, Articles 869 and 889 of the Provisions for application of the Code, or on the basis of non-observance by the customs administration of Articles of the Customs Code giving rise to legitimate expectations on the part of an operator.

[18] OWNRES query plus updates of that day.

the analysis in order to give an accurate view of Member States' efforts to combat fraud and irregularities. This monetary value is the sum of the established amounts where an establishment has been made, of the estimated amounts for cases where no establishment has yet been made and of the 'potential' amounts' for cases where no recovery is required because of destruction of the seized and confiscated goods and thus the extinction of the customs debt.

The second monetary value is the established amount. It indicates the total amount that national authorities have established after all subsequent corrections have been processed. In this way all the changes to the established amounts are taken into account in this report. Lastly, the recovered amount is defined as the total amount recovered from debtors[19].

1.3.7. *Categorisation of cases by amounts involved*

In the field of TOR, a refined picture of Member States' activities regarding establishment and recovery actions can be given by splitting irregular cases into categories based on the established amounts. Two categories of amounts — amounts below and above EUR 50 000 — can then serve as a basis for the analysis and give a deeper insight into Member States' activities in detecting irregular cases.

1.3.8. *Recovery*

The recovery rate (RR) represents the percentage of the total amount recovered from a debtor of the total established amount. The amounts for which Member States are considered financially liable because of weaknesses observed in their recovery actions are thus not taken into account. This recovery rate is a snapshot of the recovery situation at the moment of the query.

The historical recovery rate (HRR) takes into account cases which are registered in OWNRES as closed cases. The HRR expresses the recovery result in both complex and easy cases. Established and closed cases from 2012 onwards are therefore excluded, because these are predominantly easy cases (complex cases can generally not be closed within three years). The recovery rates do not take into account cases of seized and confiscated goods (usually cigarettes), for which no recovery is required.

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[19]   Cases of the seized and confiscated goods are excluded.

2. DEFINITIONS AND INDICATORS

For the purposes of this document, two sets of definitions are used. The first set refers to legal definitions, the second to specific indicators used throughout the different chapters.

2.1. Legal definitions

2.1.1. *Irregularity*

Irregularity: means any infringement of a provision of European law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Union, or by an unjustified item of expenditure[20].

2.1.2. *Fraud*

Fraud: affecting the European Communities' financial interests shall consist of[21]:

a) in respect of expenditure, any intentional act or omission relating to:

– the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;

– non-disclosure of information in violation of a specific obligation, with the same effect;

– the misapplication of such funds for purposes other than those for which they were originally granted;

b) in respect of revenue, any intentional act or omission relating to:

– the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;

– non-disclosure of information in violation of a specific obligation, with the same effect;

– misapplication of a legally obtained benefit, with the same effect.

National legislation contains several provisions that describe the conduct and the related penalties and sanctions. Some of these provisions are the result of the implementation of the PIF Convention into national legal systems.

> The two definitions indicated above seem similar as both refer to 'acts or omissions'. In fact, the concept of irregularity is much wider than that of fraud. Fraud explicitly refers to 'intentional' act or omission. In this respect, the concept of irregularity includes that of fraud, but refers also to a whole series of infringements of rules which do not imply a deliberate intent to violate or for which such intent is not clear (for instance a breach of rules due to the misinterpretation of certain provisions because of their complexity).

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[20] Article 2 of Regulation (EC) No 2988/95.
[21] Article 1(1), point (a), of the "Convention on the Protection of the European Communities' Financial Interests" (PIF Convention).

Therefore, the distinction between irregularities and fraud is that fraud is a criminal act that can only be determined by the outcome of judicial proceedings. As such, it is only when the judicial procedure has come to an end that the actual amount of fraud can be determined. While awaiting these results, the Commission works on the basis of the information supplied by Member States concerning cases of irregularities, some of which, in the opinion of the reporting Member States, give rise to suspicions of fraud. The Commission's statistical assessment of, and ability to respond to, irregularities are influenced by the accuracy and timeliness of the notifications made by the Member States.

