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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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EXECUTIVE SUMMARY

The EU and the Member States share responsibility for protecting the EU's financial interests and fighting fraud. National authorities manage approximately 80% of EU expenditure and collect Traditional Own Resources (TOR).

This is the second annual report on the protection of the European Union's financial interests presented by the current Commission, in cooperation with the Member States. It covers anti-fraud measures taken by the Commission and the Member States and the results of these measures. This work is performed in accordance with the Treaty on the Functioning of the European Union (TFEU), the Regulations and other instruments on the protection of the EU's financial interests and the relevant national legislation.

The Commission and the Member States protect the EU budget from undue or irregular expenditure or evasion of customs duties and other levies, mainly through:

(1) preventive actions;
(2) investigative actions;
(3) corrective mechanisms (primarily financial corrections imposed on Member States but also recoveries from recipients of EU payments for the expenditure side and collection of evaded customs duties and other levies);
(4) repressive measures (in particular by the Member States for the shared management funds and Traditional Own Resources (TOR)).

Under shared management, the primary responsibility to prevent, detect, investigate and correct irregularities and suspected fraud lies with the Member States.

The conclusions and recommendations included in the 2015 report are based on an analysis of the information available for the past five years and the problems and risks identified during that time.

Measures taken at EU level to protect the EU's financial interests, 2015

All actions proposed in the Commission Anti-Fraud Strategy (CAFS) have now either been completed or are ongoing (recurring actions such as training and raising awareness about fraud). The implementation of anti-fraud measures in the Commission continues based on the Commission departments' anti-fraud strategies developed under the CAFS. These are regularly reviewed and updated. As a result, several Commission departments have reviewed their anti-fraud strategy and three have adopted a Joint Anti-Fraud Strategy.

The Commission continues to support Member States in their fraud prevention efforts bilaterally and within the Advisory Committee for Coordination of Fraud Prevention (COCOLAF).

Also in 2015, the Commission launched an 'Experience Sharing Programme' to improve coordination and exchange best practice in the fight against corruption. As part of this programme, three workshops were held with Member States in 2015 on themes such as asset

declarations, whistle-blower protection and corruption in healthcare. The European Anti-Fraud Office (OLAF) also participated on behalf of the Commission in several European and international anti-corruption meetings.

As the Member States manage approximately 80% of the EU's budget, it is of utmost importance that the Commission continues to assist them in developing their National Anti-Fraud Strategies (NAFS). The Anti-Fraud Coordination Services (AFCOS) of the Member States play a major role in this regard. Six Member States have adopted NAFS. The Czech Republic reported that it plans to revise its strategy, while Italy reported that its AFCOS has drawn up and developed strategic orientations and actions which are updated annually and published since 2012 in their annual reports to the Italian Parliament. Five Member States reported that the adoption of their NAFS is ongoing.

In 2015 discussions continued in the European Parliament and the Council on two proposals to reinforce and increase the efficiency of criminal law in the protection of the EU's financial interests, namely:

- a draft Directive to strengthen the existing legal framework by harmonising the definition of offences affecting the Union's financial interests, as well as the sanctions and time limitations for these cases;
- a draft Regulation on the establishment of a European Public Prosecutor's Office (EPPO), proposed in 2013 to strengthen and streamline the prosecution across the EU of offences affecting the EU's financial interests.

The adoption in 2014 of the revised public procurement and utilities directives and the adoption of a new concessions directive have increased transparency and strengthened the anti-fraud and anti-corruption provisions by:

- defining 'conflict of interest';
- making e-procurement mandatory;
- introducing monitoring and reporting obligations to curb procurement fraud and other serious irregularities.

Several Member States received recommendations from the Commission to take action to improve transparency or step-up anti-corruption efforts in public administration, the judiciary and public procurement. In order to transpose the EU directives into national law, most Member States have drafted new national laws. In seven Member States the new law came into effect on 18 April 2016.

From 1 January 2016, following the adoption of Regulation No 2015/1929 amending the Financial Regulation, the Commission has established an improved Early Detection and Exclusion System (EDES) for the protection of the EU's financial interests.

On the **expenditure** side of the EU budget, in 2015 the Commission adopted a package of four delegated and four implementing regulations on the 'Irregularity Reporting' provisions in the area of shared management for the Multiannual Financial Framework 2014-2020. The objective is to improve the quality and consistency of the information reported by the Member States on irregularities and fraud and to ensure that the administrative burden on Member States due to reporting obligations is kept to a minimum.

On the **revenue** side of the budget, significant progress was made in 2015 to further protect the EU's financial interests:

- the **revised Regulation 515/97** on mutual administrative assistance in the customs area entered into force in 2015, creating an EU database on goods entering, transiting and leaving the EU. This will serve as a powerful tool in stepping up the fight against customs fraud;

- it was shown in 2015 that mutual assistance notices issued following **Joint Customs Operations (JCOs)** conducted by OLAF are an important source of information for detecting irregularities in transactions involving certain types of goods;

- the **fight against cigarette smuggling** and other forms of illicit trade in tobacco products remains a high priority for the EU and the Member States. In 2015 the Commission continued to actively implement the action plan of the 'Communication on stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products', in close cooperation with the Member States;
- the **Hercule III Financing Programme** contributes to strengthening the operations and administrative capacities of Member States' customs and police forces.

Detection and reporting of fraudulent and non-fraudulent irregularities that affect the EU budget

In 2015, **22 349 irregularities in relation to revenue and expenditure** were reported by the Member States, involving a total amount of approximately EUR 3.21 billion in EU funds.

In comparison to 2014, the number of irregularities detected increased by 36% while the corresponding financial amounts fell slightly by 1%. The increase in number is linked to certain specific situations in the cohesion policy area in two Member States.

1 461 irregularities were reported as fraudulent in 2015, a decrease of (11%) in comparison with 2014, while the concerned amounts increased by 18% to EUR 637.6 million.

On the **revenue** side there was a decrease in both numbers and amounts.

By contrast, on the **expenditure** side there was a decrease of 10% in the number of fraudulent irregularities reported in comparison with 2014 and the amounts involved increased by 55 %.

The Commission and Member States have been insisting on the need to plan and focus their control activities on the basis of risk analysis and IT tools. To this end, the Commission is promoting the use of the Arachne risk analysis tool in Member States to enhance management verifications. These new practices may have played a role in improving the detection capabilities.

No major shift in trends has been observed on the expenditure side. On Traditional Own Resources, solar panels were the goods most affected by fraud and irregularities.

In 2015, the Commission was notified of **20 888 irregularities not reported as fraudulent** (about 41% more than in 2014). The figures:

- increased for the two shared management sectors;
- remained stable for the revenue sector;
- decreased for pre-accession and direct expenditure.

This largely reflects the progressive implementation of the various spending programmes, but also depends to a large extent on the specific situation in two Member States, as mentioned previously.

Information on recoveries, financial corrections and other preventive and corrective measures will be part of the annual Communication from the Commission to the European Parliament, the Council and the Court of Auditors on the Protection of the EU Budget.

Measures taken by the Member States

In 2015, Member States took a large number of anti-fraud measures in the following areas:

- public procurement;
- financial crime;
- conflict of interest;
- corruption;
- the definition of fraud;
- whistle-blowers.

In particular, all Member States that were specifically recommended to strengthen their fraud detection and/or reporting systems took important steps to improve their national system.

Most Member States also reported having taken measures to strengthen cooperation with other Member States to ensure that all transactions and all economic operators are included in the population for post-clearance controls, irrespective of whether the importer is located in the Member State where the physical importation takes place.

1. INTRODUCTION

Each year, under Article 325(5) of the Treaty on the Functioning of the European Union (TFEU), the Commission, in cooperation with the Member States, submits to the European Parliament and the Council a report on measures taken to counter fraud and any other illegal activities affecting the EU's financial interests.

The EU and the Member States share responsibility for protecting the EU's financial interests and fighting fraud. National authorities manage approximately 80% of EU expenditure and collect Traditional Own Resources (TOR). The Commission oversees both of these areas, sets standards and verifies compliance. It is essential that the Commission and the Member States work closely together to ensure that the EU's financial interests are effectively protected. One of the main aims of this report is to assess how well this cooperation was conducted in 2015, and how it could be improved.

This report describes the measures taken at EU level in 2015 and provides a summary and evaluation of the actions taken by the EU and Member States to counter fraud. The report also includes analysis of the main achievements of national and European bodies in detecting and reporting fraud and irregularities relating to EU expenditure and revenue. The reporting system has significantly contributed to the protection of the EU's financial interests and to fighting fraud. The report in particular highlights how the provisions on the reporting of irregularities are applied in each Member State, as the analytical part of this report is based on the information received from such reporting.

The report is accompanied by six Commission Staff Working Documents.[1]

2. ANTI-FRAUD POLICIES AT EU LEVEL

2.1. Anti-fraud policy initiatives taken by the Commission in 2015

2.1.1. Proposal for a Directive on the fight against fraud detrimental to the Union's financial interests by means of criminal law[2]

The proposed Directive aims at strengthening the existing legal framework by harmonising the definition of offences affecting the EU's financial interests and the sanctions and time limitations for such cases. Negotiations between the European Parliament and the Council started in 2014 and are still ongoing. The latest trilogue took place in June 2015 to discuss the outstanding core issues i.e. the inclusion of VAT fraud in the scope of the Directive and the

[1] (i) Implementation of Article 325 by the Member States in 2015;
(ii) Statistical evaluation of irregularities reported for 2015 own resources, natural resources, cohesion policy and pre-accession assistance;
(iii) Recommendations to follow up the Commission report on protection of the EU's financial interests — fight against fraud, 2014;
(iv) Methodology regarding the statistical evaluation of reported irregularities for 2015;
(v) Annual overview with information on the results of the Hercule III Programme in 2015;
(vi) Implementation of the Commission Anti-Fraud Strategy (CAFS).

