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**COMMISSION STAFF WORKING DOCUMENT**

**Follow-up of recommendations to the Commission report on the protection of the  
EU's financial interests – fight against fraud, 2011**

*Accompanying the document*

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
TO THE COUNCIL**

**Protection of the European Union's financial interests-Fight against fraud  
Annual Report 2012**

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## SUMMARY

In the 2011 Report on the protection of the European Union's financial interests, the Commission made certain recommendations to the Member States. The Commission has followed up the implementation of these recommendations by the Member States as part of the 2012 reporting exercise.

### 1. CASES REPORTED AS FRAUDULENT

#### 1.1. Expenditure

##### Shared management (Agricultural and cohesion policy expenditure)

In 2011, in the agriculture domain, **Bulgaria** reported the highest number of fraudulent irregularities in this area, with 37 cases followed by **Romania** with 25. Certain big-spending Member States such as **France, Germany, Spain and the United Kingdom** continue to report a very low number of irregularities as fraudulent. This raises the question whether the low number declared as fraudulent is due to non-compliance with reporting principles, including their interpretation of the terms 'suspected fraud' and 'established fraud', or to the ability of the control systems in place in these Member States to detect fraud.

In 2011, in cohesion policy domain, trends highlighted in previous years were confirmed: **Poland, Germany and Italy** reported most of the cases and Germany remains the most successful Member State at completing criminal proceedings to establish fraud and impose penalties. Six Member States reported no irregularity as fraudulent in the area of cohesion policy in 2011: **Belgium, Cyprus, Denmark, France, Malta and the Netherlands**. It is still not clear why this was so in larger Member States, like France.

**The Commission invited Member States to explain the low number of "suspected fraud" cases reported in the agriculture and cohesion policy areas, and to report on the way in which their control systems target high-risk areas to improve fraud prevention and detection.**

In the area of shared management, it is a fact that several Member States continue to report extremely low levels of suspected fraud in either agriculture or cohesion policy leading to continued concern about their fraud detection systems, although most contend that this can be attributed to the quality of their fraud prevention and low actual levels of fraud.

**Agriculture and Rural development** Spain replied that they consider most irregularities are unintentional, due to the complexity of the sector. However the Spanish authorities consider that they devote considerable resources to detecting suspected fraud and argue that the frequency and carefulness of the checks that they undertake guarantee that fraud and irregularities will be detected. France reiterated many of the arguments made last year to defend the low levels of fraud they detected in Agriculture, namely that their ex-ante checks are very strong and that there is no relationship between the amounts of aid received and the level of fraud. France does not consider definitional differences are a factor as their definition of fraud is consistent with the EU definition.<sup>1</sup> Germany stated that its management and control system is efficient and that all cases detected are reported. The UK responded that the low number of cases of

<sup>1</sup> Set down in the Council Act of 27 July 1995 "drawing up the Convention on the protection of the European Communities' financial interests "Official Journal C 316".

fraud reflects the high standard of checks which they carry out and consequent low levels of fraud<sup>2</sup>.

**Cohesion policy:** Cyprus and Malta considered that their strong multi-layered system of prepayment checks should detect most irregularities. Cyprus replied that their definition of suspected fraud is based on the EU's definition and considers that the distinction made in the last year's report on fraudulent and non-fraudulent irregularities is more restrictive than the definition of 'suspected fraud'. Nevertheless, Cyprus declared that the prescribed procedures are followed and those cases that fall within the definition of 'suspected fraud' are reported accordingly. Denmark replied that all suspected fraud cases in the area of cohesion policy are investigated, so they do not make a cost benefit analysis, this suggests that they are not targeting checks on the basis of risk analysis until suspicions emerge. Belgium reported increased checks in the Brussels Capital Region and that an EU systems audit's findings were satisfactory in the German speaking region. However the questionnaire response only referred to the ESF and did not include responses from the administrations of the two most populated administrative areas.

Malta's response was also to attribute the low levels of fraud to prepayment checks which are carried out by the Treasury as well as the line ministry on invoices and public tenders to ensure errors are detected early. In addition desk checks and on site document checks are carried out on 100% of invoices received. The Netherlands also emphasise their pre-payment checks, implicitly as a reason for low levels of fraud, these checks focus more on face to face meetings with the beneficiaries.

Many countries outlined how they target their fraud prevention and detection efforts on the basis of risk analysis.<sup>3</sup> In the area of cohesion policy United Kingdom and Cyprus targeted vulnerabilities to irregularities in general rather than specifically focussing on fraudulent irregularities. Slovakian authorities sought to improve their risk analysis with new obligations for managing authorities to take account of media reports and complaints from the public.

Various Member States outlined measures to target the vulnerabilities which were identified. Romania is now piloting a system of ex-post checks to look for fraud and conflicts of interest. In 2012, Bulgaria updated the Law on State Financial Inspection. The amendments mandated new financial inspections by the Public Financial Inspection Agency on the awarding and implementation of public procurement contracts especially in areas highlighted by risk analysis. In 2012 the Bulgaria Public financial inspection Agency discovered 36 infringements and frauds in public procurement.

## 1.2 Pre-accession funds

In the case of the Instrument for Pre-Accession Assistance (programming period 2007-2013), the nine irregularities reported as fraudulent were divided between the five different components. Irregularities in all five were reported by Turkey, while a single case concerning the cross-border component was detected in Italy, part of the Adriatic Cross-Border Cooperation Programme. In this area, only Turkey is using IMS for the reporting of irregularities, while Croatia still does not, despite the training and support provided.

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<sup>2</sup> However, the recently published Report of the House of Lords stated that staff absences and problems with using EU IT system have impeded reporting efforts in the field of agriculture.

<sup>3</sup> For agriculture and cohesion policy: Greece, Spain, France, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia, Slovakia. Stated for Agriculture not mentioned for Cohesion policy: Denmark and Cyprus. Only mentioned for Cohesion policy: Bulgaria, Estonia, Ireland, Luxembourg, Portugal and the Netherlands.

**The Commission invites Croatia to complete the implementation of the IMS and to improve the reporting quality; the Commission invites FYROM to implement the system.**

In the pre-accession area Croatia reported that they have completed the implementation of the IMS in October 2012.

## **2. CASES NOT REPORTED AS FRAUDULENT**

### **2.1 Revenues -Traditional own resources (TOR)**

In recent years the Commission has laid special emphasis on Member States' customs control strategies in its TOR inspections. The Commission is closely monitoring Member States' action in response to the observations made during Commission inspections. In 2011, in the area of traditional own resources (TOR), both the number of cases of irregularities reported in OWNRES as fraudulent and the amounts involved were lower than in 2010.

**The Commission recommended that Member States' customs control strategies should intensify targeting high-risk imports, thus further improving the detection rate of cases of irregularities and fraud in TOR.**

The majority of Member States' stated that their customs authorities use risk analysis to target their endeavours.<sup>4</sup> Others either did not reply or did not comment.<sup>5</sup> Luxembourg responded that the question was not applicable. The general nature of some replies made further assessment difficult and represents a missed opportunity to share experience.

Belgium, Ireland, France, Italy, Hungary and Sweden have all improved their IT capabilities either through new systems or adding new features to existing programmes. IT improvements were sometimes made in order to manage high risk imports which have already been identified for example Belgium added specific categories, for automatic declaration of agricultural products. France added an automated element in its customs declaration procedure for determining whether or not the release of goods needs to be delayed pending checks. By processing information according to existing analysis this ensures high risk goods are checked and allocates random sampling of medium risk goods, whilst speeding up the procedure for low risk goods, such as those on which no duties apply. Finland have a similar system as does Hungary, however the latter mentioned that staff have the discretion to carry out checks even if the system does not detect risk. Ireland introduced a new IT tool the Customs Risk Intervention Selection Programme (CRISP) which will select high risk non-compliant imports for post-clearance primary audits. Sweden is developing new risk management systems.

Organisational or procedural measures were also introduced. Hungary carry out a small number of completely random audits on the basis of an ECA recommendation that there should be a possibility that all entities will be checked. Hungary's annual ex-post audit plan aims to cover an estimated 90% of high risk entities, 5% of medium and small risk operators and 5% completely randomly (although Authorised Economic Operators are exempted). Presumably the 5% of completely random checks are also useful to evaluate how effective the risk analysis targeting has been.

Some Member States took measures to increase their staff's capacity or increase the guidance provided to them in order to better target risky imports. Estonia reorganised its staffing

<sup>4</sup> Bulgaria, Czech Republic, Germany, Ireland, France, Italy, Cyprus, Latvia, Hungary, Malta, Poland, Netherlands, Romania, Slovenia, Slovakia, Finland, Sweden, United Kingdom.

<sup>5</sup> Spain, Austria and Portugal.

structure to allow personnel to specialise more on one of the following issues, customs classification of goods, customs value of goods and origin of goods. Hungarian authorities have made a risk analysis data sheet for carrying out audits on those operators permitted simplified transit procedures; they intend to make its use compulsory for all customs authorities. Check lists for when these audits are carried out have also been designed.

Member States often have different approaches to risk targeting. France emphasised specific economic operators and separately goods. Greece focused attention on geographical risk, especially goods movements via Bulgaria, as the removal of border customs offices since Bulgaria's accession heightened risk. Italian customs authorities reported success in recovering considerable amounts of TOR by targeting under invoicing during import value declarations.

Hungary stated that EU and national level efforts to simplify and speed up customs procedures, lead to increased reliance on ex-post checks. Generally document and systems audits on the operator rather than checks on the goods movements. France and Hungary mention procedures for auditing trusted operators who have been granted simplified procedures.

Romania reported that the measures taken by the authorities have resulted in an increase in the number of cases of fraud/irregularities detected exceeding EUR 10,000.

Bulgaria, Hungary, the Netherlands and Slovakia considered products which were subject to anti-dumping duty merited closer scrutiny, as these tariffs are relatively high increasing the incentive to avoid them. The Netherlands is taking part in a pilot of the European Commission ConTraffic project to address this. Hungary considered textiles, clothing, shoes and other footwear were vulnerable and so increased ex post checks on these products, Bulgaria targeted cigarettes.

Some Member States<sup>6</sup> stated that increased compliance was an important aim. Bulgaria considered that this increased compliance led to a drop in detection and Netherlands predict the same effect. Sweden considers that many errors are unintentional and so have launched a guidance programme to help operators comply. Denmark considers that slow world trade might account for the decrease in irregularities and fraud reported by some MS although they detected an increase in 2011. Germany also increased detection in 2011.

Several Member State mentioned the importance of information exchange with other Member States and third countries to help identifying imports for which fraud or irregularities are likely. Finland also mentioned that they make use of the EU community risk management system and EU common priority control areas database. Cyprus mentioned the usefulness of information received from OLAF and TAXUD and via information exchange with Member States and third countries in making their risks analysis. Bulgaria also stated that information from the EU's Customs Risk Management System (CRMS-RIF) and intelligence received via AFIS were useful. Germany considers that if all Member States bring their customs controls up to the standards of the highest performers, the overall level of detected fraud at EU level would rise considerably.

## **2.2 Cohesion policy**

Irregularities not reported as fraudulent in cohesion policy still account for the largest share of those affecting the various areas of expenditure under the EU budget, though the prevalence of this sector is decreasing in relation to the previous year (approximately 50 % of all cases reported in 2011, in comparison with 70% in 2010).

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<sup>6</sup> Bulgaria, Italy, Hungary, Netherlands and Sweden.

The majority of these irregularities are infringements of rules applicable to public procurement and eligibility of expenditure. This shows that management and control systems can still improve in this area.

**The Commission encouraged Member States to pursue their efforts to improve the efficiency and effectiveness of their management and control systems in the area of cohesion policy.**

**In the area of cohesion policy, the Commission invites France to finalise implementation of the IMS system by the end of 2012.**

Most Member States reported that they have improved their management and control systems for Cohesion policy.<sup>7</sup> Generally Member States have paid special attention to the areas of public procurement and eligibility in accordance with the Commission's observations that these areas were particularly error prone.<sup>8</sup>

Bulgaria described putting in place procedures for managing authorities to take to ensure adequate management and control of public procurement. These include sending experts to observe project evaluation committees and making examinations of all stages of a particular public procurement procedure. Poland cited the complexity of procurement rules as a key reason, Estonia and the United Kingdom called for simplified EU procurement rules. Finland however introduced measures to simplify eligibility checks.

Various Member States<sup>9</sup> reported on legislative measures taken. For example Lithuania amended relevant legislation to protect the EU's financial interests and improve recoveries. Bulgaria changed the law on preliminary controls by the Procurement Agency so that it now looks at calls to tender before their publication, makes recommendations and then produces a report for all authorities concerned which considers the extent to which the recommendations were complied with once the tender was published. The procurement authority in Cyprus carry out checks on all procurement processes co-funded by the EC including controls before the call for tenders is launched.

To prevent irregularities and improve financial oversight Lithuania, Poland and Romania, clarified or amended the division of responsibilities between the different agencies and administrative services<sup>10</sup>. Many countries issued new rules, procedures and guidelines often around the areas of procurement and eligibility<sup>11</sup>. Lithuania made new guidelines on amongst other things on calculating financial corrections, tackling systematic irregularities and reopening investigations when new facts come to light. Hungary is elaborating a new anti-fraud strategy for Cohesion policy; this will also address fraud and irregularity prevention and will be sent to the Commission for approval.

Training measures for staff involved in managing funds and overseeing compliance were also cited as important by Bulgaria, Germany, Estonia, Lithuania Portugal and Italy. Italy considers systems to detect fraud, must be complimented with effective means of preventing fraud and irregularities happening in the first place. Therefore through the Hercule II programme, Italy exchanged best practices with Italian authorities and other Member States including via training sessions and a guide book.

<sup>7</sup> Belgium, Bulgaria, Czech Republic, Germany, Estonia, Greece, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Finland, Sweden.

<sup>8</sup> Bulgaria, Estonia, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Netherlands, Portugal, Poland, Romania, Slovakia, Finland.

<sup>9</sup> Belgium, Bulgaria, Estonia, Latvia, Lithuania, Romania.

<sup>10</sup> Hungarian authorities also consider it is important that implementing authorities and managing agencies amend risk analysis/ according to their own experience when targeting on the spot checks.

<sup>11</sup> Bulgaria, Estonia, Latvia, Hungary, Poland, Portugal, Slovakia.

Ex-ante checks were cited as an effective way of preventing irregularities from occurring by Cyprus, Latvia and Poland. Hungary found that quality control reports on tender documents by the Public Procurement Supervision Department (KFF). at the initial stage allowed beneficiaries who initially might have submitted ineligible documents to provide sufficient information to eventually secure approval, equally irregularity procedures could be started if recommendations were ignored. Systems audits were used to test the strength of management and control systems and recommend improvements in several Member States.<sup>12</sup> In Bulgaria systems audits cover preventative measures, corrective action and reporting of irregularities. Bulgaria also cited the role of their certifying authority preventing irregular expenditure from being submitted to the Commission. The Certifying authority provides broader oversight over managing authorities and operational programmes assessing their systems and carrying out additional checks on programmes where audit reports have detected problems, as well as on the basis on sampling. Denmark works with an external auditor to check projects as well as the accounts covering all Regional Fund and ESF spending. Ireland reported that before expenditure is submitted to the Commission it must pass a series of checks. Ireland declared bearing any cost of funds which they discover were paid out in error.

Poland mentioned updating its inspections and approach to operational programmes according to the recommendations made by the Commission. Denmark, Greece and Hungary reported on sample based checks, used to ensure reasonable coverage . This can also help risk analysis remain responsive to emerging challenges. Various Member States cited using risk analysis to identify areas, processes or actions where systems are vulnerable and focus more checks on these areas. For instance Latvia reported on the development of a risk management system to establish where conflicts of interest, corruption or operations with high error rates are likely, in order to target particularly thorough auditing accordingly. Operations with an error rate of zero are also considered high risk under the Latvian system, as it is likely that systems and practice are insufficient at identifying irregularities. Slovenian authorities consider that in the previous programming period no fraud was because insufficient resources were dedicated to fraud prevention and protecting the EU financial interests, however they consider efforts to address this and international frauds, will probably lead to an increase in the fraudulent and non-fraudulent irregularities committed.

Some Member States explicitly such as Germany, Ireland and the Netherlands and consider their management and control systems do not need much improvement, others imply this through replies that are vague (Spain, Czech Republic) or non-existent (Austria, United Kingdom) to this recommendation.

Luxembourg and Latvia reported efforts to improve audit trails. Malta reports that managing authorities ask beneficiaries to explain their systems for controlling and monitoring expenditure, before agreeing systems for reconciliation at the beginning of the project, above and beyond those already foreseen in the contract. .

Finally, with regard to the specific recommendation addressed to France, they responded that they have completed the implementation of IMS for Cohesion Policy. Additionally, France reported deploying the management tool for automatic processing of goods seized. Altogether 70 allegations were sent via IMS in 2012 (45 for ERDF and 25 for the ESF).

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<sup>12</sup> Bulgaria, Estonia, Greece, Hungary, Poland.

### **3. RESULTS OF THE QUESTIONNAIRE ABOUT CONTROLS TO COMBAT IRREGULARITIES AND FRAUD AGAINST THE FINANCIAL INTERESTS OF THE EU IN THE AREA OF COHESION POLICY**

The Member States' responses to the questionnaire show that further progress is needed on monitoring the results of the administrative and criminal anti-fraud investigations, including recovery of the amounts concerned.

It is also clear that better fraud statistics are necessary so that the Commission and the Member States can focus their efforts in higher-risk areas. In that respect, the Commission intends to put more emphasis in the reporting in this area.

**The Commission invited Member States to monitor the results of criminal investigations and improve their fraud statistics.**

Various Member States describe measures they are currently implementing in response to the recommendation<sup>13</sup>. In December 2011 the Greek Ministry of Justice set up a Working Group on reorganising and modernising the system for collecting and processing judicial statistics. The Working Group has issued recommendations which amongst other things propose the compilation of statistical data relating specifically to fraud affecting the EU budget. In addition, Greece and Hungary are undertaking substantial reforms in their anti-fraud mechanisms, which are expected to lead to overall improvements in monitoring and cooperation in the field of fighting fraud affecting EU funds as well as asset recovery. In Greece the SDOE<sup>14</sup> annual action plan includes improving the statistics on recovery and encouraging public bodies to pursue recoveries in the case of fraudulent or non-fraudulent irregularities.

Hungarian and Slovakian AFCOS and the Latvian managing authority and agricultural paying agency, have organised workshops and working groups for the judiciary to reinforce the communication and exchange of information between the institutions, in order to improve the monitoring of judicial investigations and recoveries. In Slovakia special attention has been paid to coordination between AFCOS, the courts and the managing authorities, this is important to ensure that the managing authority reacts to prosecutions in a timely manner by initiating recovery procedures.

Bulgaria, Latvia and the UK pay particular attention to collecting statistics and monitoring the results of criminal investigations in the agricultural sector. In April 2012, the UK's Rural Payment Agency has set up a system to monitor the results of criminal investigations. The Bulgaria Stated Agricultural fund also keeps detailed statistics on these matters which it communicates to OLAF.

Countries such as Italy, Lithuania, Greece and Hungary are currently developing relevant IT tools for collecting statistics on the results of criminal investigations and/or recoveries. Since 2011, these Member States reported that they put in place or began putting in place IT systems to improve their fraud statistics. For example, in June 2012 the Italian Ministry of Justice has issued a special measure reforming the judiciary's IT system to enable disaggregation of fraud cases involving EU funds from all other criminal proceedings. Similarly, an integrated information system on criminal procedure was set up in Lithuania in 2012 and is due to be launched by July 2013. It will incorporate key information relating to

<sup>13</sup> Greece, Italy, Latvia, Lithuania, Hungary, Romania, Slovenia, Slovakia and Romania, and UK.

<sup>14</sup> Financial and Economic Crime Unit (SDOE).



criminal procedure. Czech Republic and Luxembourg<sup>15</sup> stated that they were also working to improve their fraud statistics.

Germany, and Finland seemed satisfied with the systems they have in place for collecting statistics on fraud cases and their monitoring of criminal investigations.<sup>16</sup> Sweden also expressed this opinion but detailed the number of on-going and completed investigations. Belgium outlined relevant cases under investigation but did not respond further. Romania's AFCOS detailed their judicial statistics which show a 100% increase in indictments, as well as an increase in judicial decisions and a 300% increase in recoveries, demonstrating the importance of accurate monitoring in this area.

Other Member States described certain aspects of their practices in terms of monitoring the results or criminal investigations and collecting fraud statistics. Bulgaria outlined the work of the special units set up within the Prosecutor's office and Police since 2008, which are designed to monitor, co-ordinate and conduct the investigation of EU fraud. The Supreme Cassation Prosecution Offices meets with managers of operational programmes annually to ensure lessons are learnt from fraud cases; AFCOS is updated about cases, it then passes the information onto OLAF and managing authorities. Estonia noted that whilst no cases are closed until all procedures are completed, updates about cases are recorded in IMS. Poland reported promoting information sharing between law enforcement bodies and also that they share relevant information via IMS, as does Spain. In Spain the Directorate General for the Management of European Funds monitors the results of judicial investigations. In Cyprus the intermediate authority referred to monitoring the results of investigations and passing its findings onto AFCOS, however this year no fraud was detected in the area of Cohesion Policy. Portugal reports that the ESF managing authorities IGFSE is tasked with updating a database with all information on cases related to that fund.

Meanwhile Slovenian authorities agreed with the Commission's recommendation and outlined how their inter-ministerial working group on cooperation with OLAF was working to address the issue. Spain also declared that they work with OLAF missions on improvement of judicial statistics including by providing national staff to assist in the process. Hungary acknowledged the need to improve judicial statistics so that they are readily available and correctly classified. Recalling that this had been noted by the Commission, OECD and Moneyval. Next year several steps will be taken to improve the relevant statistical databases.