2.1.3. *Suspected fraud*

Suspected fraud[22]: means an irregularity giving rise to the initiation of administrative and/or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, such as is referred to in Article 1(1), point (a), of the PIF Convention.

In their communications of irregularity to the Commission, Member States have been asked to indicate whether a reported irregularity can be regarded as 'suspected fraud'. This was introduced in order to provide some data for statistical purposes and to avoid the need to wait until the end of criminal procedures for a final indictment.

2.2. Definitions applied in the analysis

However, it is to be noted that for greater clarity, only two broad categories of irregularity are applied in the analysis and in the indicators:

'**Irregularities reported as fraudulent**' are those irregularities for which the fraudulent nature is suspected or established, it also includes those irregularities which Member States have not reported as fraudulent, but for which they indicate that a criminal proceeding has been initiated.

'**Irregularities not reported as fraudulent**' are any other type of reported irregularities, for which the fraudulent nature has not been ascertained.

2.3. Indicators

2.3.1. *Fraud Detection Rate and Irregularity Detection Rate*

Equation 1: Fraud Detection Rate (FDR)

$$\text{Fraud Detection Rate} = \frac{\text{Total financial amount affected by suspected and established fraud}}{\text{Total expenditure}} \times 100$$

$$\text{Fraud Detection Rate} = \frac{\text{Total financial amount affected by suspected and established fraud}}{\text{Relative expenditure}} \times 100$$

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[22] This definition has been introduced for the first time Commission Regulation (EC) No 2035/2005. It has been reaffirmed in Regulation (EC) No 1828/2006 for the cohesion policy and in Regulation (EC) No 1848/2006 for the agriculture sector for the Programming Period 2007-2013 and, for the Programming Period 2014-2020 in Article 2(a) in all four Delegated Acts applicable to shared management: Regulation 2015/1970 concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund; Regulation 2015/1971 concerning the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development; Regulation 2015/1972 concerning the Fund for European Aid to the Most Deprived; Regulation 2015/1973 concerning the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management

The **Fraud Detection Rate** (FDR) can be calculated either on the basis of total expenditure or the relative expenditure. Relative expenditure means that for the calculation, only payments above EUR 10,000, if available, are taken into account. This is the case in the area of shared management, where the same threshold is applied for the reporting. For centralised management, where there is no threshold for the reporting of irregularities, total expenditure is used. With the latter, the calculation of the Fraud Detection Rate becomes more accurate.

Equation 2: Irregularity Detection Rate (IDR)

$$\text{Irregularity rate} = \frac{\text{Total financial amount affected by suspected and established fraud}}{\text{Total expenditure}} \times 100$$

$$\text{Irregularity rate} = \frac{\text{Total financial amount affected by suspected and established fraud}}{\text{Relative expenditure}} \times 100$$

In the same way, the Irregularity Rate can also be calculated on the basis of either total expenditure or relative expenditure.

Both the FDR and IDR can be calculated by financial year (as in the case of the Agriculture sector and Direct Management) or on the entire Programming Period (as in the case of Structural Funds) and by Member State. The FDR is calculated using amounts linked to cases of irregularities reported as fraudulent [23].

2.3.2.   Fraud Frequency Level and Fraud Amounts Level

The Fraud Frequency Level (FFL) represents the percentage of cases qualified as suspected fraud and established fraud in relation to the total number of reported irregularities, and is calculated using Equation 4 below.

Equation 3: Fraud Frequency Level

$$\text{Fraud Frequency Level} = \frac{\text{Total number of reported cases of suspected and established fraud}}{\text{Total number of reported irregularities}} \times 100$$

The Fraud Amounts Level (FAL) represents the percentage of financial amounts involved in cases qualified as suspected fraud and established fraud in realtion to the total reported financial amounts affected by irregularities and it is calculated using Equation 5 below.

Equation 4: Fraud Amounts Level

$$\text{Fraud Amounts Level} = \frac{\text{Total financial amount affected by suspected and established fraud}}{\text{Total financial amount affected by irregularities}} \times 100$$

FFL and FAL can be calculated by financial year (as in the case of the Agriculture sector) or on an entire Programming Period (as in the case of Structural Funds) and by Member State.