[2] COM(2012) 363 final.

harmonisation of sanctions and prescription periods. Further discussions on VAT are currently taking place in the Council, following the 'Taricco' judgment of 8 September 2015,[3] in which the European Court of Justice confirmed that VAT fraud is covered by the PIF Convention.

2.1.2. Proposal to establish a European Public Prosecutor's Office (EPPO)

The negotiations on the Commission's proposal for a Regulation on the establishment of the European Public Prosecutor's Office[4] (EPPO) continued in the Council throughout 2015 under the steer of the Latvian and the Luxembourgish Presidencies. The progress achieved made it possible to provisionally end the negotiations on the first half of the draft Regulation, dealing with aspects such as the competence, structure and investigative powers of the EPPO.

2.1.3. Evaluation of Regulation (EU, Euratom) No 883/2013

In accordance with Article 19 of Regulation No 883/2013, the Commission is to submit to the European Parliament and the Council an evaluation report on the application of the Regulation by 2 October 2017 in order to assess the need to amend the Regulation. To this end, the Commission is commissioning an external independent study[5] that will examine to what extent the Regulation's objectives have been met and remain relevant. In addition, the evaluation will look at the operation of Regulation 883/2013 in the larger context of an evolving anti-fraud landscape. A key issue in this regard is the impact that establishing the EPPO would have on OLAF's investigative role.

2.1.4. Fighting corruption in the EU

During 2015, the Commission continued to work on the follow-up of the first EU Anti-Corruption Report. The report:

- assesses how each Member State tackles corruption;
- examines how laws and policies work in practice;
- suggests how each country can enhance its anti-corruption efforts.

The Commission also held a meeting with the Member States' National Contact Points for anti-corruption.

In 2015, anti-corruption remained a priority in the European Semester process of economic governance. Several Member States received recommendations to take action to improve transparency or step-up anti-corruption efforts in public administration, the judiciary and public procurement.

The Commission also launched an 'Experience Sharing Programme' for Member States. Three workshops were held in 2015 on themes such as asset declarations, whistle-blower protection and corruption in healthcare.

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[3] Case C-105/14, 'Taricco'. The court concluded that the current EU legal instrument protecting the EU's financial interests, namely the PIF Convention which the PIF Directive should replace, covers VAT fraud.

[4] COM(2013) 534 final.

[5] http://ec.europa.eu/anti-fraud/olaf-and-you/calls-for-tender_en.

OLAF participated on behalf of the Commission in several European and international anti-corruption fora such as the EPAC/EACN.[6] This European anti-corruption network, chaired by OLAF's Director General, produced the 'Paris declaration' of November 2015[7] calling on European decision-makers to strengthen the fight against corruption.

2.1.5. Commission Anti-Fraud Strategy (CAFS)

Implementation of the Commission Anti-Fraud Strategy (CAFS) continued in 2015. All actions proposed in the CAFS have now been completed or are ongoing (i.e. recurring actions such as training and raising fraud awareness[8]). Meanwhile, the implementation of new anti-fraud measures in the Commission continues based on the Commission departments' anti-fraud strategies that were developed under the CAFS. The strategies are reviewed and updated regularly.

The implementation of the CAFS was audited by the Commission Internal Audit Service (IAS) in 2015. The audit examined the anti-fraud strategies of several Commission departments and OLAF's horizontal coordinating role. The IAS acknowledged the positive steps taken by OLAF and the selected services both in the overall management and oversight of the implementation of the CAFS and in the preparation or revision of their anti-fraud strategies.

Several Commission departments have reviewed their anti-fraud strategy and three[9] have adopted a Joint Anti-Fraud Strategy (JAFS) for 2015-2020 covering seven funds[10]. Dedicated fraud risk analyses have been performed in line with the updated guidelines on the development of a service level anti-fraud strategy. A trend signalled on the basis of these analyses is that dealing with sensitive information is increasingly identified as a fraud risk. On the one hand, this can be explained by the fact that more attention is given to non-financial fraud. On the other hand, it can also indicate that more and more sensitive information is handled by the Commission. These trends will be considered as part of the ongoing discussions in the Fraud Prevention and Detection Network.

2.2. Anti-fraud measures in revenue

2.2.1. Mutual Administrative Assistance (MAA — amendment of Regulation No 515/97)

Regulation (EU) No 2015/1525[11] was adopted by the co-legislators on 9 September 2015. The new Regulation amends Council Regulation (EC) No 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation between the

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6 European Partners Against Corruption（EPAC)/the European contact-point network against corruption（EACN).

7 http://www.epac-eacn.org/downloads/declarations/doc_download/151-paris-declaration-2015.

8 For example, in 2015, DGs Regional and Urban Policy and Employment, Social Affairs & Inclusion organised, in collaboration with OLAF and DG Internal Market, Industry, Entrepreneurship and SMEs, anti-fraud and anti-corruption seminars for Estonia, Hungary, Lithuania, Latvia, Portugal and Poland.

9 DGs Regional and Urban Policy, Employment, Social Affairs & Inclusion and Maritime Affairs and Fisheries.

10 European Regional Development Fund (ERDF), Cohesion Fund (CF), European Social Fund (ESF), European Maritime and Fisheries Fund (EMFF), Fund for European Aid to the Most Deprived (FEAD), European Globalisation Adjustment Fund (EGF), European Union Solidarity Fund (EUSF).

11 Regulation (EU) No 2015/1525,OJ L 243, 18.9.2015, p. 1.

latter and the Commission to ensure the correct application of the law on customs and agricultural matters.

The new Regulation improves the current framework for detecting and investigating customs fraud at EU and national level. In particular, it provides for the creation of centralised databases containing information on container movements and on the goods entering, leaving and transiting the EU. This amendment is expected to significantly strengthen the analytical capabilities of both OLAF and national customs authorities in detecting fraudulent operations.

2.2.2. The Anti-Fraud Information System (AFIS)

The Anti-Fraud Information System (AFIS) is an umbrella term for a set of anti-fraud applications operated by OLAF under a common technical infrastructure aiming at:

- the timely and secure exchange of fraud-related information between the competent national and EU administrations;
- storage and analysis of relevant data.

The AFIS Project encompasses two major areas:

- mutual assistance in customs matters;
- irregularities management.

By the end of 2015, AFIS had 8 050 registered end-users on behalf of more than 1 700 competent services in Member States, partner third countries, international organisations, Commission departments and other EU bodies. In 2015, AFIS users exchanged 14 800 MAB mail messages. A total of 12 000 cases were available in the AFIS mutual assistance databases and modules.

The Anti-Fraud Transit Information System (ATIS) received information on 6.5 million new transit consignments.

The Irregularity Management System (IMS) received 23 400 new communications on irregularities from Member States and candidate countries.

A total of seven joint customs operations, including three organised by OLAF, were conducted in 2015 using the Virtual Operations Coordination Unit (VOCU) application as a communication tool.

The AFIS Portal is a single and common infrastructure for the delivery of the above-mentioned services and enables substantial economies of scale and synergies in the development, maintenance and operations of such a wide and diverse set of IT services and tools.

2.2.3. Joint Customs Operations (JCOs)

JCOs are coordinated and targeted operational measures implemented by the customs authorities of Member States and third countries over a limited time period to combat illicit cross-border trafficking in goods.

In 2015, OLAF coordinated and cooperated with Member States in seven JCOs. To facilitate the coordination tasks in JCOs with a large number of participants, OLAF:

- provided intelligence, technical and/or financial support;
- ensured secure access and exchange of information via the AFIS platform;
- made available its permanent operational coordination room.

The JCOs mentioned below, co-organised by the Member State customs authorities and OLAF or with OLAF support, targeted various threats such as smuggling of cigarettes, chemical drug precursors and narcotics. The seizures of cigarettes alone amounted to over 16 million sticks.

• JCO JETSTREAM: This regional maritime surveillance operation, which was coordinated by French Customs, targeted the detection of illicit trafficking of sensitive goods by sea in the Atlantic area. The operation resulted in the seizure of 2 tonnes of cannabis resin.

• JCO JUPITER: This regional maritime operation, which was coordinated by Spanish Customs, aimed at fighting the illicit trafficking of sensitive goods in the Mediterranean Sea.

• JCO FRANKSTEAD: This regional operation, which was organised by German and UK Customs, targeted narcotics.

• JCO SASHA: This operation targeted the smuggling of chemical drug precursors and aimed to disrupt the organised crime networks behind the sea and air transport of these illegal chemicals. Almost all Member States participated in this action in the autumn of 2015, which was organised together with and on the initiative of the French customs service and supported by Europol. The results include seizures comprising a total of 185 kg of illicit goods.

• JCO BALTICA: This operation was led by the Polish customs administration and OLAF, with the involvement of six Member States[12] and Europol. The operation focused on the problem of illegal tobacco products coming from third countries such as Belarus and Russia. 13 million smuggled cigarettes were seized during the operation.

• JCO HANSA: This operation, which was organised by the UK Customs in cooperation with Europol, targeted internal movement of illegal excisable goods, mainly cigarettes. OLAF provided the system for the secure exchange of the information and took part as a participant in the operation. The final evaluation is still ongoing.

• JCO ROMOLUK II: This regional operation, co-organised by OLAF and Romanian customs and involving Romania, Ukraine and Moldova, targeted smuggled cigarettes by checking consignments entering the EU by road and rail. A total of 3 878 460 pieces of cigarettes were seized as well as 107 litres of alcohol.