The Netherlands reported that they did not detect any case of fraud. Ireland agreed with the recommendation but stated low levels of fraud detection meant their activity was not very intensive in this area. Denmark, France and Austria have not provided feedback on the recommendation.

Hungary is considering creating specific legislation to more appropriately reflect situations where EU funds under shared management are misused, currently there are occasions when the agency which funded a beneficiary is not recognised as an injured party. It is planned to address this matter as part of the Hungarian Anti-Fraud Strategy. Poland also reported problems for competent authorities to obtain some relevant information when they are not considered the injured party in a case.

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<sup>15</sup> The ESPON 2013 programme undertakes to report any programme fraud identified and thereby contribute to improving fraud statistics."

<sup>16</sup> Germany and Finland.

## ANNEX – REPLIES OF MEMBER STATES

### 1. REPORTED CASES AS FRAUDULENT

#### 1.1. Expenditure

##### Shared management (Agricultural and cohesion policy expenditure)

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In 2011, in cohesion policy domain, trends highlighted in previous years were confirmed: Poland, Germany and Italy reported most of the cases and Germany remains the most successful Member State at completing criminal proceedings to establish fraud and impose penalties. Six Member States reported no irregularity as fraudulent in the area of cohesion policy in 2011: Belgium, Cyprus, Denmark, France, Malta and the Netherlands. It is still not clear why this was so in larger Member States, like France.

##### RECOMMENDATION 1

**In agriculture and cohesion policy areas, Member States are invited to explain the low number of “suspected fraud” cases reported and to report on the way in which their control systems target high-risk areas to improve fraud prevention and detection.**

<b>BE</b>	<p>According to the ESF Operational Programme (OP) on regional competitiveness and employment in the Brussels-Capital region, risks linked to fraud cases have been considerably reduced because of the large number of checks carried out by the Managing Authority, the Certifying Authority and the Audit Authority.</p> <p>German-speaking Community: as regards following the recommendations made by the EC, we would point out that a systems audit was carried out by the European Commission, DG Employment, Social Affairs and Inclusion (I2), following which the functioning of the German-speaking Community’s management and control system was certified as good. Article 73(3) of Regulation (EC) No 1083/2006 is therefore applicable, which means that the Commission can rely</p>
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	principally on the opinion of the audit authority.
<b>BG</b>	<p>Recommendation 1 (in the section on agriculture) concerns France, Germany, Spain and the United Kingdom and does not apply to Bulgaria. With regard to the section on agriculture, as can be seen from the Report from the Commission to the European Parliament and the Council, "Protection of the European Union's financial interests - Fight against fraud Annual Report 2011" (p. 9), Bulgaria reported the highest number of fraudulent irregularities in this policy area, with 37 cases, followed by Romania with 25. Therefore, we consider that the recommendation to provide explanations for the low number of "suspected fraud" cases reported in the area of agriculture does not apply to Bulgaria.</p> <p>With regard to the section on cohesion policy, it should be <b>BORNE</b> in mind that the systems include a considerable number of preventive control measures, which have led to a significant reduction in the error rate found in subsequent audits and inspections. The audits of the operations showed that for all Operational Programmes, the error rate is below two percent, which demonstrates the effectiveness of control procedures. The low error rate also implies a low number of reported irregularities. A high number of reports of "suspected frauds" is not to be expected, since these represent a proportion of the irregularities reported and if the overall number of such irregularities is low, the number of suspected frauds cannot be expected to be high. The first audits of operations showed that the main sources of errors are ongoing procurement procedures. In order to minimise the risks, a procedure for conducting preliminary controls has been introduced by the Agency for Public Procurement, and the Agency's capacity has been increased. This has led to a significant increase in the quality of procedures for selecting contractors and a decrease in the percentage of errors found in the implementation of the Operational Programmes.</p> <p>In addition, the management and control systems for the Operational Programmes provide for verification of all contracts and documents and on-the-spot inspections to monitor the actual implementation of contracts. Therefore, any irregularities can be identified at a sufficiently early stage and adverse effects avoided before the verification of the expenditure concerned.</p> <p>These results notwithstanding, Bulgaria is continuing to work actively to improve the management and control systems for Operational Programmes. In 2012, work began on the drafting of a Law on the management of European Union funds, which is due to be adopted in 2013. The law will be the basis for management and control systems over the next programming period and will improve the overall environment for the implementation of EU-funded projects. Consequently, the European Commission's fourth recommendation on improving the effectiveness of the management and</p>

control systems has already been met.

We should also like to highlight the findings of the 2011 OLAF report, which showed that in Bulgaria the large number of reported irregularities can be ascribed to the fact that the system is functioning well.

The work of the Public Financial Inspection Agency (ADFI), which is part of the Republic of Bulgaria's public internal financial control system, can be given as a specific example of what Bulgaria has done in relation to national control systems. The Agency's goals, tasks and principles and the scope of its activities and functions are defined in the Law on State Financial Inspection (ZDFI), promulgated on 21.4.2006 and last amended on 18.5.2012, whose primary purpose is to protect the public financial interest. The Agency's various departments carry out follow-up inspections to assess the compliance of the budgets, financial-economic and accounting activities of organisations and persons, in accordance with Article 4 of the ZDFI and the award and implementation of public procurement contracts. They also establish infringements and indicators of fraud, uncover breaches, establish financial and administrative criminal liability and determine when fraud or other irregularities have occurred in order to protect the financial interests of the European Union. The ADFI is also responsible for assisting the European Commission's controllers in carrying out on-the-spot checks or inspections, in cases where the organisations or individuals concerned have not agreed voluntarily to provide access to the premises and/or documents to be inspected, in accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996. In 2011, the National Assembly adopted amendments to the Law on State Financial Inspection in the Amendment of 5.8.2011, in response to the findings and recommendations set out in the European Commission's fourth annual report of July 2010 on Progress in Bulgaria under the Cooperation and Verification Mechanism. In connection with the weaknesses identified in the control of public procurement procedures, the report recommended that continuous risk assessment should be performed, that control activities should be targeted accordingly in a pro-active and result-oriented manner, and that the capacity of the ADFI should be strengthened. Measures for implementing these recommendations were included in two consecutive schedules for urgent measures and actions for the government and the judiciary, to meet the benchmarks set for progress in the areas of reform of the judiciary, the fight against corruption and the fight against organised crime for the periods of August-December 2010 and March-July 2011.

These changes to the Law on State Financial Inspection (ZDFI) introduce a new remit to conduct financial inspections of the award and execution of public contracts, based on the approved annual plan, whose implementation is mandatory. The frequency of inspections and the specific contracting authorities subject to supervision in the course of the year are based on analysis of information on procurement activities, the assessment of risk factors and the Agency's capacity. The planning approach aims to prevent and reduce the risk of uncontrolled expenditure of public finances, to exert a

	<p>disciplining effect on contracting authorities and to give the ADFI recourse in law to control and target high-risk contracting authorities. This approach has been applied since the beginning of the 2012 accounting year.</p> <p>In 2012, the ADFI conducted 39 financial inspections of beneficiaries of funding from EU funds and programmes and established and registered 41 cases of violations and fraud in the expenditure of these funds. In 36 of the inspections, the violations concerned the award and execution of public contracts, the Public Procurement Law (ZOP), the Implementing Rules for the Public Procurement Law and the Ordinance on Small Public Procurement Contracts and, in three of the inspections, the violations concerned the Decree of the Council of Ministers of 12.3.2007 on the terms and conditions for selection of contractors by beneficiaries of grants agreed from the Structural Funds and the Cohesion Fund of the European Union, the "Black Sea Basin 2007–2013" Joint Operational Programme, the EEA Financial mechanism and the Norwegian Financial Mechanism. Of the 41 cases of violations and fraud in the expenditure of European funds that were established, 13 cases related to the Rural Development Programme, 12 to the "Regional Development" Operational Programme, 4 to the "Administrative Capacity" Operational Programme, 4 to the PHARE Programme, 2 to the "Environment" Operational Programme, 2 to the cross-border co-operation programme between Romania and Bulgaria for the period 2007-2013, 1 to the Human Resources Development Operational Programme, 1 to the Investment Fund of the Ministry of Labour and Social Policy and 1 to the EEA Financial Mechanism.</p> <p>These violations resulted in 127 acts establishing administrative violations. In accordance with Article 19 of the Law on State Financial Inspection (ZDFI) 18 reports on completed financial inspections were sent to the Public Prosecutor. In accordance with Article 20(6) of the same law, the results of all 39 inspections were reported to the funding bodies. All the cases of violations and fraud in the expenditure of EU funds established by the agency were reported promptly to the "Coordination of the fight against infringements affecting the financial interests of the EU" (AFCOS) Directorate in the Ministry for the Interior, in accordance with the 2012 Action Plan for the implementation of the National Strategy on the prevention and fight against fraud and irregularities affecting the financial interests of the EU.</p>
CZ	The Czech Republic in 2012 reported nine cases classified as “suspected fraud”. This is two cases fewer than in 2011.
DK	<p><b>Agriculture policy</b></p> <p>Denmark will begin work on identifying further key risks of fraud involving EU funds and on assessing how suspected fraud is evaluated and reported. We would also point out that, in 2012, Denmark accounted for a significant proportion of the total reported cases of suspected fraud.</p>

	<p><b>Cohesion policy</b></p> <p>Denmark considers its financial control to be adequate since all projects where there is suspected fraud are examined and reported. No cost-benefit analyses are therefore carried out in connection with fraud investigations.</p>
<b>DE</b>	Germany reported the cases detected by its efficient management and control systems.
<b>EE</b>	<p><b>Agriculture.</b></p> <p>Estonian authorities reported 15 EAFG and EAFRD irregularity cases the financial impact of which exceeded more than 10 000 euros in 2011. The total amount of these cases was 105 974 euros. Two out of fifteen irregularities were established as suspicion of fraud, which is 13% of all irregularity cases.</p> <p><b>Cohesion Policy</b></p> <p>Estonia reported one fraud case in 2011 amounting to 276 192 euros and this case had a court decision (guilty) in 2012. We reported six suspected fraud cases in 2012 totalling 888 558 euros, none has a solution yet.</p> <p>Estonia has good cooperation with the investigative authorities (the Police and prosecutors): we share information and specific knowledge. We had four different training courses in 2012: two for the Police staff (120 officials) explaining the Cohesion Policy rules given by AFCOS and two for the implementers (70 officials) explaining how to interview, presented by the Police detective.</p> <p>The control system of the Estonian authorities is efficient and the number of suspected frauds detected as a result of administrative proceedings is higher than the European average. The control system will be enhanced taking into account the business environment and the authorities' feedback on the implementation of the support schemes.</p>
<b>IE</b>	<p><b>Cohesion policy</b></p> <p>The low fraud rate in Ireland is explained by the types of beneficiaries involved in both ESF and ERDF programmes. Only expenditure incurred by public beneficiary bodies operational in the Irish administrative system is declared for EU drawdown purposes. Consequently any potential risk to the EU budget is absorbed by the Irish Exchequer prior to expenditure being declared.</p> <p>Furthermore the Structural Fund implementing bodies in Ireland adopt a zero tolerance to fraud. In light of this approach the Commission Guidance Note 'Information Note on Fraud Indicators' (COCOF 09/0003/00) has been issued to all</p>

	<p>bodies in the Structural Funds cascade. The Irish Managing Authorities also ensure that management verifications are adequate to deter or detect fraud.</p> <p>Audit Authorities build in checks for common frauds into their audit programme based on the COCOF guide. Procedures are included in checklists on areas susceptible to fraud such as payroll, income and public procurement. Physical checks are also carried out on supplies during on-the-spot operations audits. Audit Authority staff are also advised to maintain an attitude of professional scepticism throughout the audit.</p> <p><b>Agriculture</b></p> <p>Up to now, Regulation 1828 only required the reporting of cases where the amount of the irregularity was €10,000 or greater. As the majority of SFP and REPS cases are less than this amount, it follows that any resulting irregularity from any one payment would be less again. In addition, the requirement applies to amounts that would prejudice the Community budget. For EU co-funded schemes such as REPS this further dilutes the population of potential fraud cases.</p> <p>For those cases where the threshold has actually been exceeded, Ireland's position has always been that there is no automatic presumption of fraud. The existence of an irregularity, of any amount, is not deemed to be fraud until such a finding has been determined in a court of law. The number of irregularity cases where this has actually occurred is very low.</p>
<p><b>EL</b></p>	<p><b>Ministry of Finance – State General Accounts Office – Fiscal Control Committee (EDEL)</b></p> <p>EDEL, as the control authority for operational programmes under National Strategic Reference Framework Objectives 1, 2 and 3 and for the Fisheries Operational Programme 2007-2013, has drawn up an audit manual indicating the measures it takes to prevent and tackle fraud. In particular, specific questions have been added to the questionnaire on the systems audit so that the auditors can verify that entities in the system have put procedures in place to prevent and tackle fraud. In addition, the auditors ask the managing authorities whether they have reported suspected fraud cases and request information on the measures they have taken; they then take account of these findings when evaluating the entity. During preparations for systems and operations audits, account is taken of fraud indicators – such as those contained in the auditing standards and in the Commission's Information Note - for assessing risks in respect of certain audit questions or points, whereas during EDEL audits, fraud indicators are taken into account for the verification of documents or other evidence.</p> <p>Finally, in the case of complaints which upon examination are deemed to be valid, EDEL carries out an audit on that transaction, including the complementary sample.</p>

However, because it has been observed that simply applying these measures is not sufficient to achieve the expected results in preventing and detecting fraud, and taking into account the fact that the auditors do not have the expertise of those whose main responsibility is detecting and investigating fraud, EDEL has also taken an additional administrative measure. Specifically, in August 2012 a protocol on cooperation between EDEL and the Public Administration Inspectorate/Audit Office (SEEDD) was signed, establishing rules for cooperation between these two audit bodies based on exchange of information and two-way communication of their audit findings. This measure introduced a new practice which is expected to achieve results, given that the powers of the body in question provide a greater likelihood of detecting cases of fraud.

**Ministry of Rural Development and Food - Paying and Inspection Agency for Community Guidance and Guarantee Aid (OPEKEPE)**

The management and control system which governs direct payment schemes and rural development measures based on surface area or livestock, for which the competent authority is OPEKEPE, includes administrative checks, on-site checks and central computerised checks to ensure verification of compliance with the terms under which aid is granted and the requirements and standards relevant for cross-compliance. As also mentioned in Circular No 49680 of 24 April 2012 (Manual of Single Payment Scheme Procedures 2012), the objective is to automatically detect irregularities using computerised means, including cross-checks. **The administrative computerised checks** are carried out at prefectural and national levels and seek to identify any irregularities in relation to the information declared on single payment applications submitted by farmers. They can be informally divided into three categories: (1) the farmer's personal data and other information; (2) the cartographic base and the existence of land parcels and livestock, and (3) provisions of EU and national law. As stipulated in the above circular, suspected irregularities or indications of irregularities resulting from cross-checks have to be followed up by any other appropriate administrative procedure and, where necessary, by an on-the-spot check. These are only some of the many measures and/or audit procedures applied by the OPEKEPE for the detection and prevention of irregularities or fraud, where possible, before payment of the aid.

**Ministry of Rural Development and Food - Directorate for Planning and Agricultural Structures (DPGD)**

The DPGD, as the body responsible for implementing 2.1 Measures, has introduced a series of administrative measures which are already helping with prevention and early detection of fraud. These measures are as follows: (1) use of new forms for the certification of expenditure by the Monitoring Committees, with a view to stricter control of the investment project and the supporting documents provided by the entity; (2) provision for open procedures for the appraisal and approval of aid applications, and rules relating to the solvency of applicants; (3) checks via the internet and cross-checks



against the information made public by the EFET, to determine whether the undertaking under this entity has been fined for adulteration of its products; (4) implementation of a check on the authenticity of the submitted letters of guarantee (cross-check of the information with the Bank) to avoid the submission of false documents, for applications submitted in response to the first call under Measure 123 A of the RDP 2007-2013; (5) implementation of a check on the authenticity of bank documents proving the entity's own contribution with the Bank which issued them before the approval of aid applications submitted in response to the second call under Measure 123 A of the RDP 2007-2013; this is designed to avoid the submission of false documents and the provision of aid for investment projects which did not meet the own contribution requirement; (6) the documents submitted by the entity for the payment of aid must include the invoices of the company which manufactures the machinery and the corresponding delivery notes, in order to avoid overbilling; (7) following the implementation of Law 3861/2012 containing various provisions, including greater transparency through the compulsory posting on the internet of laws and central government, administrative and local authority acts under the 'Diavgeia' programme ['Diavgeia' meaning transparency], it is compulsory to post all contracts and acts concerning development laws, including acts which determine whether investments fall under development laws and decisions which allow the investments to enter into operation (Article 1(4)(15)); in order to avoid where possible any duplication of funding for aid applications, our department conducts checks, under the Diavgeia programme, both when evaluating the application and when issuing decisions on the pre-approval and final approval of investments under Measure 123 A; our checks ensure that the same body has not been approved under another development law; if it is found that the entity has also been included in another development programme, the relevant decisions are checked in order to avoid a situation where the same object of investment is approved under one or more programmes; (8) in the context of the interoperability of the public administration's computer systems, the process of implementing data exchange between the Directorate for Planning and Agricultural Structures and the General Secretariat for Information Systems has begun; in this way our Directorate will be informed directly of the entities' fiscal and financial data and of legal persons' shareholder structure.

Following the checks provided for by the Community and national framework, which take place during the expenditure certification process so that the aid can be granted, and those carried out during the units' operational phase (in Greece these are annual checks), we also conduct checks on all units which cover a period of:

(a) five years for machinery and ten years for subsidised premises in the case of investment projects which were approved and executed under Measure 2.1 of the 2000-2006 operational programme 'Rural Development – Restructuring the Countryside', and

(b) five years both for subsidised machinery and for subsidised premises in the case of investment projects which were approved and executed under Measure 123 A of the RDP 2007-2013.

	<p>In addition, following unscheduled checks carried out in response to complaints (e.g. EFET, SDOE and other entities or individuals), legislative infringements have been identified which in some cases can be considered as suspected fraud.</p> <p>The competent authorities have not been notified of these cases because all of the necessary measures required by the legislation (drafting the audit report, raising the issue with the advisory committee, forwarding the audit report, examining the entity's objections) have not yet been completed in order to allow our department to issue the respective final ministerial decisions imposing the administrative penalties provided for. The competent authorities will be notified of these decisions so that OLAF can be informed.</p> <p><b>Ministry of Rural Development and Food - Directorate for the Audit of Expenditure (DED)</b></p> <p>1. Since its creation, our department has identified many irregularities in relation to which it has officially requested that the audited businesses refund the amounts deemed to have been unduly paid.</p> <p>2. Our department takes all possible measures to detect irregularities. In particular:</p> <ul style="list-style-type: none"> <li>- it draws up the programme of checks for each inspection period by applying risk analysis methodology;</li> <li>- it selects the transactions to be audited by applying risk analysis methodology (risk analysis of businesses);</li> <li>- it verifies the accuracy of primary data under scrutiny by means of cross-checks, as provided for in Article 3 of Regulation (EC) No 485/2008. Cross-checking has increased in recent years, both in number and in the range of transactions checked;</li> <li>- it accepts requests for inspections from other Member States pursuant to Article 7 of Regulation (EC) No 485/2008 on mutual assistance, it carries out these inspections, and it sends requests for inspections to verify that the transactions forming part of the system of financing by the European Agricultural Guarantee Fund (EAGF) are genuine and comply with the rules.</li> </ul>
ES	<ul style="list-style-type: none"> <li>- The agriculture sector in Spain is very varied and complex, with aid applications that relate to a wide range of measures, including market measures and rural development measures, which are difficult to manage and liable to higher error rates.</li> <li>- This complicated and diverse system of aid and the difficulty interpreting and implementing it lead to errors by the beneficiary that are clearly unintentional irregularities and therefore do not involve fraud.</li> <li>- The very complexity of the sector implies the need for a more developed audit strategy with the associated human and financial resources. The number and thoroughness of the necessary controls guarantee that irregularities and suspected</li> </ul>

	<p>fraud, where relevant, will be detected.</p> <ul style="list-style-type: none"> <li>- In the light of the above, the fact that Spain reports few cases of suspected fraud does not mean that such cases are not pursued, rather that there are relatively few cases compared with the total number of irregularities. The detection of a possible case of fraud requires the Legal Services attached to the units responsible for controls to make appropriate referral of the case to the courts for the fraud to be established and, when that happens, the corresponding criminal penalties to be imposed.</li> <li>- For details of how control systems detect high-risk areas and step up checks and investigations to combat fraud, please refer to the comments in point 2.1 of the 2012 Questionnaire on Article 325 TFEU.</li> </ul>
<p><b>FR</b></p>	<p>The control system for EU agricultural funds is subject to a framework laid down by various EU Regulations, in particular Council Regulation (EC) No 485/2008 of 26 May 2008. The control systems which France has set up strictly adhere to the EU framework.</p> <p>In addition to simultaneous checks by paying agencies before aid is paid to beneficiaries, ex post checks are carried out after all aid has been paid (other than direct aid), based on an annual risk assessment submitted to the European Commission.</p> <p>There is a much greater likelihood of detecting cases of fraud or suspected fraud in market interventions than in direct aid. However, market aid accounts for only a very small share of total aid (less than 10 %). Thus no cases of fraud were reported in 2010, 3 cases in 2011 and 3 again in 2012.</p> <p>We would also point out that France considers as fraud any irregularities subject to a criminal procedure under Article 40 of the French Code of Criminal Procedure. In other words, an irregularity is classified as ‘fraud’ if the acts could constitute criminal offences. Any irregularities must therefore be such that they may be reported to the Public Prosecutor under Article 40, as referred to above. Intent must therefore be established by the inspection bodies on the basis of material facts.</p> <p>This situation is in line with EU law and the definition of fraud under the Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities’ financial interests. The Convention annexed to the Council Act provides for ‘criminal prosecution of fraudulent conduct injuring [financial] interests’. Moreover, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities’ financial interests refers to the aforementioned Convention, defining fraud under one of the recitals as follows: ‘Whereas the aforementioned conduct includes fraudulent actions as defined in the Convention on the protection of the European Communities’ financial interests.’</p> <p>In countries with long-standing, well-structured judicial, administrative and land-registration systems, it is more difficult</p>