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[23]   These rates were introduced in the 2008 Report and Commission Staff Working Paper 'Statistical Evaluation of Irregularities' with similar names. This year's Commission Staff Working Paper 'Statistical Evaluation of Irregularities' defines precisely these concepts in order to use them in years to come and to emphasise that, more than the level of fraud in a given country, they identify the level of detection/performance of anti-fraud controls in a Member State.

2.3.3. Detection Efficiency

This is a new concept to measure how quickly an irregularity is discovered. It calculates the time between the date of committing the irregularity and the date of its detection.

The Detection Efficiency (DetE) is calculated in months, derived from the number of days between the date upon which the irregularity was initiated (as communicated by the competent authority) and the date of the primary administrative or judicial finding (PACA)[24] divided by 30 as showed in Equation 5 below.

Equation 5: Detection Efficiency

$$\text{Detection Efficiency (DetE)} \quad = \quad \frac{\text{Date of PACA - Date of initiation of irregularity (in days)}}{30}$$

The average Detection Efficiency (DetE) can be calculated per country and/or per sector according to Equation 6 below.

Equation 6: Average Detection Efficiency

$$Average\ DetE = \frac{\sum_{k=1}^{n} DetE_k}{N}$$

Only irregularities containing the necessary information are used to calculate the average.

2.3.4. Reporting Efficiency

This is a new concept to measure how quickly an irregularity is reported after its discovery. It calculates the time between the date of the PACA and the date of its reporting to the Commission.

The Reporting Efficiency (RepE) is calculated in months derived from the number of days between the date of (PACA) and the date of the initial communication of the irregularity to the Commission, divided by 30 as showed in Equation 7 below.

Equation 7: Reporting Efficiency

$$\text{Reporting Efficiency (RepE)} \quad = \quad \frac{\text{Date of initial communication - Date of PACA (in days)}}{30}$$

The average Reporting Efficiency (RepE) can be calculated per country and/or per sector according to Equation 6 below.

Equation 8: Average Reporting Efficiency

$$Average\ RepE = \frac{\sum_{k=1}^{n} RepE_k}{N}$$

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[24] For the definition of PACA, see article 2§3 of Regulation (EC) No 1848/2006 for the Agricultural policy; article 27(b) of Regulation (EC) No 1828/2006 for the Cohesion Policy; and article 54(b) of Regulation No 498/2007 for the Fishery Policy which are applicable for the programming period 2007-2013. For the Programming Period 2014-2020 see article 2(b) in all four Delegated Acts applicable to shared management: Regulation 2015/1970 concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund; Regulation 2015/1971 concerning the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development; Regulation 2015/1972 concerning the Fund for European Aid to the Most Deprived; Regulation 2015/1973 concerning the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

Only irregularities containing the necessary information are used to calculate the average.

2.3.5. *Ratio of Established Fraud*

The Ratio of Established Fraud (REF) is a new concept and allows to determine, on a given period of time (five years in the present report: 2008-2012) the percentage of irregularities reported as fraudulent for which fraud has been effectively established. It is calculated by dividing the number of cases for which Member States indicated that fraud was establised by the total number of irregularities reported as fraudulent, as showed in Equation 9 below.

Equation 9: Ratio of Established Fraud

$$\text{Ratio of Established Fraud (REF)} = \frac{\text{number of established fraud cases}}{\text{total number of irregularities reported as fraudulent}}$$

It can be calculated by Member State or at EU level and by sector.

2.3.6. *Error Rate*

The Residual Error Rate (RER) indicates the risk of error which remains after the responsible authority has performed all of its controls (administrative and on-the-spot) and has corrected the errors detected. It is an extrapolation of the error rate resulting from the population checked on-the-spot, where available, in relation to the entire population. However, the precise methodology may differ from sector to sector.

This extrapolation is estimated by the Audit Authorities and is revised by the competent Commission services.

Data published in the Commission Staff Working Document 'Statistical evaluation of irregularities' are extracted from the Annual Activity Reports of the Directorates General of the Commisssion responsible for the different areas of shared management.