2.2.4. Fight against illicit trade in tobacco products

The 2013 'Communication on stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products'[13] was accompanied by a comprehensive action plan. Since then, the Commission has continued to actively implement the action plan in close

[12] Finland, Estonia, Latvia, Lithuania, Poland and Sweden.
[13] COM(2013) 324 final, 6.6.2013.

cooperation with Member States. At the end of 2016, the Commission is due to adopt a comprehensive report on the progress made on implementing the strategy.

The Commission strongly supports the timely ratification of the WHO Protocol to 'Eliminate Illicit Trade in Tobacco Products' ('FCTC Protocol'). On 4 May 2015 the Commission formally proposed that the EU Council ratify the Protocol on behalf of the EU. The FCTC Protocol is the first multilateral legal instrument which seeks to tackle the problem of cigarette smuggling worldwide in a comprehensive manner.

A Eurobarometer on illicit tobacco products was conducted in November-December 2015. Publication of a report is expected in the middle of 2016.

2.2.5. Fight against VAT fraud

The study to quantify and analyse the VAT gap published by the Commission on 19 September 2013 was updated in 2015. The study provided estimates for the VAT gap for 26 EU Member States for 2013 and revised estimates for the 2009-2012 period. It showed a lack of significant improvement in VAT revenue collection as the overall VAT gap in the EU-26 reached EUR 168 billion, which equates to 15.2 % of VAT revenue loss. Member States are working together with the Commission to explore new ways of enhancing the Eurofisc network so that it can detect fraud schemes much faster than usual.

Experience in Member States has shown that VAT fraud schemes often exploit weaknesses in the way chains of transactions are checked as a result of the inclusion of counterparts located in third countries. Following a mandate received from Council, in 2015 the Commission started negotiations with Norway for an EU agreement for administrative cooperation over VAT. Discussions are currently ongoing.

The other activities on cooperation with customs and excises as well as on the digital economy and reporting obligations will be included in next year's report detailing action taken in 2016.

2.2.6. Anti-fraud provisions in international agreements

Many international agreements of the EU contain provisions on mutual administrative assistance (MAA) in customs matters. Moreover, preferential tariff agreements also contain measures on the enforcement of preferential treatment (anti-fraud clauses).

In 2015, 50 agreements including MAA provisions for 73 third countries were in force and negotiations were under way with other countries, including major trading partners such as the USA and Japan. The provisional application of the Deep and Comprehensive Free Trade Area (DCFTA) with Ukraine was scheduled for 1 January 2016. It also contains MAA provisions and measures on the enforcement of preferential treatment.

The Partnership and Cooperation Agreement (PCA) with Kazakhstan was signed in 2015. It includes provisions on mutual assistance in customs matters.

2.2.7. Anti-fraud measures on fiscal marking for gas oils and kerosene

EU legislation[14] requires Member States to apply a designated substance (fuel marker) to gas oils and kerosene, which are taxed at a lower national rate of excise duty than that applicable to motor fuels used as propellants. The substance was approved by Commission decision[15] and since the introduction of the rule only one marker has been in use — Solvent Yellow 124. In the latest revision, the Commission was informed of an increase in fraudulent activities involving the illegal removal of the marker.

The Commission launched a call for expression of interest in September 2015 to find a new and better performing chemical substance which could replace the current marker and contribute to reducing illegal activities involving diesel.

The project is expected to run for several years until the new marker is selected by Commission decision. Administrative selection, technical analysis and chemical testing in laboratories will be carried out in 2016.[16]

2.3. Anti-fraud measures in expenditure

2.3.1. Amendment of Financial Regulation (Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union)

Following the adoption of Regulation No 2015/1929[17] amending the Financial Regulation (FR), the Commission established from 1 January 2016 an improved Early Detection and Exclusion System (EDES) for the protection of EU financial interests. EDES ensures the:

- early detection of economic operators representing risks threatening the Union's financial interests;
- imposition of administrative sanctions, including exclusion from obtaining Union funds and/or the imposition of a financial penalty on unreliable economic operators;
- publication, in the most severe cases, on the Commission's website of information related to the exclusion and or the financial penalty, in order to reinforce the deterrent effect.

The decisions to exclude and/or to impose a financial penalty are taken by the competent authorising officer, either on the basis of final judgments, or final administrative decisions. In the absence of such conditions, the decisions will be taken on the basis of a recommendation of a newly created panel presided over by a high-level independent chair, which, among other things, ensures the right of the person concerned to be heard. As of the 2016 report, the Commission shall provide within this report the information referred to in Article 108(3) FR.

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14 Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene.

15 Commission Implementing Decision 2011/544/EU on establishing a common fiscal marker for gas oils and kerosene.

16 The Directorate-General for Taxation and Customs Union is working on this in close cooperation with the Joint Research Centre.

17 OJ L 286, 30.10.2015, p. 1.

2.3.2. Reporting of irregularity provisions in the Multiannual Financial Framework (MFF) 2014-2020 — expenditure field

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.[18] 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. The information reported by the Member States is used for anti-fraud purposes and is presented annually in this report.

2.4. Other

2.4.1. Implementation of the Hercule Programme

The Hercule III Programme[19] (2014-2020) promotes activities to counter fraud, corruption and any other illegal activities affecting the financial interests of the Union. In 2015, the programme had a budget of EUR 14.1 million for:

- funding actions to strengthen the operational and administrative capacity of customs and police forces in the Member States;
- training activities and conferences;

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[18] OJ L 293, 10.11.2015:
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.
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 Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development and repealing Commission Regulation (EC) No 1848/2006.
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.

[19] Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014.

- IT support.[20]

On 27 May 2015, the Commission published a report[21] on the evaluation of the previous Hercule II Programme (2007-2013). The report confirmed that the programme delivered its intended impact at a reasonable cost, was well received by stakeholders and was successful in providing added value.

3. FOLLOW-UP TO THE EUROPEAN PARLIAMENT RESOLUTION ON THE PROTECTION OF THE EU'S FINANCIAL INTERESTS — FIGHT AGAINST FRAUD — ANNUAL REPORT 2014

The Commission acknowledges that data reported is still not fully comparable between Member States and takes note of Parliament's requests to improve the situation. In 2015 a package of new regulations on the reporting of irregularities was approved (see 2.3.2). The Commission has launched, in cooperation with national experts, the preparation of new guidelines on reporting aimed at reducing disparities and standardising the reporting process and quality of the information to enhance comparability. Furthermore, a new version of the Irregularities Reporting System (IMS) was deployed in 2016.

In response to Parliament's concerns about public procurement irregularities, the Commission acknowledges that they remain the main source of errors in cohesion policy. However, the Commission has taken both preventive and corrective measures to address these irregularities which occur in many public spending areas. As a result of the corrective actions, a substantive part of financial corrections applied are linked to such infringements. The Commission is continuing to pay close attention to detecting and correcting public procurement irregularities. It is also continuously providing guidance to national authorities on this matter and has organised workshops, presentations and training sessions. It is also taking action on a bilateral basis to assist Member States on specific issues.

Following the Special Report of the European Court of Auditors on public procurement, the Commission will look into the possibility of technical improvements to the IMS to accommodate the Court's functional requests. The possibility of interoperability with other Commission databases may be explored. As for the proposal to publish beneficiaries, the current legislation already provides for this and lists the type of information that needs to be published.

Whistle-blowers can, as pointed out by Parliament, play an essential role in preventing and detecting misconduct such as corruption. The Commission itself adopted internal guidelines on whistleblowing on 6 December 2012 and these could be used as a possible model for those institutions and bodies that have not yet adopted their own rules.

On the follow-up of OLAF's recommendations at national level, which was a topic raised by Parliament in its Resolution, the Commission agrees with Parliament that the comprehensive prosecution of crimes against the EU's financial interests is essential for the EU and its

[20] C(2015)2234 final of 8 April 2015.

[21] COM(2015)221 final of 27 May 2015: Report from the Commission to the European Parliament and to the Council on the achievement of the objectives of the Hercule II programme.

Member States. The Commission however recalls that it is for the Member States' competent authorities to ensure the assessment and appropriate follow-up to OLAF's recommendations and to inform OLAF, at its request, on the actions taken. For its part, OLAF analyses the decisions by which national authorities determine not to pursue cases following OLAF judicial recommendations.[22]

The Commission has already identified the reasons why OLAF's judicial recommendations are followed only to a limited extent, having done this in the impact assessment that accompanied the 2013 legislative proposal for the EPPO. The EPPO is intended to address some of these shortcomings, such as difficulties encountered in collecting evidence across Member States. In addition, the Commission has launched the evaluation of Regulation 883/2013 governing OLAF's investigations, to be completed by 2017. This will also provide an opportunity to look at this issue.

4. COOPERATION WITH THE MEMBER STATES

4.1. Advisory Committee for Coordination of Fraud Prevention (COCOLAF)

The 2015 meeting of the Advisory Committee for Coordination of Fraud Prevention (COCOLAF)[23] with Member States experts provided an opportunity to discuss the main developments in the fight against fraud and the preparation of the Article 325 TFEU Report on the 'Protection of the European Union's financial interests — Fight against fraud 2014'.

The COCOLAF subgroups met in 2015 to:

- prepare the reporting of irregularities provisions and the launch of the new IMS;
- draw up fraud prevention documents;
- share media strategies;
- launch communication activities on fraud prevention and deterrence.