	<p>to perpetrate fraud. There is no justification for trying to establish a relationship between the amount of aid granted by a Member State and the number of cases of suspected fraud or notified fraud without taking account of the framework of controls laid down by EU law and their implementation at national level.</p> <p>In response to the second part of recommendation 1 concerning the way in which control systems are used to improve fraud prevention and detection, we would stress the importance of the risk assessment carried out annually and submitted to the European Commission, which influences the control programme set up each year. This risk assessment takes into account several parameters, including the measures themselves, the amount of aid paid and the outcome of previous checks. It helps to predict and to better target cases where irregularities are most likely, thereby improving fraud prevention and detection.</p> <p>The system for structural funds is laid down in particular by Commission Regulation (EC) No 1828/2006 of 8 December 2006. This Regulation provides for checks at different levels to ensure that expenditure declared to the European Commission is sound and that procedures have been complied with, in order to protect the interests of the European Union.</p> <p>To date, France has reported 70 cases of non-fraudulent irregularities to OLAF. These irregularities were not considered fraudulent as there was no sign of intent (see above explanation concerning Article 40 of the Code of Criminal Procedure and Regulation (EC) No 2988/1995).</p> <p>As with agricultural funds, fraud prevention in relation to the Structural Funds is based on a risk assessment for the purposes of drawing up the control plan.</p>
IT	<p>We consider that Recommendation 1 does not apply to Italy, but only to the following countries: Belgium, Cyprus, Denmark, France, Malta and the Netherlands.</p>
CY	<p><b>Replies from CAPO (the Paying Agency in Cyprus for Agricultural funds):</b></p> <p>The definition of “suspected fraud” according to Commission Regulation (EC) No1848/2006 provides that “suspected fraud’ has the meaning assigned to it by Article 1a point (4) of Regulation (EC) No 1681/94, that is an irregularity which has been subject of a primary administrative or judicial finding <b>giving rise to the initiation of proceedings at national level in order to establish the presence of intentional behavior, in particular fraud</b> as is referred to in Article 1(1) point (a) of the Convention of 26 July 1995 on the protection of the European Communities’ financial interests drawn up on the basis of Article K.3 of the Treaty on European Union”</p>

	<p>From a legal point of view, the definition of “suspected fraud” sets the following condition: “...the initiation of proceedings at national level in order to establish the presence of intentional behavior, in particular fraud...” This condition raises an additional issue, namely that of the strict interpretation of the definition, and inserts an additional element that needs to be satisfied in order for a case to fall within the meaning of the definition. Nevertheless, and in addition to the above note, we shall note that the prescribed procedures are followed and those cases that fall within the definition of “suspected fraud” are reported accordingly.</p> <p>CAPO (the Paying Agency) has the Anti-Fraud Service which is the Special Department according to article 11 of Council Regulation (EC) No 485/2008. The Service has, in addition, advisory competences for all antifraud issues with regards to EU funds. Specifically, the Service advises the Commissioner for Agricultural Payments (Head of CAPO) with regards to the legal responsibilities of CAPO on the protection of the financial interests of the EU and the fight against fraud. The Commissioner, through the Anti-Fraud Service informs all the departments of CAPO on a continuous basis, on the actions and the initiatives they should undertake, as well as the corrective and preventive measures they should adopt in order to fight fraud and protect the financial interests of the EU. The Anti-Fraud Service, apart from the trainings that organises and/ or carries out for the personnel of CAPO, whenever it notices that there is weakness in the control systems of CAPO and the national legislation, prepares and submits analytical opinions to the different departments, on how they could correct these weaknesses in order to avoid and prevent future problems.</p> <p>Therefore, CAPO gets important information, guidance and advice from the Anti-Fraud Service, in order to continuously improve fraud detection and prevention. With regards to the way in which their control systems target high-risk areas to improve fraud prevention and detection, we must mention that we reach to our samples after risk analysis. Furthermore, experience has indicated which stages in the procedure and which sectors carry the highest fraud risk, therefore CAPO enhances its procedures and control system to that end.</p> <p>For <b>the Cohesion Policy area</b>, during 2011 no fraud or suspected fraud cases were identified mainly due to the fact that the management and control system has several levels of control (eg. Verifications by the MA and IBs, reviews by the Certifying Authority and audits of systems and projects by the Audit Authority. The verifications are carried out ex ante on non declared amounts to the EC and therefore any errors or irregularities are identified early and are deducted from the declaration before send to EC. Ex post controls are also made on the spot at the Beneficiaries. The MA and IBs give particular attention/focus to those areas or Beneficiaries which were susceptible to irregularities to improve their systems and procedures.</p>
LV	<p>EU funds <u>Managing Authority (MA)</u> has performed several actions in order to control, evaluate and prevent risks of irregularities including risk of “suspected fraud”.</p>

Management and control system Latvia has designed taking into account possible risks regarding corruption and fraud. Also corruption and fraud prevention mechanisms have been built into management and control system at different stages of implementation process. Besides up to now several amendments of national regulation regarding irregularity detection and reporting has been made. The main amendments are related to the use of proportional financial corrections in the cases where precise irregularity amounts cannot be estimated and related to illegal employment issues.

Furthermore in order to provide common understanding of issues related to irregularities and suspected fraud, MA has created (and performing regular updates) the guidance on irregularity (including fraudulent cases) detection, prevention and reporting. Guidance note include examples of different type of irregularities and actions in cases of detected suspected fraud cases.

Quarterly organized meeting with all in EU funded project monitoring involved institutions ensure common understanding and analyses of quarterly detected irregularities and suspected fraud cases. Within the meetings the decision upon the cases which should be reported to EC/OLAF has been made.

The questions related to fraud prevention and risk detraction are discussed in national AFCOS meetings. Within these meetings according to the initiation of MA, the decision on technical (working level) meetings has been adopted. Furthermore outcome of these meetings has been the seminars and workshops for prosecutors and judges. Within these seminars MA presented the overall EU fund system in Latvia as well as discussed several case studies related to suspected fraud and fraud.

Issues regarding the risk mitigation have been covered in yearly meetings with all institutions involved in EU fund monitoring as well as social partners and NGO's. Within the MA the risk management process has been created and the risk of conflict of interests, fraud and corruption is classified as intermediate risk.

Managing Authority of the European Agricultural funds provides an explanation of the fact that agricultural land is visually inspected every year and the information thus obtained is taken into account when administrating applications for area payments thus, diminishing opportunities for dishonest behavior of applicants, fraudulent activities and possibilities of improper fulfillment of tasks.

Data necessary for the administration are received from State institutions and other institutions, electronically thus, reducing opportunities for dishonest behavior of applicants, fraudulent activities and possibilities of improper fulfillment of tasks;

As provided by the EU legislation, Ex-post evaluations must be carried out under EAFRD to the extent of 1% however, in order to ensure a more effective protection of the EU finances and to reduce opportunities for improper fulfillment of tasks and fraudulent activities, it is adopted in Latvia that upon evaluation of relevancy of the objective, depending on the risk

	level of a support program, on-the-spot checks are carried out to the extent of 5%-100% of the implemented projects.
<b>LT</b>	<p>In Lithuania, the procedures for investigating, identifying and eliminating irregularities in projects being implemented within the framework of measures under a given programming period (hereinafter 'projects') are laid down in the following documents:</p> <ul style="list-style-type: none"> <li>- for projects financed with EU Structural Fund resources on the basis of the Single Programming Document for Lithuania for 2004–06, in the Rules for the administration and financing of Lithuanian Single Programming Document (SPD) measures for 2004–06 and projects financed under those measures, as approved by Order No 1K-033 of 28 January 2004 of the Lithuanian Minister for Finance;</li> <li>- for projects financed using Cohesion Fund resources for 2000–06, in the Rules for administering European Union Cohesion Fund resources in Lithuania, approved by Lithuanian Government Resolution No 1026 of 24 August 2001 and the Rules for identifying and eliminating irregularities in the use of EU financial assistance and laying down restrictions on obtaining EU financial resources, approved by Order No 1K-307 of 17 October 2005 of the Lithuanian Minister for Finance;</li> <li>- for projects financed from EU funds for 2007–13, in the Rules for administering and financing operational programmes, approved by Lithuanian Government Resolution No 1225 of 12 November 2008, the Rules on project administration and financing, approved by Government Resolution No 1443 of 19 December 2007 (hereinafter 'the Rules on project administration and financing'), and the Methodological recommendations for investigating and identifying irregularities, approved by Order No 1K-173 of 29 May 2009 of the Minister for Finance (hereinafter 'the Methodological recommendations for investigating and identifying irregularities').</li> </ul> <p>The above legislative instruments stipulate that where an implementing authority suspects an irregularity and/or has received information about a suspected irregularity from another authority, it begins an investigation of the irregularity following the procedures laid down in legislation and, having assessed the nature of the alleged irregularity, if it suspects any criminal activity, it immediately informs the Financial Crime Investigation Service (FNIT) under the Ministry of Internal Affairs, which is authorised to detect and investigate criminal acts and other breaches of the law connected with the receipt and use of financial support funds from the European Union (EU) and foreign States. For example, during the SPD period, nine (9) of the three hundred and twenty two (322) irregularities identified by the implementing authority were connected with criminal activity (three involved criminal activity and six suspected criminal activity), while during the 2007–13 programming period, of the one thousand (1 000) identified irregularities, ten (10) were categorised as suspected fraud. Information on these irregularities was passed on to the FNIT, and OLAF was notified about eight (8) irregularities occurring during the SPD period and nine (9) irregularities during the 2007–13 programming period that were connected with criminal activity.</p>

At each stage of the implementation of an operational programme or project, measures are also taken with the aim of preventing irregularities and providing for their monitoring and control:

1. At the programming stage: when establishing investment axes and priorities, and compiling descriptions of measures and the terms and conditions of project financing, risk areas are assessed and initial assertions are drawn up with a view to preventing irregularities.

2. At the project financing application assessment stage: the risk of irregularities is established when assessing applications for project financing (hereinafter 'applications'). During such assessments, in addition to other information, a check is carried out to ascertain whether the applicant has previously submitted an application for support from European Union, Lithuanian national or municipal budgetary funds or resources, or from the funds of a government body of an EU Member State or non-EU country in respect of the project being assessed, at an earlier stage in the project or relating to part of the project, and whether the application being assessed or part; and whether the application being assessed or part of the application is supplementing any other project to which financing has already been allocated or will be allocated. Where any such facts are established, additional provisions and restrictions relating to the risk/control of irregularities are incorporated into the project financing and administration contract.

3. At the project implementation stage, by: 1) checking and certifying payment requests; 2) performing on-the-spot checks; 3) preventing the risk of double financing of the same expenditure under the same activity – this is systematically provided at the project programming, assessment and implementation stages; 4) managing project risk – project risk is assessed in terms of potential double financing and ineligible procurements, and preventative risk management measures are applied; 5) carrying out prior monitoring of procurements by non-contracting authorities and follow-up procurement monitoring – prior assessment of procurement documents and an evaluation of the procurement are carried out on the basis of a pre-procurement monitoring risk analysis; 6) managing irregularities – investigating, identifying and resolving project irregularities; 7) performing ex-post checks – up to five years after the completion of a project assessments are made of whether there are any circumstances giving rise to the termination of the contract or the return of support funds, or that otherwise affect the funding provided.

Preventative measures also include publicity activities to inform the public, project implementers and their founding entities and competent authorities about identified irregularities and cases of fraud, involving the sharing of information between the bodies that administer EU structural support; where necessary information is passed on to the FNTT, the Special Investigation Service and the Public Procurement Office.

Implementing authorities have also set up additional measures for the prevention of irregularities in their internal project risk management procedures; they organise training courses for staff and project implementers, and are developing cooperation with project implementers with a view to drawing their attention to areas of project administration that are



	subject to the highest levels of risk and to possible sanctions where irregularities are identified.
<b>LU</b>	<p>The audits of ESPON operations have found the following error rates: 0% for the reference year 2009, 0.17% for 2010, and 1.09% for 2011.</p> <p>No cases of suspected fraud were revealed for the 2007-2013 ESPON programme. Applications were found to be ineligible for the following reasons: incomplete audit trails for staff costs, incomplete audit trails for public procurement procedures, and lack of evidence of first-level control of administrative costs.</p> <p>The ESPON programme has introduced quality checks for operations, to be carried out by the Certifying Authority, and quality checks for first-level financial control systems, to be carried out by the EU Member States and Partner States. This is coordinated with the Managing Authority and the ESPON 2013 JTS. Both types of quality checks are specifically targeted at operations and beneficiaries which by risk analysis have been found to have a high-risk profile. Quality checks of first-level financial control systems are scheduled to take place at least once during the programme's implementation period in every participating country.</p> <p>The number of irregularities detected in the 2007-13 ERDF Programme was very low: 0.0009% for 2009, 0.00005% for 2010 and 0% for 2011. Fraud has not yet been detected.</p> <p>As regards OLAF's recommendations (other than recommendations 2, 3 and 5, which do not concern the ERDF managing authority), the low number of fraud cases detected for cohesion policy undoubtedly results from the high number of checks the structural fund beneficiaries are subjected to from their application to the moment their subsidy is paid and their file closed. The managing authority has put in place a management and control system that imposes accounting, financial and legal monitoring backed up by frequent on-the-spot checks, all of which contribute to the low number of irregularities found. Our operations are in turn checked by the Inspection générale des finances, and it confirms the very low number of irregularities.</p>
<b>HU</b>	<p><b>1.1 Agriculture</b></p> <p>1.1.1 The authority competent in agricultural support (Agricultural and Rural Development Agency - ARDA) puts special emphasis on fraud prevention. The related actions are defined in the legislation laying down the procedures for the paying agency and in internal rules of procedure and implementation manuals. An example of legislation is the amendment in 2009 of Act XVII of 2007 on the proceedings of that authority, as a result of which the concepts of 'intentional action' and 'negligence' were defined at statutory level with regard to agricultural support. The definition of intentional action also helps preventing any fraud potentially committed by clients.</p>

The ARDA regularly reviews the irregularity reports sent to the OLAF within the framework of its monitoring activities in order to make the description of the irregularity method and the irregularity category (irregularity, suspected fraud, fraud) consistent in the awareness of the developments occurred in the meantime regarding the particular case. Whenever there was a need, the authority changed the irregularity category from 'irregularity' to 'suspected fraud'.

It is possible though that the concepts of fraud and irregularity may still not be fully identical in the various Member States, because the distinction may also be significantly influenced by national practice and legislation.

1.1.2 The way to identify high risk areas by the control system to improve fraud prevention and detection:

In line with the relevant legislation, administrators of the respective authority also obtain prior information on the reliability of the client in the course of the administrative control of support applications submitted to the European Agricultural and Rural Development Fund under the title of investment, in order to be able to review the transaction or investment project providing the basis for the application more thoroughly and in more detail, if justified.

In the area of on-the-spot checks, the ARDA has introduced a data mining procedure based methodology several years ago in order to support risk analysis based selection. The methodology relies on the results of earlier on-the-spot checks and can effectively forecast potentially risky transactions. It can be indicated in the case of the individual support titles that the applied procedure is effective, because the number of detected errors is significantly higher in the samples selected with risk analyses than in the random samples, used as reference.

### **Cohesion Policy**

According to the information received from the National Development Agency (NDA) the breakdown of the irregularity reports for the 2009-2011 period by year shows a major **decline** in the number of reported irregularities **in 2011**. Over the last three years, the breakdown of the amounts affected by irregularities by year was as follows: The ratio of amounts affected by in irregularities was 76% in 2009, 18% in 2010 and **6%** in 2011.<sup>17</sup>

The decline in the number of irregularities and the low number of cases reported as suspected fraud stems from the **strengthening of the co-ordination of controls since 2011 and the effective control environment**. In 2011, the competent National Development Agency (NDA) carried out a complete review of the **single operational manual**, issued in the form of a ministerial directive for the use of support. The Agency also developed an irregularity management system, which may be monitored electronically.

The single operational manual regulates the on-the-spot checks and document-based checks by the Intermediate Bodies within the framework of level one checks.

The **purpose of level one checks is to mitigate the risks stemming from the implementation of projects**. The system of document-based checks was established in all phases of the support management process (application, contracting, payments etc.). The complete checks are performed by the parties to the process (project manager, financial officer etc.) on the basis of the documents uploaded electronically or submitted in hard copy by the Beneficiary. Document-based checks are supplemented by the sample-based on-the-spot checks.

### 1.2.1 On-the-spot checks, irregularity procedures, reports

The **Intermediate Bodies conducted 7161 on-the-spot checks** in 2011 in relation to the **Operational Programmes**, broken down as follows:

Operational programmes	TOP	EEOP	SRPOP	SIOP	EDOP	EPAOP	STROP
<b>Number of on-the-spot checks</b>	127	381	988	1002	1481	25	24

Operational programmes	WTOP	CHOP	NGPOP	SGPOP	STOP	NHOP	CTOP	IOP
<b>Number of on-the-spot checks</b>	279	917	436	364	344	511	255	27

Source: Report to the Government on the status of the audit of assistance from the European Regional Development Fund, the European Social Fund and the Cohesion Fund in 2011 (Ministry of National Economy)

Not only is the number of first-level checks increasing. **The control activities of the organisations auditing EU support** (DGAEF: Audit Authority), the Government Control Office (GCO), the State Audit Office (SAO), the

**been increasing gradually since 2007.** While 77 audits were conducted at the Beneficiaries in 2007, this figure has increased to 419 in 2011. **The DGAEF conducted 402 audits, while the other external audit bodies completed 17 audits in 2011.** Pressured by the European Parliament, the EU agencies have intensified their audits recently, because the net donor Member States have ever greater expectations with regard to the proper use of the amounts they have contributed.

**The total number of irregularity cases launched in 2011 and conducted by the Legal Department of the National Development Agency: 276** (of which suspended: 14, no irregularity found: 139, irregularity found: 123). **Number of reports** in the irregularity cases launched in 2011: **4.**

### **1.2.2 Audit of Public Procurement Procedures**

**The regularity of public procurement procedures is audited by the Public Procurement Supervision Department (KFF) operating within the NDA.** In the programming period 2007-2013, the **KFF** applies **process-embedded checks**, as a general rule, pursuant to Government Decree No 4/2011. (I. 28.) on the use of support from the European Regional Development Fund, the European Social Fund and the Cohesion Fund (hereinafter: 'Decree'), in the case of **public procurement procedures supported from resources originating from the European Union** regarding the supply of goods or services reaching or exceeding the EU thresholds and, in the case of public works contracts and construction concession, public procurement tenders reaching or exceeding three hundred million forints. There are two subsequent phases of process-embedded checks applied to such procedures:

- **quality control** prior to the launch of public procurement tenders (evidenced by issuing a quality control report or certificate),
- **regularity audit** tasks conducted after the launch of the procedures (evidenced by issuing a regularity certificate).

Other tasks of the KFF:

- **ex post checks** (evidenced by an ex post audit report),
- verification of **contract amendments**.

Public procurement tenders for the supply of services or goods below the EU thresholds, and public procurement tenders for public works contracts and construction concessions below three hundred million forints are audited by the Intermediate Bodies.

Between 8 December 2010 and 30 June 2012 the KFF conducted audits in relation to 2 771 public procurement tenders.



Tasks performed by the KFF in the period under review

**KFF tevékenysége során ellátott feladatok alakulása a vizsgált időszakban**

(2010. december 8.-2012. június 30.)

(8 December 2010 – 30 June 2012)

Minőségellenőrzés

Quality control

Utóellenőrzés

Ex post checks

Szabványossági tanúsítvány

Regularity certificate

Szerződés módosítás

Contract amendment

Concerning the reports and certificates issued in relation to the quality control tasks of the KFF, this rate of more than 61% represents 1 756 quality control reports and 1 971 quality control certificates in the first round of 2 771 public procurement procedures.

The regularity reports prepared in relation to the regularity of the procedures make up only 27.34% with regard to

the audited period, involving 1 662 reports, i.e. 1 662 public procurement procedures, during which an observer appointed by the KFF conducted process-embedded checks during the 19 months of the audit period. On average, more than 87 public procurement procedures were closed in one month.

With regard to public procurement tenders conducted earlier and closed with a contract, the contract already signed had to be modified on 371 occasions, i.e. in 6.10%, in relation to which the KFF expressed its prior legal opinion.

Pursuant to the Decree, ex post checks falling within the competence of the KFF had to be conducted only for 5.22% of the contracts within the period under review, i.e. the ex post services of the KFF were required in 317 procedures in compliance with the provisions of the Decree in relation to the supply of goods and services above the EU threshold and public works contracts and construction concessions over three hundred million forints. The Beneficiaries also submitted numerous requests to the KFF requesting its position statements.