2.4. Assumptions and hypothesis

It has been affirmed that the IMS system is now fully deployed and the data quality is sufficient. The irregularity reporting of countries has been improving over the years, therefore, it can be said that reporting (both technically and in substance) cannot be the reason for non-communication of irregularities, or for the relatively low number of irregularities reported especially in contrast with the EU funding recieved. As a consequence, a renewed methodology regarding the analysis of the irregularities was developed in relation to the expenditure part of the 'Statistical evaluation of irregularities' staff working document. The renewed methodology is in use since the 2013 report and is based on the assumption that the reporting effort equals the detection effort of a country. This suggests that the number of irregular cases reported by a country (especially irregularities of fraudulent nature), will be interpreted as the level of its detection capabilities. There are 4 hypothesis that derive from this basic assumption, especially when no irregular cases (or too few) are reported by a country:

– H1) There is zero fraud happening in the country

– H2) The country is unable to detect fraud

– H3) The country is unwilling to detect fraud

– H4) A combination of H2) and H3)

Subsequently, the renewed methodology provides for revised indicators to measure the reporting of irregularities from the point of view of the **detection effort**.

3. READING GUIDE TO THE COUNTRY FACTSHEETS

The Commission Staff Commission Document "Statistical evaluation of irregularities reported for 2015 – Own Resources, Natural Resources, Cohesion Policy, Pre-accession and Direct expenditure" contains 28 factsheets summarising for each Member State some of the elements highlighted in the analyses developed in the various chapters of the document.

This reading guide is meant to help you understanding the data and indicators captured in the factsheet.

3.1. Traditional own resources

1. Traditional Own Resources					
Reporting Year *N*	**Irregularities reported as fraudulent**		**Irregularities not reported as fraudulent**		**OWNRES / gross TOR**
	N	**EUR**	**N**	**EUR**	**%**
Established and estimated	A	B	C	D	E

The table above lists for each Member State:

A. The number of cases of irregularities reported as fraudulent in Reporting Year *N*;

B. The established and estimated amounts related to cases under A;

C. The number of cases of irregularities not reported as fraudulent in Reporting Year *N*;

D. The established and estimated amounts related to cases under C;

E. The percentage that B+D represent on the total TOR collected by the Member State

3.2. Natural resources

3.2.1. Financial and audit information

2. Natural Resources				
Fund	**Area**	**Payments**	**Residual error rate**	**(Residual) amount at risk**
		EUR	**%**	**EUR**
EAGF	agricultural markets	A	B	C
EAGF	direct aids	A	B	C
EAFRD	rural development	A	B	C
EFF	fisheries	A	B	C
TOTAL		**A**	**B**	**C**

The table above indicates:

A. Detailed by Fund, and in the case of EAGF also by intervention measures, the total amount of expenditure expressed in EUR for Reporting Year *N* as showed in the Annual Activity Reports of the competent Commission services (DG AGRI and DG MARE);

B. Detailed by Fund, and in the case of EAGF also by intervention measures, the 'adjusted error rate'[25] (expressed as % of the expenditure) for Reporting Year

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[25] In order to compensate for reliability and completeness issues with the statistics, DG AGRI carries out a thorough validation and evaluation of the data and takes into account all available relevant information notably the results of its own audit findings. This allows DG AGRI to make adjustments on a case-by-case basis at the appropriate level in order to arrive at its best estimate, using its profession judgement, of the "real" level of error in each case – the adjusted error rate.

N expenditure as showed in the Annual Activity Reports of the competent Commission services (DG AGRI and DG MARE);

C. Detailed by Fund, and in the case of EAGF also by intervention measures, the 'residual amount at risk' (expressed in EUR) for Reporting Year *N* as showed in the Annual Activity Reports of the competent Commission services (DG AGRI and DG MARE). The term 'Residual' is indicated in brackets as it is specific to DG AGRI methodology to calculate the amount at risk, which takes into account the corrective capacity of the systems.