Two guidance documents were developed within the Fraud Prevention sub-group:

- 'National Anti-fraud Strategy in practice: preparatory phase', which aims to assist Member States in drawing up their national strategies;
- 'Identifying conflicts of interest in the agricultural sector — A practical guide for funds managers', which aims to assist the national authorities managing EU funds to better deal with situations of conflicts of interest.

Both documents were developed using a collaborative approach with Member States' experts, coordinated by OLAF.

The AFCOS sub-group also exchanged experiences and best practice in anti-fraud activities during its meeting in October 2015.

In addition, the OLAF Anti-Fraud Communicators' Network (OAFCN) sub-group launched communication activities on fraud prevention and deterrence by organising a seminar entitled 'How best to communicate to deter fraud'.

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22 See '*The OLAF Report 2015*', paragraph 3.3, page 28-29. http://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2015_en.pdf

23 Commission Decision 94/140/EC of 23 February 1994, amended on 25 February 2005.

4.2. Measures taken by the Member States to counter fraud and other illegal activities affecting the EU's financial interests

Member States reported taking a significant number of measures in 2015 to protect the EU's financial interests and fight against fraud, reflecting the adoption of the bulk of Union legislation for the new 2014-2020 programming period.

Member States took measures covering the whole anti-fraud cycle. The measures were mostly in the area of public procurement, while others were on conflict of interest, financial crime, corruption, AFCOS and the definition of fraud and whistle-blowers.

In 2015, ten Member States[24] focused on adopting measures to enhance national cooperation in the fight against fraud. Further to this, Bulgaria, Luxembourg and Hungary conducted training for officials to improve their skills in detecting fraud, while Estonia and Malta focused on raising awareness about fraud. Specifically, Estonia conducted corruption awareness training, while Malta's AFCOS, in cooperation with the Ministry of Education and Employment, took measures to raise anti-fraud and corruption awareness among students in Maltese schools.

Furthermore, three Member States[25] took measures to strengthen their collaboration with other Member States and third countries. In particular:

- Bulgaria reported that four international seminars were held with the participation of 160 representatives of the tax and customs authorities of Bulgaria, Greece and Romania along with OLAF and AFCOS, to exchange experience and discuss case studies from the fight against fraud. In addition, steps have been taken to improve the interaction between administrations of Member States in the Balkan region;
- the Czech Republic adopted the Joint Declaration of the Customs Administration of the Visegrad Group (V4) on introducing risk profiles for textile and footwear products from Asian countries;
- France ratified the Protocol to 'Eliminate the Illicit Trade in Tobacco Products'.

Moreover, seven Member States[26] adopted fraud prevention measures or procedures on the management of EU funds. Out of these seven Member States, two[27] chose to adopt guidelines or administrative procedures to improve the management of funds. In particular:

- Bulgaria adopted a 2015-2016 action plan for the implementation of the National Anti-Fraud Strategy;
- the Czech Republic adopted a Government Resolution on Basic Anti-Corruption Orientations at governmental level, which sets the main direction of the government in the fight against corruption;
- Denmark adopted a national anti-fraud policy for the European Regional Development Fund (ERDF) and the European Social Fund (ESF). The policy was launched in 2015 on the Danish Business Authority's website to foster a culture that is not conducive to fraud and to promote fraud prevention and detection;

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24 Bulgaria, Denmark, Estonia, Spain, France, Croatia, Hungary, Netherlands, Poland, Portugal.
25 Bulgaria, Czech Republic, France.
26 Bulgaria, Demark, Estonia, Croatia, Netherlands, Austria, Portugal.
27 Croatia, Austria.

- Germany adopted an anti-fraud and anti-corruption strategy including a fraud risk assessment of all ERDF measures.

Finally, ten Member States[28] reported having made legislative changes to enhance protection against fraud, and two of those Member States[29] have taken legal measures to combat customs fraud. Furthermore, three Member States[30] have made improvements on taxation to combat fraud.

4.3. Implementation of the 2014 recommendations

In the 2014 Report on the protection of the European Union's financial interests, the Commission recommended that the Member States:

- use the AFCOS to its full potential while developing NAFS;
- transpose the public procurement directives into their national legislation, with special emphasis on the definition of 'conflict of interest' and measures to tackle such conflicts;
- improve low levels of reporting;
- strengthen customs controls, particularly considering the decreasing number of customs controls at the time of clearance.

As stated in the previous report, by the end of 2014, all Member States had an AFCOS in place. Nonetheless, there are some variations in the responsibilities allocated to the Member States' AFCOS:

- most Member States[31] empowered their AFCOS with coordination responsibilities;
- four Member States[32] gave it administrative investigative powers;
- the United Kingdom gave it criminal investigative powers.

Four other Member States[33] have organised an AFCOS network which entails cooperation between various parties.

The majority of Member States[34] established a system of cooperation between their AFCOS and relevant national parties involving a variety of bodies in the fight against fraud. On structured coordination and the development of a National Anti-Fraud Strategy (NAFS), six Member States[35] had adopted a NAFS by the end of 2015. The Czech Republic has reported that it plans to revise its strategy, while Italy reported that its AFCOS has drawn up and developed strategic orientations and actions which are updated annually and published since 2012 in their annual reports to the Italian Parliament. Five more Member States[36] reported that the adoption of their NAFS is ongoing.

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28 Bulgaria, Czech Republic, Germany, Ireland, Spain, Italy, Cyprus, Lithuania, Austria, Poland.
29 Bulgaria, Austria.
30 Bulgaria, Estonia, Ireland.
31 Belgium, Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Luxembourg, Hungary, Netherlands, Poland, Portugal, Slovenia, Finland, Sweden.
32 Bulgaria, Lithuania, Malta, Romania.
33 Bulgaria, Denmark, Ireland, Slovakia.
34 Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, Sweden, United Kingdom.
35 Bulgaria, Greece, Croatia, Hungary, Malta, Slovakia.
36 Spain, Latvia, Luxembourg, Romania, Slovenia.

Most Member States[37] drafted new national laws to transpose the EU public procurement Directive. In seven Member States[38] the law will come into effect by April 2016. Only two Member States[39] have already adopted such a law. Some Member States[40] have not taken action as they consider that their national law already coincides with the Directive.

All the four Member States[41] that were specifically asked to strengthen their fraud detection and/or reporting systems have taken steps to improve their national system. France and Spain, also cited for their efforts on cohesion policy, reported on the developments they have made to further improve the reporting of irregularities. However, a significant number of Member States[42] did not mention taking any action on these points as they assumed that they only applied to the four named Member States.

Most Member States[43] reported having taken measures to enhance cooperation with other Member States to ensure that all transactions and all economic operators are included in the population for post-clearance controls, irrespective of whether the importer is located in the Member State of the physical importation. One of the ways they achieved this was by signing memoranda of understanding with the different services concerned. Furthermore, six Member States[44] reported that they do not exclude economic operators registered in other Member States in their investigations to identify customs fraud.

5. FRAUD AND OTHER IRREGULARITIES

Member States have first-line responsibility for managing about 80 % of the expenditure budget and for collecting almost all the revenue.

Under sectoral regulations, Member States are requested to report to the Commission cases of fraudulent and non-fraudulent irregularities that they have detected. Information provided in a first irregularity report needs to be updated when developments occur.

Under EU law, all cases of irregularities and suspected fraud above EUR 10 000 in the areas of revenue and expenditure should be reported. However, for expenditure, not all detected irregularities have to be reported.[45]

The irregularities detected and reported would result in a decreased level of revenue or an undue item of expenditure if they were not discovered. The initiation of recovery procedures follows these detections.

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37 Bulgaria, Czech Republic, Denmark, Estonia, Ireland, Greece, Spain, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Romania, Slovenia, Slovakia, Finland.

38 Bulgaria, Estonia, Ireland, Greece, Italy, Slovenia, Slovakia.

39 Denmark, Hungary.

40 Poland, Sweden.

41 Denmark, Luxembourg, Slovakia, Finland.

42 Belgium, Bulgaria, Germany, Ireland, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Netherlands, Poland, Romania, Slovenia, Sweden, United Kingdom.

43 Bulgaria, Czech Republic, Denmark, Spain, France, Croatia, Italy, Cyprus, Lithuania, Hungary, Malta, Poland, Finland, Slovenia, Slovakia, Sweden, United Kingdom.

44 Bulgaria, Germany, Spain, Italy, Cyprus, Romania.

45 See the Commission Staff Working Document 'Methodology regarding the statistical evaluation of reported irregularities'.

While irregularities in relation to traditional own resources are detected within the financial year or earlier, the irregularities analysed in this document in relation to expenditure deal with amounts that occurred in previous financial years (on average about three years earlier).

Examples of these irregularities could include the infringement of public procurement rules or ineligible expenditure.

On the one hand, these types of irregularities show certain weaknesses in the administrations managing the funds. On the other, the fact that these irregularities are detected and reported at a later stage proves that the overall system is capable of correcting these situations throughout the lifecycle of projects and programmes.

Some further considerations need to be made on the subject of fraud. Fraud is a 'deliberate deceit': the intentionality of this behaviour is usually proven through the recourse to false or falsified documents which inflate the declared costs for EU expenditure or reduce the revenue (for customs duties).

It is clear that the detection of fraud is far more difficult than the detection of a 'simple' irregularity, where no deliberate attempt to defraud is made. While the latter usually stems from a vulnerability in the first layer of control, the former, even when exploiting existing weaknesses, is the result of a specific action put in place by individuals and/or organisations, with malevolent intent and with methods varying from the simplest to the most complex schemes.

The detection and reporting of fraud proves that the overall control system put in place at national and EU level (including OLAF) functions and is capable of detecting fraud and irregularities.