**The KFF applies prior quality control in several (at least two) rounds** to most documents. If the KFF remarks contained in the quality control report are all reflected in the documents launching the public procurement procedure, the KFF issues a supportive quality control certificate for the Beneficiary. However, if the Beneficiary fails to integrate the problems and recommendations described and made by the KFF in the documents, or does not provide a thorough explanation to them with facts and, therefore, the audit experts cannot waive their remarks, a non-supportive certificate is issued. The supportive certificate cannot be issued until all the remarks made by the KFF are integrated into the documents and, therefore, in particular cases the quality control process may take 4, 5 or, in exceptional cases, even 6 rounds.



**Minőségellenőrzési jelentések és tanúsítványok alakulása**

1 körös minőségellenőrzés	1st round quality control
3. körös minőségellenőrzés	3rd round quality control
5. körös minőségellenőrzés	5th round quality control
2. körös minőségellenőrzés	2nd round quality control
4. körös minőségellenőrzés	4th round quality control
6. körös minőségellenőrzés	6th round quality control

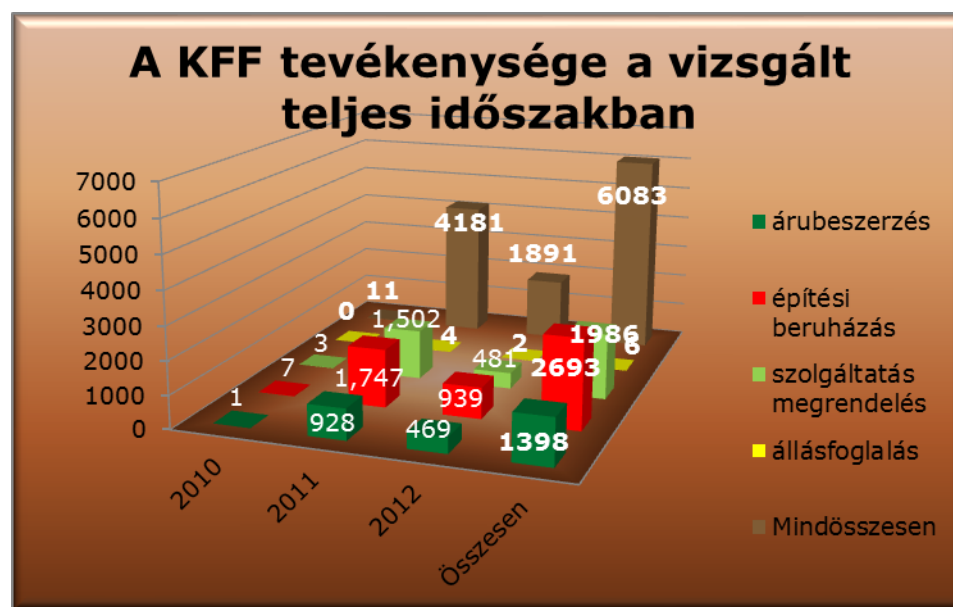
The figure clearly shows that in 47.64% of the cases the Beneficiaries accepted the findings of the first round quality control reports. The Beneficiaries reviewed the tender documents after receiving the remarks made in the first round, deemed the KFF remarks justified and corrected the documents of the public procurement procedures accordingly. In 39.50%, the proposals made by the KFF were accepted only according to the certificate of refusal, issued after the first round of the quality control process. Quality control was conducted in three rounds only in relation to 371 public procurement tenders, in four rounds in relation to 79 tenders, in five rounds in relation to 17

Quality control reports and certificates

before the Beneficiary accepted the contents of the certificates, corrected and returned the documents of the tender for quality control in terms of the public procurement law.

Between 8 December 2010 and 30 June 2012 the KFF conducted checks in relation to 665 Contracting Authorities and 2 771 public procurement tenders. In total, 6 083 documents were issued on the audits in the form of quality control reports, quality control certificates, ex post audit reports relating to public procurement procedures and prior legal position statements concerning contract amendments.

Activities of the KFF, performed in the entire period covered by this study:



Activities of the KFF in the entire period under review

Total

KFF tevékenysége a vizsgált teljes időszakban

• árubeszerzés

• építési beruházás

• szolgáltatás megrendelés

• állásfoglalás

• Purchasing of goods

• public works contract

• purchasing of services

• position statements



	<p>• mindösszesen</p>	<p>• grand total</p>
	<p>The above figure illustrates the types and numbers of <b>documents issued in the course of the checks conducted by the KFF between 8 December 2010 and 30 June 2012 according to the subject matter of the public procurement procedures.</b></p> <p><b>1.2.3.</b> In the course of its audits, the Directorate General for Audit of European Funds (DGAEF), the Audit Authority, typically discloses irregularities and forwards them to the institution system for further action. Part of the irregularities revealed do not need to be reported because they are below the reporting threshold and, therefore, pursuant to the regulations, not all irregularities are reported to the OLAF Co-ordination Office.</p> <p>The Audit Authority selects its annual systems audit topic by risk analysis. The risk analysis is based on the results of former audits (system and project audits) and the outcomes of audits conducted by other agencies. The topic of a systems audit is selected by identifying high-risk areas, on which the AA focuses its attention during its activities. That methodology helps preventing irregularities and fraud.</p>	
<p><b>MT</b></p>	<p>Agricultural Policy: As part of its ‘going concern’ approach, the Malta Paying Agency reviews its administrative controls on a continuous basis in order to strengthen its administrative checks and controls. Amongst the measures which the Paying Agency has adopted throughout the past years, of which measures compliment those control systems established by EU Legislation, one notes the following:</p> <ul style="list-style-type: none"> <li>- the enhancement of a Quality Control Unit within the Paying Agency’s hierchical structure;</li> <li>- the setting up of an IT module which integrates the IACS database with the accounting/payments module;</li> <li>- the development of an IT module which helps investments measures to trigger cases of double funding; and</li> <li>- the continuous upkeep of the Land Parcels Identification Systems (LPIS).</li> </ul> <p>Cohesion Policy: Malta adopts a centralised system for project implementation which includes procurement, payment and verification of expenditure. This means that, Malta adopts a system where all tenders published above €47,000 are vetted before publication by a central government department to ensure that the obligations emanating from the Public Contracts Regulation are adhered to. In addition the same department reviews the recommendations as prepared by the evaluation committee appointed by the contracting authority. This effectively means that there is a multi level of scrutiny of the procurement process.</p> <p>Malta pre-financing all payments made in relation to operations approved under the Structural and cohesion fund. This means that all invoices are processed (paid) by Treasury after that these have been certified by the Project leader and reviewed by the Line Ministry.</p> <p>Finally, as part of the verification of expenditure the MA undertakes 100% desk based check on all invoices</p>	

	<p>processed through the system and included in a payment claim to the Commission, which are complemented by the 100% on-the-spot documentary check. Such a system is intended to ensure that mistakes are identified prior to the inclusion of expenditure in a payment claim to the Commission.</p> <p>The Managing Authority would like to highlight that when there is doubt, expenditure is not included in a payment claim to the Commission and the matter is referred to the relevant authorities for further investigation as needed. It is the Police that then decides on whether there is action that should be taken. The MA is then guided by the advice provide by the relevant body/entity.</p>
<b>NL</b>	<p><b>Structural Funds</b></p> <p>Administrative measures/procedures: ESF: the Ministry of Social Affairs and Employment (SZW) Agency (the managing authority) has developed a policy framework on fraud and irregularities which emphasises prevention. Preventive measures include national information meetings with applicants, building in many opportunities for contact with applicants from the time of application until after submission of the final declaration, recording experiences with applicants and applying risk analyses to applicants and advisors. Administrative measures/procedure ERDF: in an effort to improve the risk management system, a risk profile is being produced for each project in the current period, so that the risks associated with a project will be clear to everyone within the managing authority.</p> <p><b>Agriculture</b></p> <p>In the Netherlands virtually every irregularity detected can be dealt with under administrative law, for example by recovering deductions that should have been made but were not, or recovering amounts wrongly paid out, plus the appropriate administrative penalties. The criminal law is a measure of last resort, used only when administrative law is inadequate for levying or recovering sums of money, for example in the case of irregularities affecting the national budget or the EU budget.</p>
<b>AT</b>	<p>Austria will only take position to points, where Austria is directly mentioned (we are against further informal questionnaires to avoid additional administrative burdens). As Austria is not mentioned in the follow-up recommendations of the COM fraud report 2011, please do not expect any further comment on this document.</p>
<b>PL</b>	<p>In view of the proportion of cases of fraud among the total number of irregularities, Poland believes that the identification of particular risk areas is satisfactory. The checking mechanisms introduced – internal procedures, checks carried out by bodies participating in the management and control system (during project implementation, upon completion, after completion, cross-checks, checks on documents) and external inspections carried out by the</p>

	<p>UKS (Treasury Control Office), the NIK (Supreme Audit Office) and the UZP (Public Procurement Office), supplemented by the mechanisms described previously – ensure a high degree of fraud detection. Whenever an event that meets the definition of 'irregularity' is discovered it is individually and thoroughly investigated. Next a check is carried out to assess whether the event meets the criteria for being considered a criminal offence under the Penal Code, the Violations Code or other legal provisions. The law enforcement agencies are informed if, under these criteria, it is suspected that fraud has been committed. If the irregularity relates to the amount of 10,000 euro or more, chargeable to the general budget of the Communities the European Commission is also informed.</p> <p>To identify the risk areas of particular importance one uses i.a. fraud indicators defining the way in which checks are carried out: general indicators (e.g. types of irregularity, types of beneficiary/economic operator, types of operation, the modus operandi, geographic areas, the amount of aid) and specific indicators (e.g. projects, transactions, beneficiaries, amount of aid requested and changes thereto, results of previous inspections, etc.). If new objectives or risk areas emerge, the doubts arising are clarified by means of additional checking activities, including in cooperation with other bodies.</p>
<p><b>PT</b></p>	<p>In <b>agriculture</b>, according to IFAP, Member States have to identify cases of suspected fraud when they report irregularities to the Commission departments. They have been doing so since 2006. However, the concept of irregularities covers intentional and unintentional non compliance. Moreover, as stated in OLAF's reports, most cases of suspected fraud are detected in the course of judicial investigations or tax inspections.</p> <p>As regards the detection of irregularities and subsequent recovery of undue payments, the relevant national authorities will continue, as in previous years, to take all appropriate administrative, judicial and/or enforcement measures to protect the financial interests of the EU and to counter fraud.</p> <p>With a view to improving the control system, IFAP adopted internal procedural instruction No JC-121/01 setting out the procedure to follow whenever there is an indication that an irregularity detected in a request for aid or assistance is a result of deliberate non compliance by the beneficiary. It clarifies the procedures for reporting to the relevant judicial authorities all acts by the beneficiary of which the control authorities are aware and which indicate that a crime may have been committed. It also calls for compliance with Community legislation in this area, which lays down more serious penalties for infringements that are committed deliberately or as a result of serious negligence.</p> <p>In <b>cohesion policy</b>, it was found that the irregularities detected to date did not raise suspicions of fraud but were in the main merely formal.</p>

Audit activities are designed to prevent and detect irregularities with a view to correcting and recovering funds unduly paid. The strategy of separate audit structures contained in the audit plan is designed to reduce the risk of fraud and help to detect cases of fraud in accordance with the findings of system audits, or in other words the confidence level attributed to the management and control system. If a large number of errors are detected when operations are audited, the confidence level will be 'low' and the number of interventions will be higher. If the error rate is low, a higher confidence rating will be given ('medium' or 'high') and the number of checks required by the strategy will be correspondingly lower.

The strategy is defined each year by the audit authority (IGF) subject to the procedures and criteria laid down in the Audit Manual. Likewise, the management authorities carry out regular physical and administrative checks with a view to preventing and detecting fraud.

Thus, according to IGFSE, the decrease in the number of suspected fraud cases is largely due to the effectiveness of the system set up for risk assessment and control of the entities with access to ESF funding.

The system is built on a database managed by IGFSE containing historical data on the professional conduct of all entities receiving ESF funds.

The data are recorded in SIIFSE in encoded form showing the risk grade of the entity. Access and control (whether by the management authority or the audit authority) depends on the code attributed to the entity, i.e. the level of risk it represents.

The most serious cases are attributed codes H or Z.

Code H is attributed to entities found guilty, by a decision not subject to ordinary appeal, of a criminal offence involving the use of public funding under the structural funds. In view of the seriousness of such cases and the risk involved, entities attributed code H are prevented from accessing ESF funds for a period of two years or for the period set in the judicial decision if it is longer.

Code Z is attributed to entities against whom a charge or allegation of a criminal offence has been brought. Code Z is attributed to entities against whom a charge or allegation of a criminal offence has been brought.

Apart from these two situations, in which there is proof or suspicion of criminal practices and which therefore justify blocking access to ESF funding or making it conditional, there are other situations involving moderate risk where tighter checks on the entity are justified. These situations are attributed code L and apply to entities found in the course of inspections or audits to have committed financial, accounting or organisational irregularities which do not involve any criminal offence. Lastly, entities that pose no risk of fraud or misuse of structural funds are

	attributed code M.
<b>RO</b>	<p>Romania's control systems have been improved through the introduction of new methods and by the development of existing methods, as follows:</p> <ol style="list-style-type: none"> <li>1. In 2012, the pilot system for the ex-post verification of conflicts of interest/fraud on the basis of a risk analysis was finalised and put into operation.</li> <li>2. In the case of sample-based checks, Romania uses pre-determined criteria with a clearly defined purpose based on the risk analysis method, which is used to select beneficiaries for document checks and on-the-spot checks. This risk analysis working method and the indicators/criteria used are detailed in the working procedures. The main indicators used in the risk analysis are the following: the nature of the beneficiary, the total cost of the project/total eligible amount paid in the year of calculation, the time elapsed since the last control, the field of application of the measures (infrastructure, processing, alternative income, etc.) and irregularities detected during previous controls.</li> </ol>
<b>SI</b>	<p>Slovenia is regularly reporting on cases with suspicion of fraud. Suspected fraud cases are reported and practice is exercised in agriculture and in cohesion policy areas during all the past years, since there exists the option to report these category cases via IMS. Financial controls in accordance with the risk assessment always take into consideration risk of fraud and risk of corruption.</p> <p>Internal controls and auditors are aware of risk of fraud. Budget Supervision Office of the RS (BSO) has among the tasks also constant raising of awareness on the presence of possible fraud, on duty to report it via notification of irregularities via IMS. BSO supports, stimulates and shares incentives for all users of european and public financial funds to have on place fraud risk indicators and manuals to detect fraud. BSO controls notification of irregularities. BSO on the basis of evidence or documents demands the change of notification of irregularity into notification of suspicion of fraud, where appropriate.</p>
<b>SK</b>	<p>In 2011, 13 cases of suspected fraud and 20 fraud cases within the meaning of the Convention were reported to OLAF. In 2012, due to methodological modifications in the reporting of irregularities to OLAF (the implementation of the de minimis rule within the reporting of irregularities to OLAF) and because of difficulties in identifying the total amount of irregularities in the case of suspected fraud, the number of suspected fraud cases reported to OLAF decreased. Nevertheless, it is clear that the efficiency of management and control systems have become increasingly better, which can be demonstrated by the fact that the total number of registered cases of suspected fraud (notwithstanding the de minimis rule) increased substantially (up to 35 cases) in 2012.</p>

	<p>As part of measures to ensure the prevention of fraud in the area of cohesion policy in the Slovak Republic in 2012, the public control of EU funds was generally enhanced through introducing specified obligations for managing authorities. Those obligations relate the continuous monitoring and examination of reported cases published by the media and/or cases reported by other entities. They also include adopting measures for addressing the shortcomings. In exercising the obligations, the reported cases have to be taken into account in the risk analysis. Under the Audit Strategy, system audits are carried out in response to the risk assessment. Within the risk assessment, the Ministry of Finance of the Slovak Republic comprehensively assesses individual areas of the implementation of EU financial assistance, whereby the highest risk areas are subject to annual detailed verification. Further measures have been adopted at the level of individual operational programmes.</p> <p>Since the Common Agricultural Policy is aimed at 2 pillars, risk areas are identified for each of them with regard to the protection of EU financial interests. Therefore, one of the control mechanisms includes risk analysis for given measures (Pillar I – direct payments; Pillar II – rural development). This analysis has been applied by the Agricultural Paying Agency (hereafter “APA”) since 2011 in sample selection to perform on-the-spot checks, and monitoring by remote sensing for the purpose of complying with the specificities of individual support schemes prior to authorization of payments. The measures concerning a high degree of risk in the direct payments include support for less favoured areas (LFA) and agri-environmental payments. To improve the prevention of fraud in this area the emphasis is put, in addition to basic administrative procedures and on-the-spot checks, on the system of the verification of data reported by the final beneficiaries in comparison with the data registered by APA or provided to APA by relevant institutions.</p> <p>The area with a higher level of risk also includes project support – investments within rural development. Here, both the beneficiary itself and the transaction category are considered a risky area. The basic control system in this area include ex-post control by the Management Authority and are aimed primarily at detecting fraud through the investigation of submissions received from the public or authorities or of published cases. In addition, the basic mechanism of fraud prevention includes on-the-spot checks. However, the verification of compliance of funds requested from the RDP 2007-2013 in comparison with the minimum aid schemes and review of "firms in difficulty" on the basis of applicant’s financial statements are the specific control system prior to authorization of the applications for payment.</p>
<b>FI</b>	<p>In Finland, the control procedures in the agricultural sector are extremely comprehensive and effective.</p> <p>In the policy area of cohesion, Finland’s control procedures are fairly comprehensive. In addition, cohesion aid payments are generally rather small and there is no significant risk of fraud. The majority of irregularities detected</p>

	<p>can be classed as something other than fraud (such as lack of knowledge of the legislative requirements concerning public procurement or aid eligibility).</p>
<b>SE</b>	<p>SE reply: Administrative systems for managing support are improved and developed on an ongoing basis. One example which we can mention is that controls are built in to the system for managing support cases pursuant to the Rural Development Programme and European Fisheries Fund. These controls ensure that processing is stopped if some checks of the application are not carried out.</p> <p>On 1 January 2008, a common framework for internal governance and control was introduced at central government authorities. This framework consists of a number of statutory instruments. The objective of the new framework is to clarify the responsibility of management and create better conditions for accountability and a more efficient and secure operation, not only for national funds but also for EU funds jointly managed at national level. The aim of the framework is also to help improve the protection of EU funds.</p> <p>Another reason why suspected fraud is closely monitored is that Sweden has a council (the Council for the Protection of the EU's financial interests, "the SEFI council"), which has national responsibility for coordinating measures to fight fraud and other improper use of EU-related funds. The Council has members from all the Swedish authorities which are responsible, in various ways, for managing EU funds. Matters discussed in the Council include exchange of knowledge of how administrative systems can be developed and fraud be reduced.</p>
<b>UK</b>	<p>The UK Authorities take the issue of fraud very seriously and would always report fraud where it was suspected. The UK Authorities believe the systems in place for detecting fraud are robust and so the reason for the low number of cases reported is due to a low level of actual fraud. Nevertheless the UK Authorities are continually striving to ensure procedures remain robust. For example in order to improve fraud prevention and detection a Fraud Response and Procedures Plan has been introduced. The Plan details the level of responsibility for all paying Agency employees and it includes the following: establishing a sound system of internal controls; promoting an anti-fraud culture; ensuring all employees are aware of the Fraud Policy; appropriate fraud training and development; and managers ensure that an adequate system of internal controls exist and operate effectively.</p> <p>For cohesion policies, the UK authorities have developed and continue to improve management and control systems with the aim to remove the propensity for fraud to take place. Our control visits seek to target the areas where there is the possibility for errors to take place and we have a dedicated process to deal with and investigate any cases of suspected fraud. Depending on the outputs of our control visits we would extend the sample to check similar projects to ensure that there were no similar or related issues</p>

	At COCOLAF meeting in October 2012, the issue of low reporting in Northern Ireland was raised. The Northern Ireland authorities have confirmed that irregularities are being reported using the 1828 module. The latest reported figure is approximately 730 cases as at 19th February 2013. This obligation has continued without any indication from the Commission that there is a problem. If the Commission is claiming to have received no reports then something is clearly wrong somewhere.
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## 1.2. Pre-accession funds

In the case of the Instrument for Pre-Accession Assistance (programming period 2007-2013), the nine irregularities reported as fraudulent were divided between the five different components <sup>18</sup> . Irregularities in all five were reported by Turkey, while a single case concerning the cross-border component was detected in Italy, part of the Adriatic Cross-Border Cooperation Programme. In this area, only Turkey is using IMS for the reporting of irregularities, while Croatia still does not, despite the training and support provided.
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### RECOMMENDATION 2

**The Commission invites Croatia to complete the implementation of the IMS and to improve the reporting quality; the Commission invites FYROM to implement the system.**

<b>HR</b>	Regarding the Follow-up recommendations to the Commission report on the protection of the EU's financial interests fight against fraud, 2011(Recommendation 2), we would like to inform you that the <b>IMS in Croatia is fully functional from October 2012</b> and is ongoing properly. Additionally, this fact was stressed at the last COCOLAF meeting by the Croatian delegate. Therefore, we would like to update Recommendation 2 in a way that the future reports are consisted of information we provided you with in this message.
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## 2. CASES NOT REPORTED AS FRAUDULENT

### 2.1 Revenues -Traditional own resources (TOR)

In recent years the Commission has laid special emphasis on Member States' customs control strategies in its TOR inspections. The Commission is closely monitoring Member States' action in response to the observations made during Commission inspections. In 2011, in the area of traditional own resources (TOR), both the number of cases of irregularities reported in OWNRES <b>as fraudulent and the amounts involved</b> were lower than in 2010.
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### RECOMMENDATION 3



**Member States' customs control strategies should intensify targeting high-risk imports, thus further improving the detection rate of cases of irregularities and fraud in TOR.**