3.2.2.   Data about reported irregularities

Fund	Irregularities reported as fraudulent		Irregularities not reported as fraudulent		FDR	IDR
	N	EUR	N	EUR	%	%
EAGF	D	E	F	G	H	I
EAFRD	D	E	F	G	H	I
EAGF/EAFRD	D	E	F	G	H	I
EFF	D	E	F	G	H	I
TOTAL	D	E	F	G	H	I

The table above contains the following information:

D. The number of cases of irregularities reported as fraudulent in Reporting Year *N*;

E. The financial amounts related to cases under D;

F. The number of cases of irregularities not reported as fraudulent in Reporting Year *N*;

G. The financial amounts related to cases under F;

H. The Fraud Detection Rate (FDR), as defined in paragraph 2.3.1;

I. The Irregularity Detection Rate (IDR), as defined in paragraph 2.3.1.

3.2.3.   Anti-fraud activities indicators

Detection - Reporting Efficiency	DetE	RepE	DetE + RepE	Usable sample
	months/average	months/average	months/average	%
Reporting period: between Year *N-4* and Year *N*	J	K	L	M

The data used to calculate the values showed in the table come from the irregularities reported as fraudulent between Reporting Year *N-4* and Reporting Year *N*. The table above contains the following information:

J. Detection efficiency, as defined in paragraph 2.3.3, expressed in average months;

K. Reporting efficiency, as defined in paragraph 2.3.4, expressed in average months;

L. Detection + Reporting efficiency is the sum of the values indicated under J. and K.

M. Usable sample is the percentage of the data population which could be used for the calculations

Ratio of established fraud	Suspected fraud	Established fraud	TOTAL	REF
	N	N	N	%
Irregularities reported as fraudulent between Reporting Year *N-6* and Year *N-2*	N	O	P	Q

The data used to calculate the values showed in the table come from the irregularities reported as fraudulent between Reporting Year *N-6* and Reporting Year *N-2*. The choice of the reporting period is based on the specific nature of statistics on established fraud cases. Criminal proceedings leading to a conviction for fraud may take several years. Therefore, in order to be able to make comparisons, information published in previous years is used instead of data from Reporting Year *N* which in itself would not be meaningful. The table above contains the following information:

N. Number of cases of suspected fraud reported in the reference period;

O. Number of cases of established fraud reported in the reference period;

P. Sum of values of M and N.

Q. Ratio of established fraud (REF) calculated as indicated in paragraph 2.3.5.

3.3. Cohesion policy

Data and information presented in this section refer exclusively to the programming period 2007-13.

3.3.1. Financial and audit data

3. Cohesion Policy						
Fund	**Appropriations Year *N***		**Cumulative PP2007-2013**		**Average risk rate Year *N***	**cumulative residual risk**
	Commitments	**Payments**	**Commitments**	**Payments**		
	EUR	**EUR**	**EUR**	**EUR**	**%**	**%**
ERDF	A	B	C	D	E	F
ESF	A	B	C	D	E	F
TOTAL	**A**	**B**	**C**	**D**		

The table above indicates:

A. Detailed by Fund (the table also includes data for the Cohesion Fund, whenever relevant), the total amount committed for Reporting Year *N*;

B. Detailed by Fund (the table also includes data for the Cohesion Fund, whenever relevant), the total amount paid in Reporting Year *N*;

C. Detailed by Fund (the table also includes data for the Cohesion Fund, whenever relevant), the total amount committed until the end of Reporting Year *N* in relation to the programming period 2007-13;

D. Detailed by Fund (the table also includes data for the Cohesion Fund, whenever relevant), the total amount paid until the end of Reporting Year *N* in relation to the programming period 2007-13;

E. The 'average risk rate' for the Reporting Year *N* expenditure as showed in the Annual Activity Reports of DG REGIO and DG MARE;

F. The 'cumulative residual risk' for the 2007-13 related expenditure as showed in the Annual Activity Reports in Reporting Year *N* of DG REGIO and DG MARE.