The final decision on whether an irregularity actually constitutes fraud is the responsibility of the relevant authorities of the Member State involved.[46] As criminal procedures can take a few years, unless specifically described as 'established fraud', any reference to detected fraud throughout this document should be interpreted as referring to cases of 'suspected fraud'.

5.1. Reported irregularities and overall trends 2011-2015

In 2015, 22 349 (fraudulent and non-fraudulent) irregularities were reported to the Commission, involving a total of approximately EUR 3.21 billion. Approximately EUR 2.79 billion (up from EUR 2.26 billion in 2014) concerns the expenditure sector of the EU budget. Detected irregularities represent 1.98 % of payments on the expenditure side and 1.71 % of gross total traditional own resources collected.

Compared to 2014, the number of irregularities detected increased by 36 % and the corresponding financial amounts remained stable (-1 %).

Between 2011 and 2015, the number of reported irregularities increased by 98 %, while the related amounts increased by 81 %, although this increase mainly concerns the expenditure budget.

[46] This implies that the cases initially reported by Member States as potentially fraudulent may be dismissed by judicial authorities.

The revenue and expenditure sectors experienced different trends: decreasing for revenue and increasing for expenditure.

On expenditure, several factors lie behind the increase:

- firstly, it is linked to the resources available in the EU budget, which in 2015 were over 14 % higher than in 2011;
- secondly, cyclical circumstances such as the approaching closure of the 2007-2013 programming period played a role;
- thirdly, the control over the management of EU funds by the appropriate institutions (European Commission and Court of Auditors) and national services is constantly improving;
- fourthly, specific circumstances in two Member States,[47] which reported an anomalously high number of irregularities (40 % of the total number and 20 % of the total amounts).

In the area of Traditional Own Resources (TOR), the total number of irregular cases registered in the OWNRES database decreased to 5 104 (from 5 538 in 2014). The total estimated and established amount reported by Member States as irregular (fraudulent and non-fraudulent) decreased in 2015 to EUR 427 million (from EUR 611 million in 2014).

A substantial decrease in amounts in 2015 can be explained by the fact that in 2014 the United Kingdom established significant irregular amounts due to undervalued textiles and footwear, which did not occur in 2015 to the same extent. On the contrary, some initially established additional duties were cancelled, presumably due to lack of evidence of undervaluation.

5.2. Irregularities reported as fraudulent

The number of irregularities reported as fraudulent (which includes cases of suspected and established fraud) and the related amounts are not strictly in correlation with the level of fraud affecting the EU budget. Irregularities reported as fraudulent tend more to indicate how many cases of potential fraud are being detected by Member States and EU bodies.

In 2015, 1 461 irregularities were reported as fraudulent, involving EUR 637.6 million, covering both expenditure and revenue. Significant differences were recorded between sectors, as shown in Table 1.

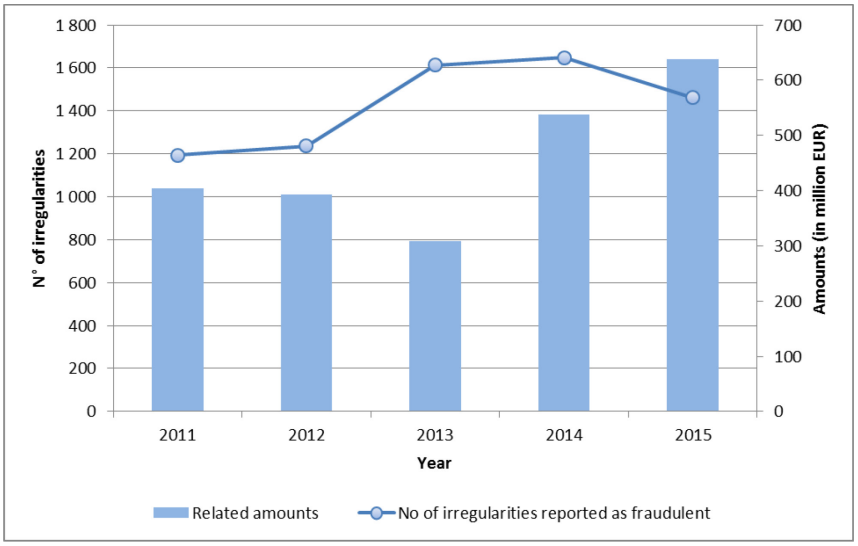
In comparison with 2014, the number of fraudulent irregularities[48] reported in 2015 decreased by 11 %, while their financial impact increased by 18 %.

Chart 1 shows the overall trends over the last five years, highlighting a decrease in the number of reported cases. Nonetheless, after the significant decrease between 2010 and 2011, the subsequent years show a rising trend in the number of fraudulent irregularities detected and reported until 2014, whereas the related amounts fluctuated greatly. The variation in the number of cases is, however, more informative than the variation in the amounts involved. Indeed, amounts vary greatly from year to year as they can be affected by individual cases involving high values.

47 Spain and Ireland. See paragraph 5.3.2.

48 See the Commission Staff Working Document 'Statistical evaluation of irregularities reported in 2015'.

Chart 1: Irregularities reported as fraudulent and the related amounts, 2011-2015



There are also differences between the trend for **revenue** (which shows a decrease by number and by amounts in 2015) and the trend for **expenditure** (where fluctuations appear to be linked to the progression of the multiannual programming cycles and where there has been a slight decrease in the number of cases for the second consecutive year).

Table 1: Irregularities reported as fraudulent in 2015[49] [50]

[49] The high percentage indicated in relation to 'Structural and cohesion funds before 2007-2013' is exclusively due to the fact that payments on those programming periods are almost finalised.

[50] Totals and subtotals in Tables 1, 2 and 3 and in Annexes 1 and 2 may differ from the sum of the individual values, due to the rounding-up of the underlying figures.

Budget sector (expenditure)	N° of irregularities reported as fraudulent	Variation in relation to 2014	Involved amounts (in million EUR)	Variation in relation to 2014	As % of payments
Natural resources	**444**	**-14%**	**74.1**	**8%**	**0.13%**
Agriculture market support and direct payments	*180*	*8%*	*38.3*	*-21%*	*0.09%*
Rural development	*232*	*-31%*	*28.8*	*110%*	*0.29%*
Both	*13*	*86%*	*3.8*	*-10%*	*n/a*
Fisheries	*19*	*73%*	*3.2*	*53%*	*0.46%*
Cohesion Policy	**371**	**21%**	**477.5**	**74%**	**0.96%**
ESIF 2014-20	*1*	*-*	*0.2*	*-*	*0.00%*
Cohesion 2007-2013	*360*	*39%*	*429.2*	*71%*	*1.03%*
Structural and cohesion funds before 2007-2013	*10*	*-79%*	*48.1*	*102%*	*86.79%*
Pre accession	**29**	**-6%**	**7.8**	**-46%**	**0.50%**
Pre accession assistance (2000-2006)	*9*	*-59%*	*6.1*	*-58%*	*n/r*
Instrument for Pre-Accession (2007-2013)	*20*	*122%*	*1.7*	*1643%*	*0.11%*
Direct expenditure	**5**	**-94%**	**0.2**	**-96%**	**0.00%**
Total expenditure	**849**	**-10%**	**559.6**	**55%**	**0.40%**

Budget sector (revenue)	N° of irregularities reported as fraudulent	Variation in relation to 2014	Involved amounts	Variation in relation to 2014	As % of gross amount of TOR collected for 2015
Revenue (traditional own resources)	**612**	**-14%**	**78**	**-56%**	**0.31%***
TOTAL	**1 461**	**-11%**	**637.6**	**18%**	**/**

* The calculation includes estimated amounts reported

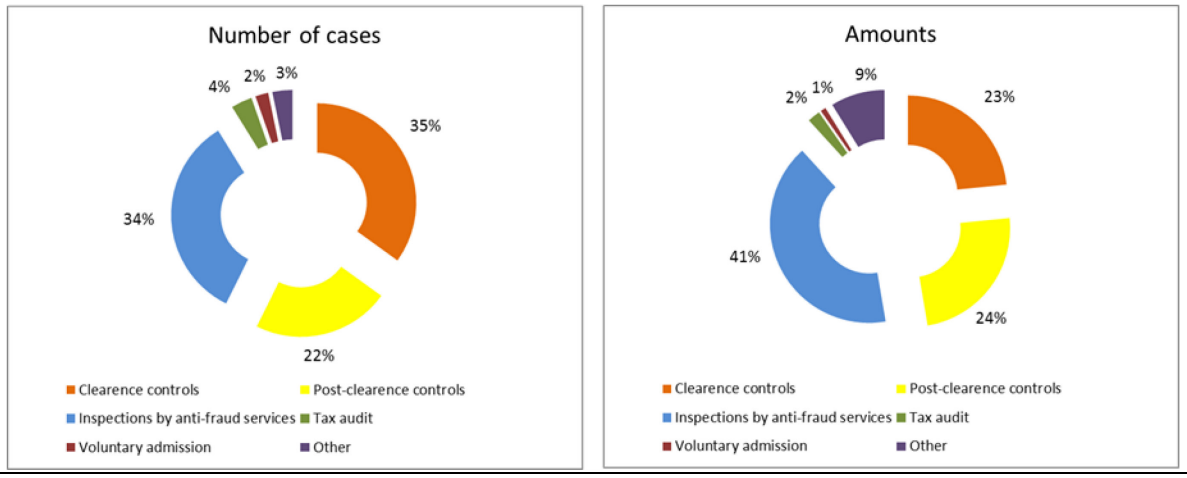
A breakdown of all fraudulent irregularities reported in 2015, by Member State and by budget sector, is set out in Annex 1.