<b>BE</b>	<p>In relation to this recommendation, the customs authorities would refer to the measures set out in point 2.1.1. of the questionnaire (automation of the selection filter (CSP bis), i.e. specific lines for automated declarations in the agricultural sector).</p> <p>“Administrative measures/procedures: improvement of risk management following the automation of the selection filter (CSP bis), i.e. specific lines for automated declarations in the agricultural sector.”</p>
<b>BG</b>	<p>The Customs Agency draws up an annual Action Plan setting out strategically important measures for customs control. The priority is to target controls on high risk imports. The measures included in the 2012 Action Plan have produced good results, with a reduction in the number of cases entered in the OWNRES system, and customs duties set at a much higher rate than in 2011. Each case registered in the OWNRES system is monitored strictly and the system is updated promptly.</p> <p>With a view to increasing the recoveries on imports of goods, the Bulgarian customs administration has introduced a system of risk analysis, including risk profiles for goods subject to anti-dumping duties and/or goods for which irregularities have been detected in the determination of the amount of duty to be paid. The EU's Customs Risk Management System (CRMS-RIF), which allows for information to be entered and fed back, is also in use. In addition, customs officers carry out checks in relation to intelligence obtained through the AFIS.</p> <p>In 2012, work began on the project, "Strengthening the capacity of the Customs Agency in the fight against the illicit trafficking of tobacco products", funded under the Hercule II programme. The aim of this project is to improve the analytical capacity of the Customs Agency in assessing the risks connected with the illicit trade in tobacco products, to compare notes and analytical practices in the fight against cigarette smuggling and to update the Management with regard to risk analysis.</p>
<b>CZ</b>	<p>The Customs Administration of the Czech Republic incorporate the recommendation into their priorities. To fulfill this recommendation and for increase the efficiency of control of imports of high-risk goods in order to increase the number of identified irregularities and fraud uses the Customs Administration several tools used in the customs procedure and subsequent controls Among the highly used tools include the management of risk profiles to inform the official of the Customs Administration about the possible risk and the steps that must be performed. Managing of risk profiles is possible from level DGC and from the level customs offices.</p>
<b>DK</b>	<p>In the great majority of EU countries, there has been a marked reduction in the number of cases and in the size of the amounts paid out; see Annex 3 to the working document on the statistics on irregularities in the period 2008-2011 (document SWD (2012) 229). A possible</p>

	<p>explanation for this trend could be the general decline in world trade as a result of the financial crisis. Across the board, the number of transactions and the quantity of goods traded internationally declined in the period 2009-2011.</p> <p>As far as Denmark is concerned, efforts in the control sphere have not been reduced. In fact, more cases were detected in 2011 than previously in the above-mentioned period. But the scale of the cases and of the resultant repayments was significantly lower.</p>
<b>DE</b>	<p>The recommendation of the KOM doesn't fit to Germany. More cases and amounts of fraud and irregularity were reported in the OWNRES system by the German customs service in 2011 than in 2010. (dated: 30.04.2013).</p> <p>The German risk management is supported by a highly developed computerised risk analysis system. It contains the whole area of customs treatment, either during customs clearance or post clearance .</p> <p>There are substantial differences in detection performance between EU Member States. If all Member States had detected customs irregularities in the way that the 'high detecting' Member State did, the number of cases and the amount of detected customs irregularities EU-wide would be substantially higher.</p>
<b>EE</b>	<p>The amount of a customs duty is affected by the correct classification, the customs value of goods and the origin of goods. The Customs Organisation Department of Estonian Tax and Customs Board has changed its organization of work to ensure better customs duty supervision.</p> <p>According to the new organization of work (December 2012), the persons who have specialised in classification of goods are dealing with this item and the corresponding specialists in the field of customs value of goods and origin of goods are dealing with these items.</p> <p>Earlier one person could deal with various subjects / fields of activities depending on regional specific features or work load. After centralisation of the structure the specialists can be more profound in their fields and that is why they acquire detailed knowledge and experience.</p>
<b>IE</b>	<p>The Irish Revenue Commissioners are constantly striving to improve their targeting of high risk imports. Along with their e-Manifest system for the electronic risk analysis of imports and exports, they have recently developed and tested a new electronic tool: Customs Risk Intervention Selection Programme (CRISP). Using risk analysis, this new system will target non-compliant imports for post-clearance intervention (primarily audit). It is due to produce the first selection of traders for audit in the very near future and is expected to greatly improve audit selection using acknowledged risk criteria.</p>
<b>EL</b>	<p><b>Ministry of Finance -Directorate-General for Customs and Excise Customs Inspection Directorate (D33)</b></p> <p>Within the jurisdiction of the Customs Service and as part of the ongoing effort to tackle illegal imports and illegal trafficking of heavily</p>

	<p>taxed goods, quarterly customs controls are scheduled; these are carried out by all of the customs authorities in Greece.</p> <p>In addition, following Bulgaria's accession to the EU and the removal of border customs offices, the responsibilities of the latter devolved to the other customs offices of the respective regions in which checks are carried out; these operate on certain routes (Ormenio-Orestiada, Promachonas-Serres and Thessaloniki-Evzoni) and their primary objective is to tackle tax evasion and reduce revenue losses caused by smuggling operations in imports, transit and intra-Community traffic between Greece, Bulgaria, Albania and FYROM.</p> <p>With regard to the reporting of cases in OWNRES, based on research conducted by the Service for the years 2010 and 2011 and the relevant report by that system (report on aggregate information - 14.2.2013), the number of reported cases in Greece for these two years stayed the same and the amount of the own resources increased in 2011.</p>
<b>ES</b>	No reply received.
<b>FR</b>	<p>The DGDDI considers its strategy on import inspections is well adapted. Indeed, its policy of inspections is based on varied and complementary devices, in order to ensure better protection of the own resources of the Union. This strategy is based on two essential elements: an updated policy of inspections and automated targeting of customs declarations.</p> <p><b>I - Policy inspections updated</b></p> <p>The DGDDI controls policy, is based on establishing a relationship between customs authorities and business, it favours a form of partnership with the companies considered to be the most reliable based on an objective assessment. This strategy targets inspections that are appropriate to the risk profile of the operator, thereby improving the fluidity of trade and the efficiency of checks.</p> <p>Risk analysis, carried out by the units for Intelligence and guidance of controls (CROC), allows the identification of the risks presented by an operator. The Risk Analysis is, inter alia, based on information from Regional Inspections Services (SRA), the 'pôles' management of procedures, audits and the 'supervision' of offices.</p> <p>The information on an operator's risk level is used to create a selection profile, at either national or local, level in the French customs clearance system Delt@, through the Risk management system (RMS) module. The relationship of trust with some operators, built up after an audit, justifies the modulation of inspections.</p> <p><b>II - Automated Targeting of Declarations</b></p> <p>Is used to ensure the efficiency of inspections, balancing targeting of relevant risky areas with facilitating licit trade, this allows more attention to be paid to the most relevant traffic. Certain types of declaration which present a specific risk can be given a specific selection profile by local customs offices based on risk analysis, regulatory requirements, information on traffic and the reliability of the operator.</p> <p>According to the classification the declaration will be attributed to different circuits of control namely green, red, and black. This is related</p>

	<p>to a system of timers, to deal with declarations. Based on the circuits and profiles, the declaration shall be automatically released, blocked by the system, or will have been released or placed under control by an officer. A random element is integrated into the system of automated selection of customs declarations.</p> <p>It should be noted that customs inspections are divided into ex-ante checks, (at the time of the Customs clearance, before release), ex post level 1 which takes places within a period of 4 months from the release and ex post level 2 checks which take place more than four months after release (until facts became time bared). Ex-ante checks are aimed at immediately combating detectable fraud. Ex-post level 1 checks mostly inspect the regularity of operations (mostly based on documentation checks) and are aimed at reducing the number of ex-ante controls, in order to release the goods more quickly. They allow verification of points which are hardly verifiable in ex-ante checks for example value and origin. Level 2 ex-post checks are investigations of fraud. They take the form of investigations (in-depth verification of the paperwork of the operator, including accounts) to combat large scale fraud. In general terms, irregularities detected during the ex-post checks can have a direct impact on the collection of Traditional Own Resources.</p> <p>Taking into account the above mentioned elements, the DGDDI considers that the overall customs verification system responds to the necessity of targeting high risk imports.</p>
<b>IT</b>	<p>As shown by the Commission's analysis in its report on control systems, the Italian customs authorities have developed a highly sophisticated, dynamically calibrated, computerised risk analysis system, which enables the targeted selection of the operations to be checked, either during customs clearance or post clearance. This system has made it possible to identify and combat fraud and irregularities which may lead to a loss of TOR (for example, the Italian customs authorities' beneficial operations against false import value declarations, known as 'under-invoicing', which has enabled the recovery of considerable sums of TOR and also raised declaration compliance levels above the European average; this national-level initiative has been supplemented by a hard-hitting proposal at Community level (European Commission, OLAF) on the mechanisms and antifraud technologies used, taking the significance and supranational scale of such fraud into account).</p>
<b>CY</b>	<p>The Department of Customs and Excise of the Republic of Cyprus defines its customs controls strategy based on the following parameters:</p> <ol style="list-style-type: none"> <li>1. Mutual Assistance messages received from OLAF.</li> <li>2. Risk Information received both from the Member States and TAXUD.</li> <li>3. Exchange of information between Customs Administrations of Member States and third countries.</li> <li>4. Exchange of information between other Law Enforcement Agencies (FIU and Police) both nationally and internationally.</li> <li>5. Mutual Assistance request from other Member States and third countries.</li> </ol>

	<p>6. Other profiles on high – risk imports derived from controls and investigations during the year.</p> <p>7. Profiles derived from post control audits during the year.</p> <p>8. Any other information received from other open sources.</p> <p>With the above parameters the Department of Customs and Excise aims to address high risk imports.</p>
<b>LV</b>	<p>From 2010 Customs Board of the State Revenue Service regularly develops and updates List of Customs Risks and develops Risk Decreasing Action Plan for the each year. Based on these two documents and other requirements at the national level and in accordance with other requirements at the EU and level for Customs administrations, Customs Board (incl. divisions/subdivisions of Customs Board) manages risk decreasing actions which includes such kind of activities as preparing of national fiscal risk profiles, information exchange at the national level and international level, physical control measures etc.</p>
<b>LT</b>	<p>The Commission carried out an inspection of the customs control strategy in the Member States in 2009-2010 and drew up a thematic report on the customs control strategy in the Member States (hereinafter ‘the report’). The report contains structured information on the irregularities found during the inspection in the Member States and on progress made by Member States in 2011. The report identifies six irregularities detected in the Lithuanian customs service (based on Report No 09-20-1 on the inspection of traditional own resources carried out by the Commission in Lithuania on 15-19 June 2009). All irregularities identified in the Lithuanian customs service in 2011 were eliminated (five during the time the report was being compiled, and the sixth after the Lithuanian authorities had provided additional information (see Commission letter BUDG/B/03/K2/bh D(2011)368379 of 4 April 2011)). More cases of fraud and irregularity were reported in the OWNRES system by the Lithuanian customs service in 2011 than in 2010. In 2010 there were 39 cases, totalling EUR 1.934 million, and in 2011 there were 47 cases, totalling EUR 3.865 million.</p>
<b>LU</b>	<p>Not applicable</p>
<b>HU</b>	<p>Pursuant to Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (hereinafter: Community Customs Code), customs authorities may carry out all the controls they deem necessary to ensure that customs rules and other legislation governing the entry, exit, transit, transfer and end use of goods, moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status, are correctly applied.</p> <p>The controls applied in customs administration may be as follows:</p> <ol style="list-style-type: none"> <li>1. Controls relating to customs proceedings, including; <ol style="list-style-type: none"> <li>a) Controls embedded in the customs procedures, and</li> <li>b) Post clearance controls after the release of goods:</li> </ol> </li> </ol>

- i) (complex) post clearance controls specified in Section 1(3)7 of Act CXXVI of 2003 implementing the Community customs law (Customs Act), checking foreign trade activities falling within the scope of customs control, and
  - ii) post-clearance examination of declarations, conducted pursuant to Article 78 of the Community Customs Code.
2. Controls relating to activities licensed by the customs authority, in the course of which the customs authority checks compliance with the obligations required for the issue of the customs authority authorisations for activities and those contained in the authorisations.
- a) Controls of the activity, not relating to customs procedures or specific consignment, and
  - b) Controls embedded in the processes of a specific customs procedure or consignment.

### **Controls embedded in the process of customs procedures**

Following a security and protection risk analysis, document and goods examination is an important component of post-clearance customs controls. There are control methods that must be taken into account and applied in paper-based ordinary procedures, in simplified customs procedures, in electronic customs procedures and in eased procedures. The examination of goods in customs controls refers to the verification of the authenticity of the contents of the goods data indicated in the documents. The data checked in relation to the goods determine the measures applied during the examination (e.g. quantity, quality, tariff category, origin, customs value etc.).

In paper-based ordinary and classic procedures, the client (applying for customs clearance) and the customs officer performing the customs clearance directly meet each other, and the customs declaration is submitted to the authority on paper. Based on its data of the submitted customs goods declaration, the goods may be selected for examination in the systems processing electronic customs data (Customs Declaration Processing System, hereinafter CDPS, the New Computerised Goods Transfer System (NCTS), the system registering Community goods transfers in ordinary and simplified procedures and consignments transferred with TIR Carnet (MCC), the Goods Registration System (ÁRUREG), the Import Control System (ICS), the Risk Analysis and Supervision System of Export Supported Agricultural Products (EVT), the Single Current Account System (E-FO), the application providing message enforcement and message transfer functions and a graphic user interface for export customs procedures (ECN+) or in the Single Security Management System (EBIR) controlling the availability of security offered for customs procedures or activities), either automatically or according to the decision of the customs officer conducting the customs procedure. The selection of items representing a high financial risk is one of the key components of selection. The primary check (document verification and examination of goods) is performed there directly during the customs procedure.

During the electronic customs procedure, the electronic customs declarations are processed in the CDPS AIS and AES segments. The processing procedure carried out in car parks, allows for the items of goods for inspection to be selected either automatically or on the basis of a decision by the relevant official. The risk analysis module of the customs data processing system and the 'central e-risk analyst' (in summary: risk analysis) makes a recommendation regarding the goods and/or documents for inspection, and the official takes the

necessary measures on that basis.

When carrying out the basic Customs procedures, the Customs and Finance Guard Directorates conducting the basic customs procedures must check the legality and professionalism of at least 1% of the customs procedures each month by taking into account the turnover data of the customs body, including paper-based and electronic customs procedures, in addition to their central risk management and risk analysis activities, and with due regard to local risks. The purpose of this review is to check compliance with the provisions of legislation and internal regulations governing the customs procedures (including the regulations applicable to high financial risks) and to identify local risks. In order to obtain that goal, the check must cover not only the review of the customs goods declarations and annexes (if available), but also the collation of the information contained in the related customs databases.

With regard to simplified local customs clearance procedures, it needs to be noted that, pursuant to the second paragraph of Article 253(a) of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (hereinafter: Customs Code Implementing Regulation), the notifications on the registration of goods must as a general rule be made electronically. Based on such electronic notification, a process-embedded risk analysis was implemented in the CDPS in Hungary for the goods subject to obligatory notification after 15 February 2012 as a result of a prior IT development, because the data of the notification are checked automatically to conclude whether or not they contain any hit in terms of risk profile.

Apart from the data listed in Annex 30A of the Customs Code Implementing Regulation, the data contained in the electronic notification indicate the code of the country of origin (as, in addition to the data listed in the Annex referred to above, pursuant to Article 266(3) of the Customs Code Implementing Regulation, the Member States may also require further data). Such data and the complete customs tariff number are necessary in order to comply with a requirement stated by the European Court of Auditors during a visit to Hungary on 4-8 May 2009 whereby, in customs procedures for the release of goods into free circulation, compliance with the trade policy measures should be checked as early as during the registration process.

#### **Post clearance examination of declarations**

In view of the number of economic entities pursuing foreign trade activities subject to customs control, at least 5% of the goods are subject to post clearance examination each year based on a risk analysis driven selection in order to ensure a preventive effect. That degree of control is achieved in ex post controls (more complex audit) focusing on the review of foreign trade activities subject to customs control and in the framework of post clearance examination of declarations, conducted pursuant to Article 78 of the Community Customs Code.

**(More complex) ex post audits aimed at foreign trade activities subject to customs control**

In line with the principles of the Customs Audit Guide issued by the European Commission aimed at the establishment of a single control system, the primary objective of the ex post audits is prevention, and compliance of the activities of market operators with the law. Another major objective is to subsequently collect any outstanding amount to realise revenues for the budget of the European Union and revenues lawfully due to the central budget of Hungary with effective and efficient use of the available auditor capacities.

In order to achieve those goals, in the course of ex post audits the completion of customs clearance of the goods, the accuracy and entirety of the data of customs declarations need to be checked in particular, in order to conclude whether or not market operators fulfilled their obligations to register goods and supply information fully and correctly at the appropriate time, and whether or not they properly interpreted and applied the rules applicable to customs procedures, and the manufacturing and/or processing activities complied with the licenses and approvals. The necessary procedures must be launched based on the findings of the ex post audits and guidelines and corrective proposals must be made to market operators in order to reduce the number of future occurrence of legal violations and to avoid erroneous procedures. It is required to assist, within the legislative framework, market operators to eliminate any (system) error detected during the control or any inadequacy relating to the violation of regulations.

An annual audit plan needs to be prepared defining the need for, and the frequency of, ex post audits in view of practicality, cost efficiency and the operability of the auditees. Pursuant to Section 7/B(1) of the Customs Act, the audit plan is prepared in view of the current economic processes, the customs policy objectives, the changes in legislation, the types of conduct violating most the budget revenue interests, the customs procedures imposing the largest risk on customs revenues by focusing on the aspects of international goods trade subject to obligatory licensing and the identification of the largest possible number of risks associated with them.

The minimum number of audits required is defined on the basis of the three years' statutory limitation period of the communication of customs debt as a main rule and the economic entities having their registered seats in Hungary, conducting foreign trade activities subject to customs control and having considerable import turnover. Based on the above, ex post controls of foreign trade activities subject to customs control must be conducted at least at 5% of the economic entities defined in accordance with the above criteria. In the audit plan, approximately 60-65% of the economic entities defined above are specified in view of the ratio of unpredictable ex post audits. The rest of the plan includes audit tasks (risks) occurring during the year.

The ex post customs audit plan is prepared, in line with the principles of the Customs Audit Guide, to make sure that the planned audits are targeted at the economic entities and transactions with the highest probable risks, yet extend also, to a reasonable extent, to market operators representing medium and occasionally small risks (if any). However, a smaller part of planned audits must be defined on a random basis, i.e. without the consideration of individual risks, in order to make market operators understand that they may be audited at any time, regardless of their risk assessment by local and regional customs agencies (the audit conducted by the European Court of



Auditors in 2009 specified the requirement that a small number of economic entities selected for ex post audits must be selected on a random basis). Authorised Economic Operators (AEO) are exceptions from the selection based on low risk, because the customs authority considers the AEOs reliable partners in the course of customs administration, enjoying numerous advantages (granted by Community or national legislation); according to the regulations, among others, they must be subjected to fewer document-based and physical audits and checks than other operators of the economy.

Based on the above, the annual ex post customs audit plan is prepared by taking into account, from the pre-defined group of economic entities, approximately 90% of the entities representing the highest risks, 5% of the entities representing medium and small risks, and also approximately 5% of the randomly selected entities without any predictable risk.

Main audit tendencies of ex post customs audits in 2013:

- audit of the tariff classification of the goods;
- audit of the reported origin of the goods;
- audit of the accuracy and completeness of anti-dumping or equalisation customs measures;
- audit of the application and accuracy of Meursing codes;
- audit of the application of supplementary codes of customs tariff numbers;
- review of the accuracy and calculation of customs values (with special regard to factors increasing the customs value);
- audit of customs free customs procedures (audit of compliance with specific conditions);
- enhanced audit of the import of textile and clothing, shoes and other footwear products;
- audit of economic entities having the largest import turnover;
- audit of export customs procedures;
- audit of economic entities requesting re-import customs procedures;
- audit of economic entities with simplified customs clearance procedures.

The EU and national endeavours to simplify and accelerate customs procedures suggest that, simultaneously with the spread of electronic customs and simplified procedures, the emphasis of audits will be shifted from basic customs procedures to ex post type audits. Compared to ordinary procedures, local simplified customs procedures result in a typically lower examination level in the process of customs procedures, which must be offset by increasing the number of post clearance examinations.

Consequently, similarly to the former years, the audit of economic entities with simplified customs clearance procedures receives special emphasis in the annual audit plan. In order to ensure that all economic entities are audited within the three years of general statutory limitation period of the communication of customs debts, which is the main rule, according to the basic concept of the 2012 and 2013 annual audit plan, one third of those economic entities had to be included in the audit plan and among the audit tasks for the particular year,

irrespective whether or not their activities involved any financial risk.

#### Quality assurance

In order to achieve the above goals, it is absolutely necessary to conduct ex post customs audits as audits of permanent standards, regardless of which customs agency or auditor conducts them. That is the purpose of the Audit Manual, prepared on the basis of the Customs Audit Guide, the use of which can guarantee the expected standard. The worksheets prepared on the basis of the Manual can provide credible proof, for either national or EU audit agencies after the audits, or even years later, of the activities performed during the audit and their quality.

The check lists contained in the Manual intend to assist officers engaged in ex post customs controls in their audits. Their objective is to ensure that a certain minimum range of questions and control points are covered in each individual audit. In addition, the check lists also assist the auditors in making sure that all significant risk areas are checked.

The Audit Manual describes the important processes of ex post customs audits, including risk management, data storage, statistics, also the results and evaluation data used in the audit.