3.3.2. Data about reported irregularities

Period / Fund	Irregularities reported as fraudulent		Irregularities not reported as fraudulent		FDR	IDR
	N	EUR	N	EUR	%	%
Programming Period 2007-13 - Reporting Year *N*	G	H	I	J	K	L
ERDF	G	H	I	J	K	L
ESF	G	H	I	J	K	L
Programming Period 2007-13 - cumulative	G	H	I	J	K	L
ERDF	G	H	I	J	K	L
ESF	G	H	I	J	K	L

G. The number of cases of irregularities reported as fraudulent in Reporting Year *N* and cumulatively for the whole period 2007-13;

H. The financial amounts related to cases under D;

I. The number of cases of irregularities not reported as fraudulent in Reporting Year *N* and cumulatively for the whole period 2007-13;

J. The financial amounts related to cases under F;

K. The Fraud Detection Rate (FDR), as defined in paragraph 2.3.1;

L. The Irregularity Detection Rate (IDR), as defined in paragraph 2.3.1.

3.3.3. Anti-fraud activities indicators

Detection - Reporting Efficiency	DetE	RepE	DetE + RepE	Usable sample
	months/average	months/average	months/average	%
Reporting period: between Year *N-4* and Year *N*	M	N	O	P

The data used to calculate the values showed in the table come from the irregularities reported as fraudulent between Reporting Year *N-4* and Reporting Year *N*. The table above contains the following information:

M. Detection efficiency, as defined in paragraph 2.3.3, expressed in average months;

N. Reporting efficiency, as defined in paragraph 2.3.4, expressed in average months;

O. Detection + Reporting efficiency is the sum of the values indicated under M and N.

P. Usable sample is the percentage of the data population which could be used for the calculations

Ratio of established fraud	Suspected fraud	Established fraud	TOTAL	REF
	N	N	N	%
Irregularities reported as fraudulent between Reporting Year *N-6* and Year *N-2*	Q	R	S	T

The data used to calculate the values showed in the table come from the irregularities reported as fraudulent between Reporting Year *N-6* and Reporting Year *N-2*. The choice of the reporting period is based on the specific nature of statistics on established fraud cases. Criminal proceedings leading to a conviction for fraud may take several years. Therefore, in order to be able to make comparisons, information published in previous years is used instead of data from Reporting Year *N* which in itself would not be meaningful. The table above contains the following information:

Q. Number of cases of suspected fraud reported in the reference period;

R. Number of cases of established fraud reported in the reference period;

S. Sum of values of P and Q;

T. Ratio of established fraud (REF) calculated as indicated in paragraph 2.3.5.

4. ABAC RECOVERY CONTEXT FOR DIRECT MANAGEMENT

Analysis of the irregularities is based on ABAC data recorded in the Recovery Context. In order to give a comprehensive picture, additionally, data on payments are also used for the analysis. These data are downloaded each year in the first week of March. All figures presented in the Statistical Annex are based on own calculation.

Payments statistics take into account only the operational payments effectively disbursed under the direct management mode, excluding administrative expenditure.

In order to be able to determine the number of irregularities, recovery context data are used. The number of irregularities corresponds to the number of 'Recover Context Keys' (later referred to as 'recovery items') as in the ABAC system. The so-called 'irregularities reported as fraudulent' are the recovery items qualified as '040 – OLAF Notified' cases. Other 'irregularities not reported as fraudulent' are those, which are qualified as '030 – Irregularity'. It is to be noted that several recovery items may be encoded for one recovery order issued.

In 2015, there was a revision of the ABAC Recovery Context that led to the clarification and the reduction of the number of the 'error codes' (irregularity types) used in the system. All data on the irregularity types were updated also retroactively. As a consequence, already the results of the analysis provided in the 2015 Statistical Annex are based on the updated system. Both qualifications '030 – Irregularity' and '040 – OLAF Notified' have the same list of irregularity types: 'Beneficiary '; 'Amount ineligible'; 'Double funding'; 'Profit'; 'Under-performance / non-performance'; 'Documents missing'; 'Public procurement rules not respected'. Since the revision exercise, 'Calculation error' is the only type of '020 – Error' and hence it is removed from the list of irregularities.