5.2.1. Revenue

The number of irregularities reported as fraudulent for 2015 (612) is 26 % lower than the five-year average (822 for the years 2011-2015). The total estimated and established TOR value (EUR 78 million) is 34 % lower in 2015 than the five-year average (EUR 119 million). In this context, the total number of cases reported as fraudulent and as not fraudulent remains quite stable in spite of a decrease in the number of cases reported as fraudulent.

Customs controls carried out at the time of clearance of goods and inspections by anti-fraud services were the most successful methods of detecting fraudulent cases in 2015. In terms of amounts, inspections carried out by anti-fraud services and post-clearance controls were most fruitful.

Charts 2 & 3: Methods of detection of fraudulent cases — by number of cases and estimated and established amounts



It is difficult to compare Member States in relation to the reported number of irregularities and their related amounts, as reporting practices are influenced by different interpretations of relevant provisions. From a financial perspective, the variations observed from one year to another can be attributed to reports of individual large cases, which have a considerable impact on the annual figures, especially in Member States where lower amounts of TOR are collected. Other factors, such as the type of traffic, type of trade, level of compliance of economic operators and the location of a Member State, can influence the figures significantly.

5.2.2. Expenditure

For EU expenditure, there was a decrease of 10% in the number of irregularities reported in comparison with 2014. The decrease was seen across all sectors of the budget, with the exception of cohesion policy. However, some significant differences between sectors should be noted.

Market support, direct payments and fisheries all showed increases, while rural development followed the opposite trend: an increase of 82% between 2013 and 2014 was followed by a decrease by 31 % in 2015 (see paragraph 5.2.2.1).

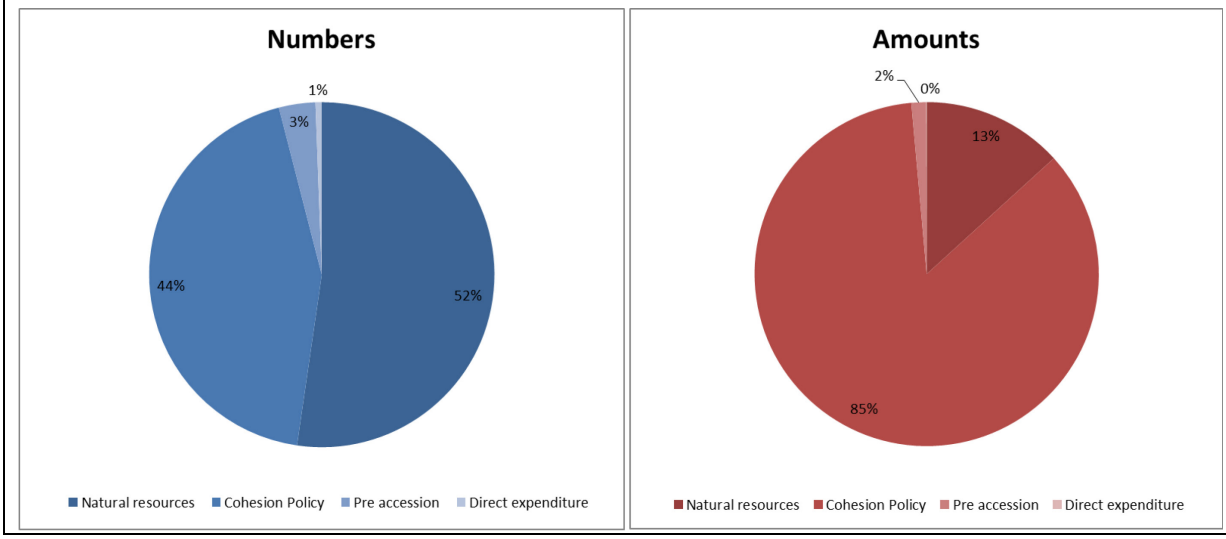
Decreases were also seen in the pre-accession (6%) and direct expenditure policy sectors (94 %). By contrast, cohesion policy showed a significant increase of 21 %, following the decrease in the previous year.

Fluctuations in the amounts involved are usually less informative, as already explained. However, the amounts involved have increased by 55% in comparison with 2014. Since the Commission and Member States are insisting on the need to plan and focus their control activities on the basis of risk analysis and IT tools, the increase could be a result of these new practices.

Charts 4 and 5 show the irregularities reported as fraudulent and their associated amounts, by budget sector.

For the third consecutive year, the largest proportion of irregularities reported as fraudulent (52 %) was detected in the agricultural sector. However, as in previous years, and even more than in the past, the bulk of the related financial amounts (85 %) came from cohesion policy.

Charts 4 & 5: Irregularities reported as fraudulent by budget sector (expenditure) — by number and amount



The use of false or falsified documentation or declarations remained the most common type of fraud (34 %). 16 of the irregularities reported as fraudulent related to conflicts of interest, three to cases of corruption and another 73 to other irregularities related to ethics and integrity.

About 23 % of irregularities reported as fraudulent in 2015 were detected by anti-fraud bodies, during criminal investigations or via other external controls. 75 % were detected by the administrative control systems provided for under sector-specific regulations. This underlines the importance of external controls in the fight against fraud and the need for strong coordination with managing and audit authorities. Anti-fraud or criminal investigations detect cases of potential fraud involving large financial amounts, which reflects how effective the investigations are and the investigative capabilities of the authorities concerned.

Detection continues to vary between Member States, but the differences have narrowed.[51] In 2015, only two Member States, Ireland and Luxembourg, did not classify any of their irregularities as fraudulent. Very few fraudulent irregularities (less than three for all expenditure sectors) were reported by Belgium, Sweden, Malta, Finland, Denmark and Austria. The Member States which detected and reported the highest number of fraudulent irregularities were Romania, Poland, Slovakia, Germany and Italy (between 199 and 53). The highest figures for amounts were reported by Italy, Portugal, Slovakia, Romania and Poland (between EUR 213 million and EUR 40 million). These differences are caused by several factors and reflect different approaches among Member States and among various administrations in the same Member State.

[51] See Annex 1.

During the 2011-2015 period, 7% of irregularities reported as fraudulent were established as fraud. In this area, Poland, Romania, Bulgaria and Germany[52] reported the highest number of concluded procedures.

5.2.2.1. Natural resources (agriculture, rural development and fisheries)

Despite a decrease of more than 30 %, the rural development sector accounted for the largest number of irregularities reported as fraudulent in 2015. The other sectors showed an increase in comparison with the previous year.

Similar to previous years, the irregularities notified by four Member States (Hungary, Poland, Romania and Italy) represented about 74% of the total number of irregularities reported as fraudulent.

Romania, Poland, Lithuania and the Czech Republic reported an increasing number of fraudulent cases.

The increase in irregularities reported as fraudulent concerns the European Agricultural Guarantee Fund (EAGF). For 2015, 3% of reported cases concerned both EAGF and EAFRD.

The most recurrent types of fraudulent irregularities are the use of '*false or falsified documents*', '*false or falsified request for aid*' and '*declaration of fictitious products, species and/or land'* for the EAGF. For the EAFRD, Member States indicated '*other irregularities related to ethics and integrity*', '*false or falsified documents*' and '*false or falsified request for aid*'.

In 2015, control activities performed by administrative bodies represented the most successful type of control, having detected 50% of the total irregularities reported as fraudulent.

Of the irregularities reported as fraudulent between 2009 and 2013[53], 10% were described as established fraud. Over the same period, 12% of the cases were dismissed. Bulgaria and Poland reported having concluded the highest number of established fraud procedures.

5.2.2.2. Cohesion policy: 2007-2013 and 2000-2006 programming periods

For the third consecutive year, cohesion policy was not the area of budget expenditure with the highest number of irregularities reported as fraudulent. The related amounts, however, accounted for the largest proportion of the total.

In line with the trend shown in recent years, the ERDF accounted for both the largest proportion of reported fraudulent irregularities and related financial amounts in 2015 (60 % and 75 % respectively).

Most of the fraudulent irregularities (64%) were detected by the control system provided for in EU legislation. This continued the trend highlighted since 2012, but represented a striking change from the previous programming period (2000-2006), when fraudulent irregularities were almost exclusively detected during anti-fraud and criminal investigations.

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52 Germany changed the classification of a number of cases indicated as 'established fraud' in past years to 'suspected fraud'.

53 2009-2013 has been taken as the reference period for analysing established fraud cases and dismissals.

In terms of financial amounts, the most significant results were obtained during administrative controls (44 %) and criminal and anti-fraud investigations or anti-fraud controls (44%).

Fraudulent cases are, on average, reported within ten months of their detection. Detection, on average, occurs less than three years after the fraudulent practices began.

Of the irregularities reported between 2009 and 2013[54], 12 % of irregularities reported as fraudulent were established as fraud (this figure stood at 11 % in 2013). 4 % of cases were dismissed. Germany, Poland and Italy reported having concluded the highest number of established fraud procedures.

5.2.2.3. Pre-accession policy: Pre-accession Assistance (PAA) and the Instrument for Pre-Accession (IPA)

The number of irregularities reported as fraudulent in PAA and their related amounts decreased in 2015 in comparison with the previous year. Romania reported fraudulent irregularities in PAA concerning the rural development programme.[55]

The number of fraudulent irregularities related to the IPA and the amounts concerned increased in comparison with 2014. Most of the fraudulent irregularities were reported by Turkey. The highest fraudulent amounts were recorded for cross-border cooperation and rural development.

5.2.2.4. Expenditure directly managed by the Commission

Expenditure directly managed by the Commission is analysed on the basis of data on the recovery orders issued by Commission departments.