#### **Post clearance examination of declarations, conducted pursuant to Article 78 of the Community Customs Code**

The principle, according to which ex post audits must be conducted at least at one thousand economic entities each year in view of the number of all economic entities pursuing foreign trade activities subject to customs control, in order to have a preventive effect, was defined among the audit tasks of customs administration (in the past years, a significantly higher number of declarations was subjected to post clearance examination). Two thirds of the examinations were conducted pursuant to Article 78 of the Community Customs Code in the framework of the post clearance examination of declarations.

Type of audit may be based on the risk analysis of a central agency or on local/regional risk analysis. The central agency prepares regular risk analyses primarily in terms of topics and goods. This activity results in the identification of the market operators in relation to whom the incurred risks justify examinations conducted pursuant to Article 78 of the Community Customs Code. In addition to the above, the tasks of regional/local agencies also include continuous risk exploration and risk analyses conducted during the year. Audits are conducted subject to the results of this activity.

#### **Audits of authorised activities**

In the course of the authorisation process, the customs agency checks the operating processes of the applicant and the activities to be

pursued as well as the related records.

Customs agencies may check any time during the validity period of the permit if the conditions of the permission are in place and the obligations specified in the license are fulfilled any time during the effective period of the permission. The depth and frequency of checks are determined in the risk assessment conducted by the authorising customs agency in relation to the permits.

With regard to holders of authorisations deemed to be of a higher risk, it is a requirement if the authorising customs agency should conduct an audit at least once a year, checking that the conditions of the licence are in place and that all the obligations specified in the permit are fulfilled.

At least one audit in every three years focusing on the above is a requirement even in relation to activities deemed to be of a minimum risk.

#### **Measures relating to the authorisation of simplified customs procedures**

Pursuant to the internal rules of procedure in force, the exemption from the notification obligation set out in Article 266(2)(b), Article 273(2) and Article 276 of the Implementing Regulation may be divided into two separate phases. As a common criteria of both phases, relief is granted only if applied for by the client, and is possible only if justified by the nature of the goods in question and the rapid turnover of goods.

The first possibility arises in the course of authorisation, naturally subject to application by the client. Accordingly, the customs office may grant a partial exemption from the notification obligation to the applicant even during the authorisation procedure, if all the conditions below are met:

- No criminal, security and defence, or fiscal risks have arisen with respect to the group of goods to be placed under the customs procedure by the applicant. The designated departments of the Central Office of the National Tax and Customs Administration review such risks and inform the authorising customs office of their findings.
- The goods requested to be subject to the procedure have already been subject to physical inspection – possibly a sampling procedure – within one year prior to the submission of the application (or there is valid, mandatory tariff information applicable to them), and the inspections did not identify any discrepancies (either in terms of the classification of goods or quantity).
- The customs value of the goods requested to be subject to the procedure has already been placed under customs control within one year prior to the submission of the application, and the control procedure was closed with the acceptance of the declared customs value.
- The country of origin of the goods to be placed under the procedure can be clearly determined at a later date (or there is valid, binding information on the origin of such goods).

Goods, however, may not be exempted from the notification obligation either in the authorisation procedure or thereafter if the presentation

of the original copies of other documents (e.g. import licence, tariff quota document etc.) is necessary for the given customs procedure, or which are subject to prohibiting/restricting trade policy measures in the given customs procedure.

The second possibility functions as a benefit linked to the regular operation of the authorisation already issued. In this case, upon expiry of the period specified on the date of the authorisation, the authorising customs office (if the customs office carrying out administration and/or settlement is not the same, with the participation of such office) will review – at the client's request only – whether all the conditions below are fulfilled under continuous operation, to be exempted from the notification obligation with respect to the group of goods defined in the authorisation:

- The audits carried out by the customs office after the fulfilment of the notification obligation did not identify any discrepancies.
- The audits following the release of goods within one year prior to the submission of the application did not identify any discrepancies (only the importer and the goods need to correspond, irrespective of whether the goods were placed under a customs procedure in a normal or simplified procedure).
- There were no risk profiles identified in the CDPS system in the course of the processing of the supplementary declarations or, if there were, the assessment of risk was carried out with respect to the given goods, and discrepancies were not identified.

As an additional condition, the holder of the authorisation must carry out its activity in a lawful and professional manner, and not abuse the licenses it is granted by the customs authority. If the control procedures carried out after the release of goods suggest that, although the holder of the authorisation did not breach customs laws, close monitoring is justified on grounds of other objective circumstances, e.g. its suppliers regularly send goods in quantities differing from declared quantities, the exemption from notification obligation is not authorised.

It is laid down in the internal rules of procedure, however, that the authorising customs authorities are required to draft a written audit plan for the following year, serving the adequate monitoring of the authorised activity. This plan may be modified during the year, if a new risk arises in connection with an authorisation (e.g. anti-dumping measures are announced relating to any goods, the scope of monitoring is extended to new range of goods, or a subsequent verification identifies other risks, which do not result in the withdrawal of the authorisation, but require closer supervision of the activity).

The reconciliation of local records and the supplementary declarations, and the customs control records (ÁRUREG) of the customs authority with specific declarations and/or periods selected by local preliminary risk analysis is an important element in the audit of the holder of the authorisation. In the course of this process, the inspection must cover the following:

- correspondence between local records and notifications sent on the arrival of goods in the framework of transit customs procedures (reconciliation of all local items bound to notification in the designated period with notifications);
- correspondence between local records and the customs control records (ÁRUREG) of the customs authority, including presentation to customs serving the closing of the transit customs procedure (reconciliation of all local items in the designated period with the MRNs);

	<ul style="list-style-type: none"> <li>• correspondence between local records and customs declarations – by the CDPS (reconciliation of all local items in the designated period with the supplementary declarations);</li> <li>• customs settlement of all items presented to customs, serving the closing of the transit customs procedure (reconciliation of all MRN items in the designated period with the supplementary declarations).</li> </ul> <p><u>Administrative measures applied in the approval of simplifications relating to goods transportation</u></p> <p>In order to carry out the audits of holders of authorisations with simplified transit procedures on the basis of a risk assessment which takes into account also the time-barring factor, a risk assessment datasheet has been designed. The use of that sheet by customs bodies nationwide will be made compulsory.</p> <p>In the future, such risk assessment must be carried out with regard to the issue of each new authorisation or for the amendment of existing authorisations and, also, when reviewing authorisations. The risk category will be the basis for the compulsory annual audit plan where all holders of authorisations will be audited, with due regard to the time-barring factor, in a planned and documented manner.</p> <p>In order to document the audits carried out for the authorisation of the status of authorised consignors and consignees also the exemption from providing guarantees or the provision of reduced guarantees, checklists have been designed. The use of such lists by customs bodies nationwide will also be made compulsory, simultaneously with the risk assessment datasheet. In the future, the checklists must be used for the issue of each new authorisation or for the amendment of existing authorisations also, when reviewing these; and these checklists will document the reference amount of comprehensive guarantees established in collaboration with the principal obligor.</p>
<b>MT</b>	<p>The regular updating and refining of risk profiles by the Customs Department is an ongoing process which addresses the above recommendation of further improving the detection rate of cases of irregularities and fraud in Traditional Own Resources.</p>
<b>NL</b>	<p>A number of decisions have been taken in the Netherlands aimed at improving enforcement in the area of traditional own resources. The Enforcement Plan has been used to prioritise activities in the area of avoidance of anti-dumping duties. A strategy plan was produced in 2012, setting out specific objectives which are expected to lead to more checks on anti-dumping.</p> <p>Two fraud teams were set up in 2012: one targets excise fraud and the other will tackle fraud in the area of traditional own resources. One of the aims of the latter fraud team is wherever possible to work up cases to the point where a criminal prosecution can be brought.</p> <p>The pilot project ConTraffic has been started with OLAF. This system generates risk alerts in the area of anti-dumping duties. The Netherlands has undertaken to investigate these alerts and this is expected to result in an increased number of irregularities.</p> <p>In general it should be noted that with the introduction of innovations in customs surveillance, such as the authorised economic operators (AEO) system, the more intensive focus on traditional own resources will not necessarily lead to more reports of irregularities in OWNRES, because part of this focus will be on encouraging greater compliance.</p>

<b>AT</b>	Austria will only take position to points, where Austria is directly mentioned (we are against further informal questionnaires to avoid additional administrative burdens). As Austria is not mentioned in the follow-up recommendations of the COM fraud report 2011, please do not expect any further comment on this document.
<b>PL</b>	Poland (the Customs Service) has taken on board the Commission recommendation to intensify the targeting of high-risk imports. The Customs Service uses risk analysis for its checks targeting such imports.
<b>PT</b>	Nothing to report.
<b>RO</b>	<p>In Romania, the National Customs Authority drew up the 'Strategic Action and Control Plan for 2012', which established the following lines of action:</p> <ul style="list-style-type: none"> <li>- The selection of customs declarations for post-clearance checks will be based on the existence of specific information regarding breaches of customs rules, assessed on the basis of a risk analysis (chiefly using the following parameters: tariff classification, origin, value for customs purposes, terms and conditions for customs operations where a suspension of duty has been granted).</li> <li>- The targeting, at least once every three years, of post-clearance checks on businesses which do not comply in full with the rules and present high risk, in order to prevent situations where the debt can no longer be notified to the debtor in accordance with Article 221 of the Community Customs Code.</li> </ul> <p>The measures taken by the authorities have resulted in an increase in the number of cases of fraud/irregularities exceeding EUR 10 000 representing traditional own resources, from RON 10 155 924 in 2011 to RON 135 972 384 in the first three quarters of 2012.</p>
<b>SI</b>	SLOVENIA: Customs Administration of the RS is analysing and assessing risk and performs all measures and provisions for import and export of goods, according to EU directives.
<b>SK</b>	<p>Based on the risk analysis, the Financial Administration of the Slovak Republic (hereafter "FASR") ensured the performing of the task – elaboration of a strategy for customs checks – aimed at intensified focusing on high risk imports, in order to increase the rate of detection of irregularities and fraud in the area of traditional own resources (hereafter "TOR") through the flexible implementation of the tool for binding planning. The control plan for 2013 primarily includes the controls which are likely to detect customs duty evasion (the controls are focused on potential and/or expected the anti-dumping duty avoidance) because anti-dumping duties are several times higher than the normal duties, and therefore, they are risky in terms of TOR. This is a follow-up control after the placing of goods under a customs procedure. This control shall continue to be intensified with view on pertinent expertise and flexibility. Through this type of control activity, FASR substantially participates in the detection of irregularities and fraud in the area of TOR.</p> <p>The above control activity resulted in the findings showing that the number of identified arrears cases – customs irregularities above 10</p>

	000 EUR reported to the EC through the OWNRES system in 2012 apparently increased compared to 2011: within 741 completed controls in 2011, 13 findings of arrears or customs irregularities were detected, of which 9 amounted more than 10 000 EUR. Within 927 controls completed in 2012, 21 arrears or customs irregularities were detected, of which 12 amounted more than 10 000 EUR.
<b>FI</b>	In Finland, customs control is based on risk analysis. The EU common priority control areas and the Community risk management system database are used in risk-based monitoring for the exchange of information. Finnish Customs' National Risk Analysis Centre analyses the risks and sets national or EU-level risk criteria for the electronic customs system. Clearance cases selected for processing will be processed at an electronic service centre, which issues rules concerning the inspection of goods if necessary.
<b>SE</b>	<p>SE reply: Swedish Customs has drafted a new control strategy which applies from 1 February 2013. The aims of the strategy include providing a focus for the control operation and providing support for planning work.</p> <p>The authority's basic assumption, in its work to collect correct amounts and prevent restricted goods from being imported and exported from Sweden and the EU in an incorrect way, is that the public and businesses want to do the right thing, and that they should be given the opportunity to do so, simply and easily.</p> <p>One way of working to improve the identification of high-risk imports is that the authority, based on identified risk areas, carries out directed information measures and company visits with the objective of ensuring that companies get it right from the start. Customs has carried out four major control and information measures. The measures undertaken have led to positive outcomes, with an increase in collection. Customs has also, after risk assessment, carried out information measures targeted at new authorisation holders who hold authorisations for the simplified procedure. The objective is that the authorisation holders will have the information they need to get things right from the start.</p> <p>Furthermore, Customs will increase the number of risk-based controls (i.e. document controls, physical controls and audits) and improve their efficiency. Besides the risk-based controls, there will be some random checks. Another quality-boosting measure that is currently being introduced is that the result of the control will be registered and reported in a more uniform fashion than before through the new control strategy. Finally, we would mention that work is under way to develop IT systems which will more effectively be able to support risk analysis and risk management work. This development work, however, is dependent on the development of other IT systems and the introduction of the new Union code, so it is not possible to say exactly when such a system will be in place.</p>
<b>UK</b>	The UK continues to target high risk imports. For the period April 2012 to January 2013, the UK achieved an intelligence based risk detection rate of 35% based on local profiles and a rate of 32% based on national profiles.

## 2.2 Cohesion policy

Irregularities not reported as fraudulent in cohesion policy still account for the largest share of those affecting the various areas of expenditure under the EU budget, though the prevalence of this sector is decreasing in relation to the previous year (approximately 50 % of all cases reported in 2011, in comparison with 70% in 2010).

The majority of these irregularities are infringements of rules applicable to public procurement and eligibility of expenditure. This shows that management and control systems can still improve in this area

### RECOMMENDATION 4

**Member States are encouraged to pursue their efforts to improve the efficiency and effectiveness of their management and control systems in the area of cohesion policy.**

**In the area of cohesion policy, the Commission invites France to finalise implementation of the IMS system by the end of 2012.**

<b>BE</b>	New control procedures for the Managing Authority have been introduced in the ESF OP on regional competitiveness and employment in the Brussels-Capital region to improve the control system.
<b>BG</b>	<p>In addition to the description of the internal management and control system given in Response 1, attention should also be drawn to the role of the Certifying Authority (CA) and Audit Authority, as control authorities external to the programmes but whose action constitutes another step in the system for ensuring that irregular expenditure is not included in the programmes. Prompt action is taken to correct such irregularities in expenditure, as reflected in the positive conclusions set out in the Audit Authority's annual reviews for 2009, 2010 and 2011 and the findings of the European Commission's inspections (reports up to 2012), which indicate that the systems are functioning effectively and that timely corrective action is taken to protect the interests of the EU in the OPs.</p> <p>The Audit Authority conducts audits of systems and operations, in accordance with European and national legislation, international audit standards and guidelines from the European Commission. In conducting systems audits, the Audit Authority assesses whether management and control systems are functioning effectively, including verifications of the effectiveness of the control procedures intended to limit the risk of irregularities and fraud, the corrective action taken to address irregularities and the provision of information to the competent authorities when fraud is detected. The Audit Authority issues recommendations to the Managing Authority regarding the measures to be adopted and implemented to improve the efficiency and effectiveness of the management and control systems, supporting the implementation of Recommendation 4 in the European Commission report on the protection of the financial interests of the EU.</p> <p>In pursuit of its remit, the Certifying Authority takes preventive action to enhance the absorption of EU funds and ensure that irregular expenditure is not included in the certified statements of expenditure submitted to the European Commission. One means of prevention is to optimise and simplify procedures and provide the necessary methodological support to the managing authorities by issuing guidelines and</p>



instructions on the management of EU funds. In accordance with the management and control systems for the Structural Funds and the principle of the division of responsibilities, the Certifying Authority carries out overall financial controls of the verification and approval of expenditure by the Managing Authorities of the Operational Programmes, in order to ensure that irregular expenditure is not included in the statements of expenditure submitted to the European Commission. Prior to the drawing up of statements of expenditure and their submission to the European Commission, documentary audits and on-the-spot inspections of the projects are conducted. The projects to be inspected are identified on the basis of sampling and reviews of the audit findings/recommendations, taking account of their level of materiality (considering the findings of both the final and preliminary audit reports, as applicable).

When irregularities and financial or other risks are suspected or signalled, the Certifying Authority initiates special inspections. This additional control mechanism is implemented to prevent and reduce errors in the technical and financial implementation of European projects. Another prevention mechanism which is employed is spot checks on beneficiaries, carried out by the CA in conjunction with the Managing Authorities and Intermediate Bodies.

The Managing Authorities of the Structural and Cohesion Funds have developed, adopted and implemented rules for managing the programme – Management and Control Systems, Appendix to the Manual of Management and Implementation Procedures – which is updated, as necessary, to take account of changes in legislation. In connection with public procurement, the Managing Authorities carry out preliminary, ongoing and follow-up controls. For the preliminary controls, the Managing Authorities have set up a control mechanism which plays a preventive role in relation to project implementation. For the ongoing controls, they send experts to take part in evaluation committees as observers. For the follow-up controls, they apply the "four eyes" principle, and examine not only the selected contractor's offer, but all the documents relating to the public procurement procedure that was carried out, on which basis the managing authority can take a reasoned decision as to the presence or absence of irregularities.

Another measure which Bulgaria has taken to improve the effectiveness of management and control in the area of cohesion policy is the introduction of amendments to the Public Procurement Law in 2012, setting out an entirely new model for the preliminary control procedures implemented by the Public Procurement Agency (AOP) in relation to the award of public contracts financed wholly or partially from EU funds. The law provides for the control to be implemented in two phases – prior to and after the publication of the call to tender. During the first phase, the AOP carries out checks on draft documents, issuing opinions on their compliance with the requirements of the Public Procurement Law and recommendations where failures to comply are found. During the second phase, checks are carried out on the documents published in the Public Procurement Register (in accordance with the Official Journal of the European Union), and a final report is drawn up, assessing their compliance with the recommendations issued by the AOP. This final report is sent to the contracting authority, the supervisory bodies – i.e. the Court of Auditors and the Public Financial Inspection Agency (ADFI), and to the Managing Authorities of the programme concerned. Consequently, the European Commission's recommendation regarding a cooperation mechanism for introducing two-way information, ensuring the traceability of the results of the controls, has now been met. The new model for prior controls has resulted in a significant increase in the number of procedures examined in comparison with the controls previously conducted by the AOP. In the period from 26.2.2012 to 31.12.2012, the AOP processed 828 cases, of which 275 concerned construction, 145 supply and 408 services. In

	<p>comparison, in the period from 1.1.2009 to 25.2.2002, under the previous prior control model, the AOP verified 273 draft public procurement documents.</p> <p>Steps have also been taken to optimise administrative capacity. With Decision No 41 of 27.12.2012 funding has been approved under the Technical Assistance Operational Programme for a project entitled "Strengthening the capacity of a Public Procurement Agency and improvement of the prior control system over procedures, financed with European funds". When this project is implemented, it will provide additional expertise for the conduct of prior controls, as well as improving the qualifications and skills of the experts who conduct them and optimising the organisation of the work.</p> <p>The conduct of prior controls is expected to result in an increase in the number of procedures covered and increasing the level of their legitimacy.</p>
<b>CZ</b>	<p>The Czech Republic is trying to improve the efficiency and effectiveness of their management and control systems, because the area of protection of EU financial interests and the fight against fraud among its priority.</p>
<b>DK</b>	<p>Cooperation has been established with an external auditor who examines all the status reports and accounts concerning subsidies granted under the Regional Fund and Social Fund. The external auditor has to visit all projects at least once during their lifetime. Moreover, the administrative authority also carries out its own checks on a number of randomly selected projects.</p>
<b>DE</b>	<p>The management and control systems have been developed and improved in order to ensure the effective operation of management and control systems including specialized trainings for the competent authorities.</p>
<b>EE</b>	<p>Estonia has focused on the public procurement problems in recent years. We have improved the legislation, conducted seminars where we have clarified the issue, wrote more precise guidelines, audited and assessed the system, i.e. we have made our management and control system more effective and efficient. Thus, it has resulted in more irregularities detected, more benefits repaid, more public procurement problems being clarified.</p> <p>Within the next period the European Commission should reconsider the goal – simplify the public procurement rules, or help beneficiaries with acquiring specific skills (Public Procurement Body).</p>
<b>IE</b>	<p>Because of the financial controls employed for both ERDF and ESF during the 2000-2006 programming period and those currently being implemented in the 2007-2013 programming period and the continued low level of fraud detected, Ireland considers its financial controls to be sufficiently oriented towards detecting fraud.</p> <p>All Structural and Cohesion funds are pre-funded, in the first instance, by the Irish Exchequer. All expenditure is subjected to a comprehensive series of checks before it is deemed eligible for inclusion in drawdown requests from the EU budget. Any potential risk to the</p>

	EU budget is absorbed by the Irish Exchequer prior to expenditure being declared. Even in circumstances where errors are detected subsequent to declaration, the offending expenditure is immediately recovered to the EU budget by the Irish Exchequer. These practices have been operational for some time and experience to-date indicates that they are effective in minimising the possibility of fraud.
<b>EL</b>	<p><b>Ministry of Finance – State General Accounts Office – Fiscal Control Committee (EDEL)</b></p> <p>EDEL, as the control authority for operational programmes under the National Strategic Reference Framework Objectives 1, 2 and 3 and for the Fisheries Operational Programme 2007-2013, conducts system audits and sample checks of operations in order to verify both effective functioning of the management and control systems and the legality and regularity of expenditure declared as part of the projects audited. In the context of the above audits, EDEL makes recommendations to the audited bodies and takes corrective measures, where and when required, with a view to ongoing improvement of the management and control system, which is a constant and primary concern for EDEL for the entire duration of the programme.</p>
<b>ES</b>	Since Spain joined the European Economic Community, management and control systems for activities co-financed by the EU have been developed and improved in order to detect and follow up possible irregularities, in compliance with the rules set out in the applicable legislation during every programming period, and have been adapted to the ever stricter requirements in the legislation. In this way, all cases that might constitute fraud are handled in accordance with the procedure established by law in accordance with national rules and are duly notified to the Community bodies.
<b>FR</b>	France has finished deploying the management tool for automatic processing of goods seized. Altogether 70 allegations were sent via IMS in 2012 (45 for ERDF and 25 for the ESF).
<b>IT</b>	<p>As a tangible sign of the efforts made to improve the efficiency and effectiveness of the prevention, management and control systems in the area of cohesion policy, Italy has begun a project for exchanging best practices and training, which is co financed by OLAF under the Hercules II programme. The project is called 'The fight against financial fraud in the European Union: control strategies and tools'. The results have been published in a manual sent to all the Italian authorities concerned, all the relevant EU institutions and all the COCOLAF representatives for the other Member States.</p> <p>The document can be viewed via the following link to the Department for European Policies:  <a href="http://www.politicheeuropee.it/attivita/18358/il-contrasto-alle-frodi-finanziarie-allunione-europea">http://www.politicheeuropee.it/attivita/18358/il-contrasto-alle-frodi-finanziarie-allunione-europea</a></p>
<b>CY</b>	In Cyprus the management and control system includes an ex ante control for all public procurement procedures for co-funded projects which is carried out by the Public Procurement Directorate of the Treasury of the Republic. The control is carried out at the various stages of the tendering procedure before the final award of the tender (eg, preparation of tender documents, evaluation fo tenders received, award stage).