In 2015, according to the accrual-based accounting system (ABAC), there were five recoveries classified as irregularities reported as fraudulent (i.e. 'OLAF-notified' cases). They accounted for EUR 0.2 million.

5.3. Irregularities not reported as fraudulent

In 2015, the Commission was notified of 20 888 irregularities not reported as fraudulent (about 41 % more than in 2014). The figures increased for the two shared management sectors, remained stable for the revenue sector and decreased for pre-accession and direct expenditure. The related financial impact decreased to approximately EUR 2.58 billion (7 % less than in 2014 — see paragraph 5.3.2), as shown in Table 2.

[54] See footnote 53.

[55] SAPARD.

Table 2: Irregularities not reported as fraudulent in 2015[56]

Budget sector (expenditure)	N° of irregularities not reported as fraudulent	Variation in relation to 2014	Involved amounts (in million EUR)	Variation in relation to 2014	As % of payments
Natural resources	**4 370**	**28%**	**342.4**	**44%**	**0.62%**
Agriculture market support and direct payments	*1 244*	*7%*	*131.2*	*21%*	*0.29%*
Rural development	*2 857*	*35%*	*186.6*	*55%*	*1.91%*
Other / N/A	*86*	*62%*	*5.2*	*91%*	*n/a*
Fisheries	*183*	*101%*	*19.5*	*195%*	*2.76%*
Cohesion Policy	**10 322**	**107%**	**1 769.8**	**9%**	**3.54%**
ESIF 2014-20	*1*	*-*	*0.0*	*-*	*0.00%*
Cohesion 2007-13	*9 730*	*108%*	*1 681.6*	*10%*	*4.03%*
Structural and cohesion funds before 2007-2013	*591*	*104%*	*88.1*	*-10%*	*159.01%*
Pre-accession	**98**	**-30%**	**5.3**	**-43%**	**0.34%**
Pre-accession assistance (2000-2006)	*7*	*-87%*	*1.2*	*-81%*	*n/r*
Instrument for Pre-Accession (2007-2013)	*91*	*6%*	*4.1*	*50%*	*0.26%*
Direct expenditure	**1 606**	**-11%**	**110.8**	**15%**	**0.69%**
Total expenditure	**16 396**	**58%**	**2 228.2**	**13%**	**1.58%**

Budget sector (revenue)	N° of irregularities not reported as fraudulent	Variation in relation to 2014	Involved amounts	Variation in relation to 2014	As % of gross amount of TOR collected for 2015
Revenue (traditional own resources)	**4 492**	**0%**	**349.0**	**-57%**	**1.40%***
TOTAL	**20 888**	**41%**	**2 577.2**	**-7%**	**/**

* The calculation includes estimated amounts reported

Annex 2 shows a breakdown of all non-fraudulent irregularities reported in 2015, by Member State and by budget sector.

5.3.1. Revenue

The number of irregularities not reported as fraudulent for 2015 (4 492) is 1 % lower than the five-year average (4 515 — years 2011-2015). The estimated and established amount (EUR 349 million) is 1 % higher in 2015 than the five-year average (EUR 347 million).

Non-fraudulent irregularities were primarily detected by means of post-clearance controls (54 % of the number of cases and 56 % of the amount). Other important methods of detection for non-fraudulent cases in 2015 were:

- voluntary admission (16 % of numbers and 15 % of the amounts);
- customs controls at the time of clearance of goods (13 % of numbers and 12 % of the amounts).

In 2015, solar panels were the goods most affected by fraud and irregularities in monetary terms. In many instances irregularities involving solar panels were detected following a mutual assistance notice issued by OLAF. This underlines the importance of investigations conducted by OLAF for detection of irregularities on transactions with certain types of goods

[56] See footnote 49.

(e.g. incorrect CN (combined nomenclature) codes or origin of goods, evasion of anti-dumping duties).

5.3.2. Expenditure

The increase in the number of irregularities not reported as fraudulent concerns the main expenditure sectors of the EU budget (agriculture and cohesion policy). Irregularities related to pre-accession and direct expenditure have decreased.

The magnitude of this increase is due to the high number of irregularities reported by Spain in the cohesion policy sector.[57] They represent 36 % of the total irregularities reported in 2015. This increase is mirrored by a significant rise in the related financial amounts. Ireland also reported an unusually high number of irregularities, the bulk of them concerning the 2000-2006 period.[58] All detected irregularities are followed up with corrective measures by national authorities in order to protect the EU's financial interests.

5.4. Results from the activities of the European Anti-Fraud Office (OLAF)[59]

In 2015, OLAF opened 219 investigations. Over the same period, 304 investigations were concluded and 364 recommendations[60] were issued.

OLAF sent 98 recommendations for judicial action to national authorities and recommended that approximately EUR 888.1 million be recovered, of which about EUR 97.9 million related to revenue and EUR 790.2 million to expenditure (see Table 3).

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57 The high number of irregularities reported in 2015 does not correspond exclusively to irregularities detected during this financial year, but also to irregularities detected throughout the whole 2007-2013 period and not reported until 2015.

58 For the IMS reporting year 2015 Ireland reported 538 non-fraudulent ERDF related irregularities, of which 537 relate to 'historic' reporting for the 2000-2006 programming period. These 537 non-fraudulent ERDF irregularities were identified and corrected in the years 2000-2010 and the EU's financial interests were protected. Due to administrative issues and closure of the contradictory phase of 2000-2006 funding in the Member State, the actual reporting to the IMS only took place in 2015. As a result, the irregularity reporting data for Ireland for 2015 appears high in comparison with previous years.

59 For a full description, see 'The OLAF Report 2015'. https://ec.europa.eu/anti-fraud/about-us/reports/olaf-report.

60 At the end of an investigation, OLAF can issue the following types of recommendations:
financial (recommending the recovery of unduly spent amounts), judicial (recommending the starting of criminal procedures against individuals by national authorities), disciplinary (recommending the launching of disciplinary procedures *vis-à-vis* staff of the institutions) and administrative (recommending addressing weaknesses in administrative procedures).

Table 3: Amounts recommended for recovery in 2015 following OLAF investigations

Sector	Recommended amount million EUR
Structural Funds	624.0
Customs and trade	97.9
External Aid	76.1
Centralised expenditure	42.0
Agricultural Funds	36.8
New financial instruments	10.4
EU staff	0.9
TOTAL	**888.1**

6. RECOVERY AND OTHER PREVENTIVE AND CORRECTIVE MEASURES

Detailed information on recoveries, financial corrections and other preventive and corrective measures (interruptions and suspensions of payments) are published in the Communication from the Commission to the European Parliament, the Council and the Court of Auditors on the Protection of the EU Budget.[61]

No further information on this subject will be given in this report.[62]

7. CONCLUSIONS AND RECOMMENDATIONS

The role of the Member States is pivotal in ensuring that the financial interests of the EU are adequately protected. Indeed, as Member States collect or manage and spend the greatest share of the resources of the EU budget, they also have a specific responsibility in ensuring that the principles of sound financial management are duly applied and respected. Member States have the obligation to ensure that fraud and irregularities affecting the EU financial interests are detected and corrected, and in the case of fraud, adequately prosecuted.

2015 has been a year of consolidation for several initiatives taken by the Commission and the Member States in previous years. On some strategic issues like the EPPO, negotiations have progressed, but have still not achieved conclusive results.

In other areas, significant steps were taken in 2015 to enhance the protection of the EU's financial interests, in particular for the revenue side of the budget.

7.1. Revenue

The adoption of Regulation (EU) No 2015/1525[63] has improved the current framework for detecting and investigating customs fraud at EU and national level, significantly strengthening

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61 For the 2014 financial year, see COM(2015) 503 of 8 October 2015. The Communication for the financial year 2015 is expected between the end of July and September.

62 Some information concerning recovery is given in the Commission Staff Working Document 'Statistical evaluation of the irregularities reported in 2015'.

63 See paragraph 2.2.1.

the analytical capabilities of both OLAF and national customs authorities in detecting fraudulent operations.

Against this background, the results from detections in the traditional own resources area show a slightly downward trend, partly influenced by the high values of detections in 2014.

The detection of irregularities and fraud concerning solar panels[64] (many of which were detected following mutual assistance notices issued by OLAF) underlines:

- the importance of investigations conducted by OLAF in the detection of irregularities in transactions with certain types of goods;[65] and
- the added value that coordination and cooperation at EU level can generate in the fight against fraud.

Customs control strategy is a combination of different types of controls. Post-clearance controls are the most effective method of detection both in terms of the number of cases detected and in terms of amounts. However, controls at the time of clearance of goods and inspections carried out by anti-fraud services are indispensable for detecting certain types of fraud and new fraud patterns.

In many Member States, budget constraints have led to the reduction of staff in charge of controls. Some Member States operate with remarkably few customs staff. Reduced controls may boost inward trade flows but this could be at the cost of effective controls and the protection of the EU's financial interests.

Recommendation 1

Given the current budget constraints, Member States are:

- **requested to strike the right balance between trade facilitation and the protection of the EU's financial interests, which are also national interests considering the national taxes collected at import and considering that Member States are compensated for collecting traditional own resources;**
- **invited to exchange experiences on instances where customs authorities were particularly successful in detecting fraud or irregularities at the time of clearance;**
- **requested to incorporate information received from other Member States or the Commission departments through the CRMS, AFIS or OWNRES systems into risk management and complement the national populations used for risk management purposes;**
- **invited to cooperate closely with one another and exchange information beyond the borders over post-clearance controls/audits and to prevent fraud-related trade diversion from one Member State to another. When determining which companies are to be checked, attention should be paid to those that are established in one country but which clear all their**

64 The goods most affected by irregularities and fraud. See paragraph 5.3.1.

65 E.g. incorrect CN codes or origin of goods, evasion of anti-dumping duties.

imports at customs offices in other Member States.

In 2015, 'voluntary admissions' became a more important source of irregularity detection. In the light of this, the outcomes of voluntary admissions need to be taken into account when planning future control strategies, in particular for post-clearance controls but also when adapting the control strategies and so that it is possible to conduct oversight on self-assessed operators in the future. Above all, *ex post* adjustments of customs value need to be taken thoroughly into account.

Recommendation 2

Considering the increasing number of cases of voluntary admission and the related amounts, Member States are reminded of the need to adapt their customs controls strategies, taking into account the outcomes of voluntary admissions and are therefore invited to:

- **adapt their yearly planning of staff and resources required for *ex post* verification of information received by voluntary admissions;**
- **take into account customs risk management and, if required, take into account in control plans the types of irregularities revealed by voluntary admissions;**
- **extend customs controls to other economic operators with businesses or operations identical or comparable to those having made voluntary admissions.**

7.2. Expenditure

On the expenditure side, the fluctuation in the number of fraudulent irregularities reported over the last five years is difficult to interpret. However, whereas the overall number of detections has remained fairly stable over the last three years, the amounts concerned have regularly increased. There is a significant difference between:

a. **spending programmes which are multiannual** and for which the level of detection follows their **cyclical** nature; and
b. **direct payments and market support** (agricultural policy), where payments and actions follow an annual cycle and the detection of fraud and irregularities shows a certain **consistency and stability** over time.

Fraud detection practices still differ between Member States.

The number of Member States detecting and reporting a significant number of fraudulent irregularities has increased, showing their commitment to the fight against fraud affecting the EU's financial interests.

The Commission remains concerned about the low number of potentially fraudulent irregularities reported by some countries. In particular, the progress noted in the 2014 Report for certain Member States came to a standstill or even regressed in 2015.

Although satisfactory, the quality of irregularity reporting could be further improved to allow more in-depth analysis of the underlying phenomena.

Recommendation 3

Member States are requested to further improve quality control of the information submitted via the Irregularity Management System (IMS), in particular information on:

- the description of detected irregularities;

- the priority areas concerned;

- the localisation of the projects/actions affected by fraud and irregularities.

As some Member States report a very low number of fraudulent irregularities, in particular in relation to the amount of funds allocated to them, the Commission recommends strengthening their work on detecting and/or reporting fraud:

- **in agriculture: Finland, Austria and the United Kingdom;**
- **in cohesion policy: Spain, France and Lithuania.**

The role of managing and paying authorities in detecting fraud has grown since 2012 and should be further enhanced in the coming years under the new regulatory framework for the 2014-2020 period.

The Commission believes that this role could be further enhanced if these authorities make systematic use of appropriate IT tools.

Recommendation 4

• Given the complexity of the operations managed and the high number of beneficiaries concerned, Member States (managing authorities/paying agencies and audit/control authorities) are invited to plan and focus their audits and control activities on the basis of risk analysis and performing IT tools.

• The Commission has developed and put at the Member States' disposal systems and tools such as Arachne, IMS and the Fraud Risk Assessment tool. The Commission encourages Member States to use these systems and tools more systematically and efficiently, unless other comparable alternatives are already available to them.

ANNEX 1 — IRREGULARITIES REPORTED AS FRAUDULENT

The number of irregularities reported as fraudulent measures the results of Member States' work to counter fraud and other illegal activities affecting the EU's financial interests. Therefore, the figures should not be interpreted as indicating the level of fraud in the Member States' territories. Totals differ from Table 1 as Annex 1 does not include third countries (pre-accession) and direct expenditure.

Member States	Agriculture		Fisheries		Cohesion Policy		Pre-Accession		TOTAL EXPENDITURE		REVENUE	
	N	€	N	€	N	€	N	€	N	€	N	€
Belgique/België					1	0			1	0	43	7 538 346
Bulgaria	5	773 479	4	186 613	4	252 411	1	292	14	1 212 795	23	648 683
Ceská republika	13	791 560			35	14 398 677			48	15 190 237	2	44 705
Danmark	1	0			1	0			2	0	6	4 001 406
Deutschland	6	615 842			58	5 711 930			64	6 327 772	88	14 566 960
Eesti	6	1 507 680			1	452 363			7	1 960 044	4	81 625
Éire/Ireland									0	0	8	1 544 668
Ellada					4	76 861			4	76 861	33	13 375 473
España	11	945 822			1	1 321 308			12	2 267 130	74	4 830 245
France	8	21 957 601			1	40 039			9	21 997 640	99	16 502 399
Hrvatska					3	2 184 460	2	51 864	5	2 236 324	6	621 169
Italia	35	9 786 868	2	937 729	30	205 897 337			67	216 621 934	40	5 689 688
Kypros	4	211 760							4	211 760	3	112 709
Latvija	5	402 394			11	3 204 277			16	3 606 671	18	1 616 073
Lietuva	15	4 097 052							15	4 097 052	17	559 196
Luxembourg									0	0	0	0
Magyarország	28	8 461 627			16	1 707 781			44	10 169 408	5	205 201
Malta					1	20 386			1	20 386	0	0
Nederland	2	0			6	1 205 247			8	1 205 247	0	0
Österreich	1	6 625			1	426 085			2	432 710	9	882 508
Polska	117	5 180 874			59	35 009 858			176	40 190 732	59	1 732 136
Portugal	5	228 168	8	664 975	14	77 090 162			27	77 983 304	4	508 718
Romania	135	12 628 911	2	1 253 828	53	50 128 899	9	6 060 351	199	70 071 989	21	1 106 514
Slovenija	6	913 603			6	2 728 096			12	3 641 699	3	139 295
Slovensko	19	2 243 224			56	74 248 476			75	76 491 700	2	97 541
Suomi/Finland					1	6 676			1	6 676	6	412 415
Sverige					1	29 027			1	29 027	0	0
United Kingdom	3	119 576	3	171 379	7	1 321 728			13	1 612 683	39	989 999
TOTAL	**425**	**70 872 666**	**19**	**3 214 524**	**371**	**477 462 083**	**12**	**6 112 508**	**827**	**557 661 780**	**612**	**77 807 672**

ANNEX 2 — IRREGULARITIES NOT REPORTED AS FRAUDULENT

Totals differ from Table 2 as Annex 2 does not include third countries (pre-accession) and direct expenditure.

Member States	Agriculture		Fisheries		Cohesion Policy		Pre-Accession		TOTAL		REVENUE	
	N	€	N	€	N	€	N	€	N	€	N	€
Belgique/België	12	198 676			42	1 150 403			54	1 349 079	199	7 702 369
Bulgaria	35	5 500 245	5	75 532	103	31 888 599	29	885 125	172	38 349 500	4	96 851
Ceská republika	54	2 075 902	3	51 662	623	234 818 961			680	236 946 526	70	3 459 097
Danmark	21	1 459 851	1	12 105	3	100 821			25	1 572 777	85	3 572 789
Deutschland	104	4 268 397	4	593 268	381	37 549 894			489	42 411 559	1 680	98 309 892
Eesti	31	916 700			38	1 406 812			69	2 323 512	4	112 658
Éire/Ireland	61	1 700 271			545	73 999 784			606	75 700 055	24	1 795 956
Ellada	106	40 248 517	4	126 996	114	37 671 526			224	78 047 040	19	3 001 966
España	502	45 516 487	12	755 342	5 105	434 379 579			5 619	480 651 408	240	19 835 842
France	167	21 176 547			19	2 557 529			186	23 734 075	260	15 873 136
Hrvatska	1	17 655			1	2 431	23	260 160	25	280 246	8	558 813
Italia	493	34 130 041	1	34 181	191	45 870 449	3	553 935	688	80 588 607	112	8 801 968
Kypros	4	257 092			3	472 133			7	729 226	1	14 363
Latvija	31	1 164 772	1	10 245	51	9 821 468			83	10 996 485	12	378 930
Lietuva	243	25 514 993	13	675 805	53	6 933 032			309	33 123 830	30	795 857
Luxembourg									0	0	0	0
Magyarország	279	14 735 635	2	65 572	304	37 517 791			585	52 318 998	20	798 466
Malta	6	109 516			14	511 673			20	621 189	4	604 651
Nederland	202	9 873 243	53	6 962 981	63	5 312 715			318	22 148 940	459	111 189 852
Österreich	23	626 623			90	8 130 052			113	8 756 676	63	4 189 849
Polska	262	6 096 964	6	1 673 150	826	190 580 712			1 094	198 350 825	69	3 249 352
Portugal	279	14 745 038	27	4 241 232	215	27 732 179			521	46 718 450	14	1 730 597
Romania	1 086	82 452 484	23	3 151 694	374	123 894 190	5	386 434	1 488	209 884 802	72	7 478 348
Slovenija	21	411 740			38	4 768 205			59	5 179 945	9	307 191
Slovensko	32	5 085 314	1	189 016	373	416 581 123			406	421 855 453	6	474 901
Suomi/Finland	19	372 214	1	47 884	12	850 164			32	1 270 261	32	1 326 606
Sverige	36	2 396 338	8	318 970	30	1 949 056			74	4 664 364	76	3 039 021
United Kingdom	72	1 606 199	18	480 908	711	33 810 996			801	35 898 102	920	50 860 956
TOTAL	4 182	322 657 452	183	19 466 543	10 322	1 770 262 277	60	2 085 654	14 747	2 114 471 927	4 492	349 560 277