	<p>This control ensures that any problems are identified at an early stage of the procurement procedure and if it is severe no “certificate of compliance” is issued for the tender thus rendering any expenditure incurred ineligible.</p> <p>Moreover the verifications and audits carried out by the various Bodies and Authorities are more focused on the areas of eligibility and procurement.</p>
<p><b>LV</b></p>	<p>Within MA the risk management process has been created and the risk of conflict of interests, fraud and corruption is classified as intermediate risk. Furthermore the questions related to the possible risks regularly are discussed within the risk workgroups.</p> <p>Taking into account the amounts of irregularities detected in public procurement, MA has proposed and adopted amendments to the Cabinet of Ministers regulation No. 419 “Procedures, by which Institutions Involved in the Management of the European Union Structural Funds and the Cohesion Fund Ensure the Preparation of Planning Documents and the Implementation of Such Funds”. The amendments establish obligation to perform the ex-ante procurement checks by doing so eliminating/reducing the risk of tolerated irregularities in public procurements.</p> <p>MA, taking into consideration changes in the management and control system regularly updates internal procedures of MA and provides methodological and interpretative materials for the institutions involved in the management of EU funds, thus reducing the possibility of systemic errors and prevent possible irregularities.</p> <p>MA has amended guidelines of payment justifying documentation, as well as methodology for the project checks on the spot and defined basic issues what should be checked to provide implementation and documentation of procurement procedure according with the principles of sound financial management also in the cases when procurements are bellow thresholds set in the legislature.</p> <p>In order to gain equal understanding and better performance of on-the-spot checks, Methodology for performing on-the-spot checks has been updated by including additional and more specific conditions, questions for checking accordance of: avoiding double financing; ensuring proper and sufficient audit trail; proper implementation of State aid conditions; work quality of procurement commission; accordance of Procurement rules.</p> <p>Furthermore MA quarterly monitor the irregularity level within the operational programs (OP) and if the irregularity level is approaching or exceeds 2% level the action of line ministries, responsible for OP activities, are asked to perform some action to reduce further risks. The analyses of irregularities are quarterly included in the report for the Cabinet of Ministers. The MA’s controls and supervision over qualitative control of implementation of delegated functions have been strengthened in 2012 (the evaluation of procedures of institutions, project evaluation process, the verification of project implementation process etc.). Based on the results of monthly risk assessment, every year the MA develops a plan for the verifications of delegated functions and monitoring of implementation of recommendations. It is planned that verifications and audits will be conducted more often in the institutions with higher risks, as well as if the error rate will be zero, institution is evaluated as high risk. By now essential deficiencies in the implementation of delegated functions have not been identified. In the result of the</p>

	checks recommendations are stated, implementation of which are monitored by the MA.
<b>LT</b>	<p>The Lithuanian Ministry of Finance is continuously monitoring and updating legislation governing the procedure for investigating, identifying and eliminating irregularities, and revising the computerised information management and control system for EU structural assistance for the 2007-13 programming period (hereinafter ‘the SFMIS’).</p> <p>The following amendments to legislation were made in 2012 with a view to protecting the EU's financial interests and combating fraud:</p> <p><u>1. The Rules on project administration and financing</u>, laying down the following:</p> <p>1.1. irregularities can be established where there has been a failure to achieve planned monitoring indicators and/or physical activity implementation indicators;</p> <p>1.2. a clearer definition of responsibility for decisions adopted with respect to identified irregularities and of the related appeal procedure, i.e. a decision relating to an irregularity is not adopted by a ministry and/or another government body (hereinafter 'a ministry'), but by the implementing body that carried out the investigation into the irregularity, and once the decision has been adopted this body submits proposals regarding the established irregularity to the ministry responsible (for example, to suspend a project administration and financing contract, repay funds, etc.). Where a ministry has received from the implementing authority a decision and a proposal relating to an established irregularity, it cannot amend the decision arbitrarily. However, it can present a reasoned request for the implementing authority to reopen the investigation into the irregularity, but only where the ministry establishes new circumstances, or new circumstances emerge, which had not been assessed during the investigation.</p> <p><u>2. Methodological recommendations for investigating and identifying irregularities:</u></p> <p>These recommendations include provisions on irregularities relating to a failure to achieve project monitoring indicators and/or physical activity implementation indicators, and on irregularities involving the encumbrance of project assets and the infringement of Article 57 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, as last amended by Regulation (EU) No 423/2012 of the European Parliament and of the Council of 22 May 2012; they also lay down the procedure for identifying these irregularities and the principles for calculating the financial corrections applicable where these irregularities occur. Furthermore, provisions are included relating to systemic irregularities identified and also the procedure for reopening investigations into irregularities where new circumstances</p>

	<p>come to light which had not been examined during the investigation into the irregularity.</p> <p>The SFMIS was also updated in 2012, enhancing functionalities related to the prevention of double financing of expenditure.</p> <p>Since the majority of irregularities identified (around 60 per cent) relate to infringements of legislation governing public procurement procedure, in 2012 the Ministry of Finance organised training courses for staff representing institutions administering EU structural support, on the subject of the method for determining the cost and pricing of public sale and purchase contracts. An impact assessment was also carried out in 2012 on the effectiveness of the use of EU structural assistance in public procurement. This assessment analysed the legal framework for public procurement, the public procurement control system, the administrative procedures relating to EU structural support in the area of public procurement control, and the capacities of monitoring authorities and contracting organisations.</p>						
LU	<p>Audits of operations have focused on checking whether audit trails were complete, thereby enhancing transparency and contributing to fraud prevention. As most of the reporting errors occur in public procurement procedures and staff-cost allocation, these areas have been singled out for specific review.</p> <p>Notwithstanding these satisfying results the managing authority maintains its efforts to improve its management and control system by developing its auditing process and bringing it into line with the recommendations of the national audit authority.</p>						
HU	<p>The set of institutions managing EU support will continue to take endeavours in the future to maintain an effective public procurement control system in order to ensure the effective operation of management and control systems. In addition, to this the elaboration of an Anti-Fraud Strategy for the future is also in progress.</p> <p><b>Identification of high-risk areas</b></p> <p><b>While preparing quality control reports and issuing certificates, the Public Procurement Supervision Department (KFF) operating within the framework of the National Development Agency assigns high risk classification to the scope of problems where the correction is deemed especially important and necessary</b> in view of the effective Public Procurement Act, the relevant implementation decrees, the EU directives and the resolutions of the Public Procurement Tribunal. Those points are as follows: legal basis of the procedure, reasons for exclusion, eligibility criteria, evaluation criteria and other occasional remarks. The following figure shows the ratio of high-risk findings made by the KFF in relation to specific public procurement procedures:</p> <table border="1"> <thead> <tr> <th>Magas kockázatok alakulása</th> <th>High risks</th> </tr> </thead> <tbody> <tr> <td>jogalap</td> <td>Legal basis</td> </tr> <tr> <td>alkalmassági követelmények</td> <td>Eligibility requirements</td> </tr> </tbody> </table>	Magas kockázatok alakulása	High risks	jogalap	Legal basis	alkalmassági követelmények	Eligibility requirements
Magas kockázatok alakulása	High risks						
jogalap	Legal basis						
alkalmassági követelmények	Eligibility requirements						

kizáró okok	Reasons for exclusion
értékelési részszemle	Evaluation criteria

Ratio of high-risk findings with regard to the quality control reports issued for public procurement procedures controlled by the KFF

The **contents and details of the quality control reports and certificates** issued by the KFF between 8 December 2010 and 30 June 2012 **fully ensured the clear identification of the individual findings and remarks by the Beneficiary**. They also provided a possible solution for the problem revealed and, in certain cases, made a suggestion to the Contracting Authority for managing a particular problem with reasoning. Owing to those circumstances, even after receiving the remarks of the first-round KFF controls, the Contracting Authority was able to prepare and return documents that fully complied with the requirements of the relevant legislation also contained adequate information for the issue of a certificate of approval.

The contents and professionalism of both the quality control reports and quality control certificates facilitated compliance with the relevant legislation of public procurement procedures, mitigated the risk of the launching of legal remedy proceedings and contributed to an increase in the number of successful procedures.

#### **Efficiency of the public procurement control system**

**Public procurement procedures are controlled by KFF in several rounds and on several occasions** (at least twice). Those control processes resulted in the full and adequate reflection of the findings of the quality control reports in the tender documents, i.e. they fully complied with the requirements of the legal regulations after the audits.

The analyses show that Beneficiaries comply with the quality control report issued by KFF in the first round of the procedure with regard to more and more public procurement tenders, i.e. the documents returned to KFF for repeated quality control in the second round are updated with most of the findings of the quality control reports, i.e. the documents comply with the requirements for KFF to issue a certificate of approval. That proves, on one hand, that all the errors, deficiencies revealed and the solutions proposed by KFF are recorded in full detail in the reports and certificates and allow the Beneficiaries to find an effective solution to the problems revealed and to correct the errors. On the other hand, it also reflects the professional expertise of KFF because Beneficiaries also consider important and necessary to remedy the detected deficiencies and errors.

**KFF may also initiate irregularity procedures** whenever it finds that the Beneficiary fails to integrate the contents of its reports, certificates or positions into the respective documents or if it launches and conducts procedures by violating the provisions of the Regulation, without

majority of which were inspections concerning ex post control and contract amendment control activities. In other aspects, any violation of regulations may be remedied almost immediately in the course of process-embedded checks (quality control and regularity) and, therefore, it is very rare that an irregularity procedure needs to be launched in a quality control or regularity phase.

In summary, it may be concluded that the activities of KFF are primarily preventive, preventing potential violations of legislation as early as during the preparation for public procurement procedures or during the actual procedure. That is why they sufficiently ensure the lawfulness of public procurement procedures, and mitigate the risk of the launch of legal remedy procedures, ensuring smooth and transparent procedures and contributing to the effective and reasonable use of EU resources in compliance with the EU legal principles.

### **Anti-Fraud Strategy**

In order to effectively protect the financial interests of the European Union, regularity, including fraud prevention and management, was given extremely strong emphasis in relation to the transparent use of EU resources and to full preparation for the next programming period. For that reason, the National Development Agency began to elaborate an anti-fraud strategy (Strategy) concerning the cohesion policy for the period 2014-2020. The Strategy will also be the basis of the national strategy.

In August 2012, the NDA established a task force involving the managing, certifying and audit authorities, intermediate bodies and the OLAF Co-ordination Office. The task force elaborated a set of proposals laying down the basis for the Strategy by applying the value analysis methodology. At present the set of proposals is being reconciled with the European Anti-Fraud Office and the Directorate General for Regional and Urban Policy. Following the approval by the Commission of the set of proposals, the Strategy will be further elaborated and finalised in the course of further value analysis task force meetings, with the involvement of professional experts from the relevant areas and is expected to be officially published at the end of July 2013.

The NDA is committed to the protection of the financial interests of the European Union, the effective fight against fraud, the preservation of the good reputation of the respective institutions and the increase of trust in the set of institutions. It intends to act efficiently against fraud on the basis of the anti-fraud strategy approach of the European Commission by applying the measures described in the Strategy.

### **Increasing the efficiency of level one checks**

**On-the-spot checks by Intermediate Bodies as well as document-based checks are regulated in a government decree and in ministerial directives.** These specify the main procedures and contents and ensure consistent interpretation in the set of institutions managing support.

In terms of document-based checks, the mandatory consistent criteria of document checks, certifying financial and professional progress, to be submitted with payment requests, form an annex to the Ministerial Directive.



	<p>regulated in the Government Decree. In terms of risk factors it is important that the Managing Authorities/Intermediate Bodies should identify the factors to be taken into consideration in a risk analysis and these are weighted by integrating their own experience. Intermediate Bodies update their on-the-spot check methodology every year.</p> <p>In recent years, a need was identified for a central on-the-spot check guide, which was prepared by the NDA in the spring of 2012. To prepare the guide, the practices of Intermediate Bodies were reviewed and common components potentially useful for everyone and good practice were compiled by project type. The guide puts special emphasis on checking of the physical implementation of projects and their correlations with the document-based checks. The guide concludes with case studies. A guide to compiling the on-the-spot check report was also drawn up, which once again aimed at achieving a consistent practice. Managing Authorities and Intermediate Bodies discussed the guide and the main recommendations were integrated into the main subject matter relating to on-the-spot checks.</p> <p>The Audit Authority (AA) checks the management and control system each year. Upon checking, it reviews the operation and efficiency of the system. In the event if any deficiencies are revealed, it makes proposals for improving the system and sends them to the institutions involved in the system. During the system reviews it also follows up the checks conducted in the previous years to verify that the previous recommendations have been fulfilled. The AA continuously monitors the operation and efficiency of the system based on the methodology outlined above.</p>
<b>MT</b>	<p>Apart from adopting a system of ensuring that there is thorough review of all payment claims submitted to the Commission for reimbursement as required and obliged by the regulation, the MA is asking beneficiaries to document the way they check expenditure incurred prior to the certification of expenditure to be paid. This allows the MA to identify any potential weaknesses in the management and control system put in place at beneficiary end. In collaboration with the beneficiaries templates for the reconciliation of work undertaken are agreed upon at the start of the implementation.</p> <p>This means that effectively the Managing Authority is insisting that there is a documents management and control system at the beneficiary end beyond what is already required through signed contract and agreement.</p>
<b>NL</b>	<p>OLAF recommends continuing to improve the efficiency and effectiveness of the control and management system relating to the main category of non-fraudulent irregularities, namely shortcomings in the legal rules for public procurement procedures and the eligibility of declared costs.</p> <p>Improving the efficiency and effectiveness of the control and management system is a continuous process.</p> <p>A risk profile is drawn up for each project. Experiences with previous projects and applicants are also recorded. These measures can lead to the project being subject to a mid-term review, in which case the principal sources of error referred to above will be included in the assessment. Compliance with the rules for public procurement procedures and the eligibility of declared costs will in any case be examined during the control carried out after submission of the final accounts by the final beneficiary. The current control and management system works adequately and needs only minor improvement. The findings from systems and project audits by the second-line authority confirm this.</p>

	The European Commission judged the Netherlands' control and management system of sufficiently high quality that it issued a letter of confidence relating to the ESF.
<b>AT</b>	Austria will only take position to points, where Austria is directly mentioned (we are against further informal questionnaires to avoid additional administrative burdens). As Austria is not mentioned in the follow-up recommendations of the COM fraud report 2011, please do not expect any further comment on this document.
<b>PL</b>	<p>In Poland's opinion, the current methods under the management and control systems are effective and efficient. However, in view of the need for further development and fine-tuning of the methods for dealing with problems that arise, measures are being taken to update the inspection rules. In this context account is being taken of the recommendations following audits by the Commission and the audit authority concerning improvements to the system for implementing operating programmes. The current updating activity also includes guidelines on the eligibility of expenditure and on the rules for financing programmes. These guidelines are based partially on the findings of Commission audits. Working parties on financial matters meet regularly to discuss problems, including irregularities that arise in projects.</p> <p>Many irregularities concerning non-compliance with public procurement law stem from the fact that this is a very active area to which checks at all levels, including Commission audits, pay particular attention. Public procurement law is a complicated area that causes many problems for beneficiaries, particularly those lacking experience in the field. In such circumstances, the fact that many irregularities are detected in the area might be proof of the effectiveness of the control system. In order to ensure the effectiveness of the system, on-the-spot inspections by the bodies responsible for monitoring projects include checks on the correctness of public procurement procedures. The procedure for checking payment claims also ensures that beneficiaries are properly monitored. Inspection bodies may focus the planned checks on public procurement law compliance by considering it a risk factor when a beneficiary is required to engage in public procurement. Some bodies also carry out ex-ante checks on public procurement. These involve checks on the project documentation before a contract is signed with a contractor.</p>
<b>PT</b>	<p>Various training schemes have been carried out for all those involved in management, certification and audit.</p> <p>Apart from this general training, specific coaching has been provided by the relevant entities (the certification and audit authorities in particular) to clarify any doubts.</p> <p>IGFSE has adopted various administrative measures to reduce cases of non compliance with the legislation in force by beneficiaries. For example, frequently asked questions on ESF measures in Portugal have been published on IGFSE's website, a self audit tool has been made available and seminars have been organised on key topics with a view to reducing the error rate. One such topic is public procurement, one of the main sources of irregularities.</p>
<b>RO</b>	Romania is constantly improving its management and control systems. Measures taken in this respect are as follows:

	<p>1. The institutional framework for the verification of public procurement has been consolidated through the clear delineation of the powers of the authorities involved in the verification process, and the promotion of the procedure applicable to private beneficiaries for awarding projects financed from structural instruments (Convergence objective), leading to a uniform verification process.</p> <p>2. Legal provisions have been introduced that make it possible to apply financial corrections also on current declarations of expenditure transmitted to the European Commission. Those provisions also lay down specific procedures for definitive or temporary percentage deduction of the amounts representing those corrections.</p> <p>3. Working procedures, including specific control forms, are improved and updated on an ongoing basis. In the case of working procedures, we can cite an example of an improvement in the field of controls and anti-fraud, relating to legislative amendments concerning the prevention and detection of irregularities and fraud: we have made amendments to procedures in response to the observations made by auditors at closure meetings rather than waiting for official notification in Commission letters of observations concerning debt recovery and payment authorisation.</p> <p>In the case of specific control forms, an example of an improvement made is the running of checks for the artificial creation of the conditions required for obtaining financing with a view to obtaining an advantage contrary to the objectives of the support scheme.</p> <p>4. Given the need to put into operation a mechanism for verifying conflicts of interest/fraud, the Managing Authority has incorporated the following lists and instructions into its working procedure:</p> <ul style="list-style-type: none"> <li>- Checklist concerning the incidence of fraud indicators during procedures for the award of public procurement contracts.</li> <li>- Procedural checklist for the award of public procurement contracts, contracts for the concession of public works and contracts for the concession of services, as provided for by Government Emergency Order No 34/2006 on the award of public procurement contracts, contracts for the concession of public works and contracts for the concession of services.</li> <li>- Conflict of interest checklist – for use during the initial verification of the public procurement contract.</li> <li>- Conflict of interest checklist for use during the period of implementation of the contract.</li> <li>- Procedural checklist for the award of contracts for services included in Annex 2b to Government Emergency Order No 34/2006.</li> </ul>
<b>SI</b>	<p>SLOVENIA comments: In the past programming period (2004-2006) there were no cases with suspicion of fraud discovered, due to relatively low financial resources dedicated in relation to internal control set up. With higher financial resources, more recipients involved and threat of spreading fraud practices from other EU countries the rise of fraud is possible. The development and setting up of internal controls in Slovenia is trying to adapt to these facts.</p>
<b>SK</b>	<p>The SR has been constantly increasing the effectiveness and improves the efficiency of management and control systems in the field of cohesion policy. This has been achieved either through continuous updates of the Structural and Cohesion Funds management systems or</p>

	<p>related detailed guidelines and instructions. In particular, two methodological guidelines were issued concerning the critical areas related to the deficiencies in the eligibility of expenditure and public procurement: on 19 October 2012, the Methodological Guidelines concerning the management of preliminary and interim financial controls of EU funds implementation, and on 13 January 2013 Methodological Guidelines concerning the award of contracts within so-called internal procurement in the area of the implementation of EU funds were issued. In addition, an updated version of the Central Coordination Authority's Methodological Instruction is under preparation. This instruction concerns the determination of the amount of all or part of the contribution recovered in case procurement rules and procedures are infringed.</p> <p>Other special measures have been implemented at the level of various operational programs, for example:</p> <p>Cross-Border Cooperation Programme the Slovak Republic – the Czech Republic: Risk analysis is generally updated at each new call for projects, while a new sample of projects is elaborated after the approval of the projects. 10 % of the projects are chosen to make a sample that is subjected to an on-the-spot check.</p> <p>Operational Programme Bratislava Region: The control of the projects by Managing Authority includes, inter alia, the procedures helping to avoid double financing of expenditure from other EU or national programmes and in other programming periods.</p> <p>In some parts of the Regional Operational Programme, all declared expenditures amounting 100 % are subject to on-the-spot control, thus 100 % control is conducted, however, neither control of samples nor control based on the risk analysis are conducted.</p> <p>Operational Programme Environment: To improve the management and control systems in the area of expenditure eligibility, the Managing Authority adjusted the evaluation criteria (particularly with respect to assessing the cost-effectiveness of the expenditure), introduced and expanded the expenditure limits verified within the preliminary financial control. One of the measures for increasing the effectiveness of the procurement process management and control is to establish a post that includes coordinating and methodological guidance of project managers to verify the compliance of award procedures with the applicable procurement legislation.</p> <p>Operational Programme Transport: The control of the payment claim comprises a risk analysis that ensures the detection of risk factors in the implementation of the Operational Programme Transport projects.</p>
<b>FI</b>	In Finland, simplified cost reporting models have been introduced for the structural fund programmes, which improve eligibility checks.
<b>SE</b>	SE reply: The authorities (the Swedish Agency for Economic and Regional Growth (Tillväxtverket) and the Swedish ESF Council) which manage support from the European Regional Development Fund and the European Social Fund work on an ongoing basis to develop and improve their management and control systems. Over the past few years, for example, procedures for follow-up and on-site control of project support have been improved. See also reply to recommendation 1.
<b>UK</b>	In the UK's view, the main improvement needed to avoid irregularities caused by breaches of Public Procurement rules are simplification of the Public Procurement rules. The new rules being proposed seem just as complicated as the current ones - and we move from two Directives

to three. Regulations must be made easier to implement.

### 3. RESULT OF THE QUESTIONNAIRE ABOUT CONTROLS TO COMBAT IRREGULARITIES AND FRAUD AGAINST THE EU FINANCIAL INTERESTS IN THE AREA OF COHESION POLICY

The Member States' responses to the questionnaire show that further progress is needed on monitoring the results of the administrative and criminal anti-fraud investigations, including recovery of the amounts concerned.

It is also clear that better fraud statistics are necessary so that the Commission and the Member States can focus their efforts in higher-risk areas. In that respect, the Commission intends to put more emphasis in the reporting in this area.

#### RECOMMENDATION 5

**Member States are invited to monitor the results of criminal investigations and improve their fraud statistics.**

<b>BE</b>	By way of example: <ul style="list-style-type: none"><li>- Bribery of a Dutch official in Brussels by cereal multinationals. Settled by the Brussels appeal court – corrupt official and corrupting agents (natural and corporate persons) found guilty.</li><li>- Acceptance of bribes by an official at the EU Permanent Representation in Kiev. Found guilty by trial court. To be heard by court of appeal in September 2013.</li><li>- Bribery of a European official in Brussels by French, Belgian and Italian companies in order to obtain security contracts for EU permanent representations abroad. Referred to criminal court. Date of hearing still to be decided.</li></ul>
<b>BG</b>	In 2008, Division VIII was set up at the Supreme Prosecutor's Office of Cassation to deal specifically with "Fighting crime involving fraudulent use of EU funds". A specialised unit has also been set up in the Sofia City Prosecutor's Office, which is headed by a Deputy City Prosecutor and employs a team of eleven prosecutors (five of whom are from the Sofia Regional Prosecutor's Office). Under this team-based approach, operatives from the financial section of the police force and eight police investigators work alongside the prosecutors.  To ensure that cases involving fraudulent use of EU funds are pursued more effectively and to a higher standard, Bulgaria has created a network of prosecutors and police investigators working in this field. At the appeals level, there are appellate coordinators, enabling the Supreme Cassation Prosecution Office to establish rapid contact with the first instance and district-level prosecutor's offices, and often with regional prosecutor's offices. Whenever cases of potential fraud are brought to its attention by OLAF, AFCOS, the Managing Authorities, natural or legal persons, or NGOs, the Prosecutor's Office of the Republic of Bulgaria conducts a thorough investigation. Since it is vital for the managers of operational programmes to be kept informed about the progress of inspections or inquiries, Division VIII has

introduced the principle of carrying out own-initiative controls. The prosecution notices delivered by first instance prosecutors are verified by a prosecutor's office at a higher level. The final decision is taken and verified by the Supreme Cassation Prosecution Office, whose Division VIII informs the AFCOS Directorate within the Ministry of the Interior about the progress of the examination or criminal investigation relating to suspected fraudulent use of EU funds. AFCOS then informs OLAF about the action taken by the Prosecutor's Office in relation to specific investigations conducted by the Office.

In order to improve the effectiveness of the fight against fraud, the Supreme Cassation Prosecution Office holds annual meetings with the managers of individual Operational Programmes, at which weaknesses and repeated errors are discussed. The proactive steps taken by the Prosecutor's Office are particularly important, since this frequently leads to changes to the programmes' regulatory frameworks.

The coordination mechanism governing interaction between the Managing Authorities and the investigating authorities, with the active involvement of the AFCOS Directorate, provides for timely two way communication, enabling all the parties involved in the action taken by the investigating authorities to be kept informed and the latter to be given information about the action taken by the Managing Authorities and Intermediate Bodies of the programmes concerned. Active communication continues right up to the conclusion of cases, and this is reflected in the reporting of irregularities, including suspected fraud. Information about the progress of the cases being examined by the Prosecutor's Office is recorded in the Irregularities Register maintained by the Managing Authorities and the Unified Management Information System for the EU Structural Instruments in Bulgaria and reported in accordance with the procedures for communicating fraud or irregularities. In accordance with Commission Regulation (EC) No 846/2009 of 1 September 2009 amending Regulation (EC) No 1828/2006, the Managing Authority must report cases of irregularities and suspected fraud to the European Commission, via the AFCOS Directorate, including cases where no payment of the public contribution has been made, but amounts would have been unduly paid had the irregularity not been identified.

The Managing Authority enters details about developments in all cases of irregularities, including cases of suspected and established fraud, in the Irregularities Register. It takes longer for the competent authorities to process cases of "suspected fraud" in view of the time needed to conduct inspections and establish the facts. If necessary, a written correspondence is entered into, in order to clarify the situation and keep the parties informed about the progress of the verification process. Where the Managing Authority needs information on criminal investigations it can apply to the Supreme Cassation Prosecution Office for information, in which case there will be an immediate impact on the project funded under the Operational Programme. Where the results of legal proceedings are delayed, information about the progress of the case can be found on the website of the relevant court or a written request introduced for a copy of the court decision.

The State Agriculture Fund has been implementing Recommendation 5 on a continuous basis since 2004, in the case of the SAPARD Agency, and 2007 in the case of the Payments Agency. The Fund has two separate departments (for the Payments Agency and the SAPARD Agency) which are responsible for recording and processing irregularities, taking measures to effect recoveries, keeping track of criminal investigations, and reporting to external bodies in accordance with national and European legislation. Their functions are described in statutes and their performance monitored continuously. In accordance with the legislation, the State Agriculture Fund

	maintains registers of criminal prosecutions. There is a coordination mechanism for obtaining information from the Prosecutor's Office on pre-trial proceedings and the progress of prosecutions. The State Agriculture Fund holds detailed statistical information on recorded irregularities, including data on the cases that lead to criminal proceedings, and provides high quality reporting to OLAF.
<b>CZ</b>	The Czech Republic consistently monitors the results of the criminal investigation and improve fraud statistics. This issues relates to the Ministry of Justice (Supreme Public Prosecutor's Office) and the Ministry of Interior (Police).
<b>DK</b>	Not replied
<b>DE</b>	OLAF considers that improvement is needed in monitoring the results of criminal anti-fraud investigations and compiling statistics. Germany monitors the pending and completed investigations consistently and efficiently.
<b>EE</b>	Estonia does not close any irregularity or fraud case before all procedures have been finalized. We send updates via the IMS when there are developments in the case.
<b>IE</b>	Ireland agrees but the level of this recommended activity will be dependent on the level of detected frauds. As explained in responses to recommendations 1 and 2 Ireland's pre-funding approach and subsequent recovery of funds to the EU budget in situations of detected errors means that the impact of such errors on the EU budget is eradicated. Notwithstanding this situation Ireland is strongly committed, in the first instance, to deterring fraud and also to the detection of irregularities and/or fraud where they occur.
<b>EL</b>	<p><b>Ministry of Finance - Financial Crime Prosecution Unit (SDOE)</b></p> <p>The SDOE plans, develops and implements the relevant risk analysis system for carrying out targeted on-site checks in 2012 and beyond on business entities making specific investments which involve large sums of money and a high risk of fraud; the priority objectives of its annual action plan include taking action against illegal financial measures to protect Community and national financial interests, strengthening the statistical monitoring of fraud and irregularities, and encouraging the competent bodies of other Greek public-sector departments to recover funds paid unduly and unlawfully.</p> <p><b>Ministry of Justice, Transparency and Human Rights</b></p> <p>The Ministry of Justice Decision of 30 December 2011 set up a Working Group on reorganising and modernising the system for collecting and processing judicial statistics and in particular designing a reliable system for data management and measurement of the workload of all courts. The above Group has completed its work and submitted the study based on it.</p> <p>Its proposals include the compilation of statistical data relating to the crime of fraud affecting the financial interests of the European Union</p>

	<p>and other fraudulent offences, such as:</p> <ul style="list-style-type: none"> <li>- bribery/corruption offences, for example: Active and passive corruption of national, EU and foreign public officials, members of parliament, prefectural authorities and municipal councillors; Offences under Law 3213/2003, as amended; Active and passive corruption in the private sector; Bribery of judges and officials of international courts; Offer to exercise influence;</li> <li>- fraud;</li> <li>- tax evasion / debts to the State, non-payment of contributions to insurance funds;</li> <li>- money laundering;</li> <li>- fraud and embezzlement against the State (Law 1608/1950).</li> </ul> <p>It has also proposed that the Group should compile and maintain statistics on assets recovered after being frozen, (type, amount, number of orders freezing assets) and as the result of confiscations, seizures and injunctions freezing assets (irrevocable orders), as such statistics are considered important in the context of the mechanism for monitoring and evaluating this crime.</p>
<p><b>ES</b></p>	<p>The tasks entrusted to the Management Authority shall be limited to the development of management and control activities, which contribute to improving the implementation of Cohesion Policy and to making the use of public resources more efficient. Therefore these activities are not strictly related to the fight against fraud, notwithstanding the above, we carried out the following activities that could contribute to the prevention of fraud.</p> <p>In the area of prevention, in recent years there has been an effort, which will be intensified in future, to provide advice and analysis of situations arising in the management of the co-financed activities, through the development of written guidance, including working papers and circulars providing clarification, and systematisation of a yearly training plan which addresses, among others things, the most controversial and complex issues, providing guidance to the staff of Intermediate Bodies, the Managing Authorities and the Certification Authority, on the interpretation and enforcement of the rules. We have carried out and will continue to carry out periodic talks on future legislation and meetings with experts from the European Commission to discuss and analyse interpretations of the rules, so as to develop guidance for staff involved in management and control, to ensure consistent treatment that is in accordance with the law.</p> <p>From the point of view of statistics and monitoring the results of fraud investigations, the la Dirección General de Fondos Comunitarios lends support to all OLAF inspection visits, providing, in some cases, staff involved in research to accompany visitors, such actions are scheduled to continue in the future. On the other hand, the development of the IMS system for reporting irregularities to OLAF, facilitates the contribution of la Dirección General de Fondos Comunitarios to the communication of irregularities in the field of management and control, which also involves monitoring the cases detected.</p>



	In any case, the actions taken by the Spanish authorities in this field correspond to the role specified in Article 325 of the Treaty on the Functioning of the European Union, which states that "Member States shall take the same measures to counter fraud affecting the financial interests of Union as they take to counter fraud affecting their own financial interests."
<b>FR</b>	Not replied
<b>IT</b>	In order to improve monitoring of the results of criminal investigations and the statistics for fraud against European funding, in June 2012 the Italian Ministry of Justice issued a special measure reforming the judiciary's IT system, to enable immediate and straightforward detection of fraud cases involving EU funds from all other criminal fraud proceedings.
<b>CY</b>	The monitoring of the results of an administrative or criminal investigation rests with the responsible Intermediate Body who has to report any developments to the AFCOS coordinator at the Treasury of the Republic. The Certifying Authority keeps a register of all irregularities or fraud or suspicion for fraud.  Please note that no fraud has been identified during 2011 in the Cohesion Policy area therefore no statistics have been kept.
<b>LV</b>	MA quarterly discusses all irregularity cases including the fraud cases and decides on cases which should be reported to EC/OLAF. In order to improve the comprehension of EU funds system of law enforcement institutions MA has organized seminars and workshops for prosecutors and judges. The aim of workshops and seminars was to increase the amount of pre court investigations performed by law enforcement institutions in cases when the cases of suspected fraud are detected by intermediate bodies involved in EU funds monitoring process.  The Paying Agency for Agriculture regularly monitors the course of administration and legal procedure as well as it evaluates results of the legal procedure and possible solutions, as well as it cooperates with law enforcement institutions for this purpose.
<b>LT</b>	An integrated information system on criminal procedure was set up in Lithuania on 27 September 2012, and is due to be launched by July 2013. This system will incorporate key information relating to criminal procedure, beginning with notifications on criminal acts and ending with data on the expiry of judicial records. It will include information on incidents, the relevant investigations launched, pre-trial investigation data on damage caused, rulings, judgments and sentences handed down by the courts, and the enforcement of court decisions, i.e. damages recovered, penal measures imposed and asset confiscation effected.
<b>LU</b>	The ESPON 2013 programme undertakes to report any programme fraud identified and thereby contribute to improving fraud statistics.
<b>HU</b>	<b>Criminal Investigations</b>

In line with the recommendations of the Commission, criminal investigators take all reasonable steps to ensure that a considerable emphasis is given to the protection of the financial interests of the European Union. This will also be bolstered by the approval of the new Criminal Code, which will enter into force on 1 July 2013. The competent authorities have taken the necessary steps to upload the report prepared by the Commission onto the portal used for criminal investigations in order to make it widely available to investigators.

The recommendation is in line with the findings and recommendations in the country studies prepared in recent years (2010 Moneyval, 2012 OECD). Statistical data collection and data processing need to be improved in all areas affected by the studies (money laundering, corruption, fraud affecting the financial interests of the EU). In relation to data requests, it became obvious that the statistical databases currently used by the prosecution often did not contain the data requested by international organisations at all or not in the proper categories or, that the requested data could only be collected based on the identification of the specific cases and a detailed document review. Obviously, it significantly increases the time required for satisfying requests for data supply.

The review of the information statistical systems of the prosecution offices is in progress, partly by improving the current framework and partly within the framework of the Electronic Public Administration Operational Programme. The modifications and developments making adequate data supply easier are expected to be carried out next year.

#### **Administration**

The competent National Development Agency (NDA) began to develop the anti-fraud strategy (presented in 4.3) that is expected to improve fraud statistics, once implemented. The purpose of the anti-fraud strategy is to improve regularity, to increase attention focused on fraud, to enhance the efficiency of the use of EU resources, to increase trust in the set of institutions, to improve the cost efficiency of the control system and the transparency of the development resources of the Member States as well as to co-ordinate and systemise the currently effective anti-fraud measures.

In Hungary, the role of the NDA as fund manager in a criminal proceeding cannot always be established clearly on the basis of Act XIX of 1998 on criminal proceedings and Government Decree No 4/2011 (I. 28). In the criminal proceedings initiated by fund managers or in ongoing criminal proceedings, the relevant authorities and courts grant reporting rights to the fund manager in certain cases, while in other cases they assign to it the rights of representation of the private party or the aggrieved party (private party). Fund managers intend to review that situation occasionally partly confusing in the future, due to the reasons described below.

The reporting status does not provide access to certain investigation data which may be important also in terms of the legal relationship of funding. The rights of the aggrieved party or his representatives could facilitate more effective claim enforcement especially in the case of adhesion claims. The essential judgement of a civil claim means that a resolution adopted by the court in a criminal procedure is an executable document and therefore, there is no need to launch a distinct procedure in a civil court.

	<p>Courts apply different interpretations of the law partly because the support contract establishes an atypical relationship between the fund manager and the Beneficiary which entails certain public power components also reflects the specificities of civil law based relationships. Considering that in the contracts the support provider is the contracting party, but the source of the granted amount is the European Union either in part or in full, the definition of the aggrieved party often causes a difficulty to the authorities' proceedings in criminal cases, as indicated above. In our opinion, as part of the anti-fraud strategy, in the future it may be necessary to analyse, for clarification purposes, whether it would create a more favourable situation if the law specifically empowered the agency to enforce claims relating to criminal acts committed with regard to the EU funding managed by it.</p> <p>In order to improve communication and the exchange of information between the institutions, in 2011 the National Investigation Bureau took part in the multi-phase programme entitled 'Special training in combating fraud and corruption' conducted within the framework of the Hercule II programme. In the course of the programme, the NDA was given an opportunity to deliver presentations on particular topics to representatives of Hungarian courts, prosecution offices and crime investigation agencies enabling them to better understand the funding system, the irregularity management procedures and to understand the mutual advantages and importance of stronger co-operation. The primary objective of the project was to make the prevention of fraud and corruption crimes committed against the financial interests of the European Union more effective by reviewing the methodology and means of investigation, to improve the possibility of collecting assets originating from such crimes and to deepen the relationship between the investigating authority, the prosecution offices and courts in the course of investigations. The experience gained in the programme and the more intensive relations also facilitated the improvement and increased efficiency of official information flow between the NDA and the investigation agencies.</p> <p>As part of the currently elaborated anti-fraud strategy, the National Development Agency put on its agenda the elaboration of a co-operation agreement to be concluded by the fund manager with the Hungarian Anti-Fraud Coordination Service, the Constitution Protection Office and the Budapest Police Department.</p>
<b>MT</b>	The Anti-Fraud Co-ordinating Service in Malta retains statistics of all irregularities reported to it in the ambit of the Cohesion Policy irrespective of whether they consist of mere irregularities or fraud. It also distinguishes between those irregularities reported to OLAF and those that do not fall within the OLAF reporting parameters. The Malta Police Force retains statistics on criminal investigations.
<b>NL</b>	<p>OLAF considers that improvement is needed in monitoring the results of criminal anti-fraud investigations and compiling statistics.</p> <p>No fraud has been found in the current programme period. There have therefore been no fraud investigations. For the time being there is therefore no need to improve the compilation of fraud statistics.</p>
<b>AT</b>	Austria will only take position to points, where Austria is directly mentioned (we are against further informal questionnaires to avoid additional administrative burdens). As Austria is not mentioned in the follow-up recommendations of the COM fraud report 2011, please

	do not expect any further comment on this document.
<b>PL</b>	<p>The responsible authorities in Poland monitor criminal investigations on an ongoing basis by asking the law enforcement bodies to share essential information. For some programmes beneficiaries are required to send the competent institutions all documents connected with implementation of the project, including those regarding investigations by law enforcement bodies. However, the process of obtaining such information may be made more difficult when the institution concerned is not recognised as an injured party in the case.</p> <p>Assessing whether conduct in a particular case meets the criteria to be considered an offence under the Penal Code or the Violations Code is a matter for separate investigation by the law enforcement bodies. In the Polish legal system these bodies are independent of the entities that report suspicions of illegal activity. However, all information received by the institutions in respect of criminal investigations is sent to the Commission through the IMS in accordance with the current requirement to provide follow-up reports on further activities.</p>
<b>PT</b>	<p>In this connection, IGFSE has expressly pointed out that the tasks attributed to it by Article 18(1) of Regulatory Decree No 84-A/2007 of 10 December 2007 include updating the information system on the conduct of entities with access to ESF funding.</p> <p>To this end, IGFSE constantly monitors the progress and outcomes of criminal investigations in close cooperation with the criminal prosecution authorities and records the results in the information system.</p>
<b>RO</b>	<p>Romania is constantly improving its monitoring of the results of legal proceedings initiated in connection with cases of fraud, through constant communication with the judicial authorities.</p> <p>For example, data collected by DLAF (Romania's AFCOS) from Romania's judicial authorities on the results of investigations into cases of fraud referred to them in 2012 show a 100% increase in the number of decisions to indict issued by public prosecutors compared to 2011. Moreover, if we look at the number of indictments as a percentage of the total number of decisions issued by public prosecutors in the course of a year, we find that for 2012 there was an increase of approximately 20 percentage points compared to 2011.</p> <p>With regard to the monitoring of the administrative procedure carried out by the managing authority in order to recover losses suffered by funds that were the subject of fraud cases detected by DLAF, there has been an increase of approximately 300% in the amounts recovered in 2012 compared to those recovered prior to 2012.</p>
<b>SI</b>	We agree with this observation. We are discussing this issue during regular meetings of the inter-ministerial working group for cooperation with OLAF, organised by Budget Supervision Office.
<b>SK</b>	Monitoring the results of criminal investigations of cases where the financial interests of the EU in Slovakia are affected has been since 2011 intensified particularly through a close cooperation between the Office of the Government of the Slovak Republic (it represents

	Slovak AFCOS) and the General Prosecutor's Office of the Slovak Republic, in cooperation with the various managing authorities. The results of criminal investigations are updated quarterly. On its own initiative or upon notification by the Government Office, individual managing authorities are required subsequently register and address the irregularities related to individual prosecutions and they shall take follow-up actions in connection with the recovery of related amounts.
<b>FI</b>	In Finland, the authorities monitor the progress and outcomes of criminal investigations in their own areas of responsibility.
<b>SE</b>	SE reply: In 2011 a total of 13 preliminary investigations were launched, of which one led to a conviction. Much work is done in Sweden to prevent fraud. This means that the administrative stage and the control and audit processes are well developed and extensive, not least the technical support. Put simply, we would say that the judicial sector is fully confident that the administrative stage and the control and audit processes work to full effect.
<b>UK</b>	We follow our Suspected Fraud Plan and rely on our Crown Office to determine if fraud has taken place. The AFIS database and OLAF will be updated and informed of the results of our investigations.  Since April 2012, the Rural Payment Agency has set up a system to monitor the results of criminal investigations. Since this system has been in place there have been 3 cases; the prosecution of 2 farmers for breach of Cattle Identification Regulations; and the prosecution of an SPS claimant for claiming land not at his disposal (recovery of £57,217).