EUROPEAN
COMMISSION

Brussels, 3.9.2020
COM(2020) 363 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

31st Annual Report on the protection of the European Union's financial interests — Fight against fraud - 2019

{SWD(2020) 156 final} - {SWD(2020) 157 final} - {SWD(2020) 158 final} -
{SWD(2020) 159 final} - {SWD(2020) 160 final}

TABLE OF CONTENTS

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL
31st Annual Report on the protection of the European Union's financial interests - Fight against fraud - 2019

Table of figures

Executive summary

The protection of the EU's financial interests is a task that the Commission shares with the Member States.

This protection, whose principles are defined in Article 325 of the Treaty on the Functioning of the European Union (TFEU), is being continuously stepped up through action taken by the EU and its Member States, by means of legislation and in the day-to-day implementation of the EU budget.

2019 was a milestone year, since the Member States had until July to transpose into their national laws the measures provided for in the Directive on the fight against fraud to the Union's financial interests by means of criminal law ('the PIF Directive'). Twelve Member States had done so by the deadline, with 22 having done so by June 2020.

The EU co-legislators also adopted a directive designed to improve the enforcement of Union law and policies in specific sectors by ensuring a high level of protection to people who report breaches in such areas (the 'Whistleblowing Directive').

Also in 2019, Ms Laura Codruța Kövesi was appointed European Chief Prosecutor, and further progress was made on the establishment of the European Public Prosecutor's Office.

The European Commission adopted the new Commission anti-fraud strategy (CAFS) in April 2019 and since then has been working to achieve the strategy's seven underlying objectives, in particular those of strengthening the Commission's internal coordination of the fight against fraud and improving its anti-fraud analytical capability, including the quality of the data it relies on.

Two landmark rulings (*Vialto* v *Commission* and *Dalli* v *Commission*) by the Court of Justice of the European Union (CJEU) added to the case-law on the protection of the EU's financial interests. Both concerned investigations by the European Anti-Fraud Office (OLAF).

At national level, Member States adopted a wide array of measures to improve their capabilities to prevent and detect fraud. Most of the reported measures focus on the management and control of EU funds. Cross-cutting measures were also reported, dealing with:

- improving transparency, fighting corruption and conflicts of interest in public procurement;
- fighting financial and organised crime;
- transposing EU law; and
- improving cooperation with OLAF.

The number of irregularities detected and reported to the Commission by Member States (the analysis of which forms the basis for the statistics contained in this report) is lower than in previous years.

This trend is particularly visible for fraudulent irregularities, which have decreased continuously over the past 5 years.

On the expenditure side, however, this decline seems linked to the cycle of the spending programmes of the EU funds rather than to a real fall in detections. Analysis of the programming cycles indicates that detection of suspected fraud and fraud is stable.

In agriculture spending, 'market measures support' was the area presenting a higher risk. For cohesion policy, the highest number of cases were detected in relation to projects in the area of 'research and technological development'.

As the COVID-19 crisis calls for more funding in the years to come, in particular for the health sector, this report also includes an analysis of irregularities in the area of 'investment in health infrastructure'. This analysis indicates that health infrastructure is particularly affected by violations of public procurement rules. Project/activity non-eligibility and infringement of contract provisions/rules were the other main sources of irregularities.

On the revenue side, the financial amounts involved have fallen significantly since 2018, which was an exceptional year. The goods most affected by attempted fraud were, once again, solar panels. Revenue fraud through undervaluation of goods, including e-commerce, imported in the EU remained a significant threat. OLAF played a key role in detecting such fraud.

In view of the current health and economic crises and the recovery plan put forward by the Commission, this report recommends that monitoring and control of EU spending must not be relaxed, and points out that improving the transparency of such spending could help prevent fraud and irregularities.

1. INTRODUCTION

This is the Commission's 31st annual report on the protection of the EU's financial interests and the fight against fraud ('PIF Report').

The EU and its Member States share responsibility for protecting the Union's financial interests and fighting fraud. Member State authorities manage approximately 74% of EU expenditure and collect the EU's traditional own resources. The Commission oversees both of these areas, sets standards and verifies compliance. The Commission and the Member States must work closely together to effectively protect the EU's financial interests.

The PIF Report assesses this cooperation with a view to improving it. To this end, it:

- provides a summary of measures taken at EU and Member State level to counter fraud;
- includes an analysis of national and European bodies' main achievements in detecting fraud and irregularities relating to EU expenditure and revenue. This is based in particular on detected irregularities and fraud reported by the Member States in compliance with sectoral regulations.

The report is accompanied by five Commission Staff Working Documents (SWD)[1].

2. HARMONISING AND REINFORCING THE FIGHT AGAINST FRAUD ACROSS THE EU: CROSS-CUTTING ANTI-FRAUD POLICIES, MEASURES AND RESULTS IN 2019

2.1. Legislative acts adopted by the EU institutions

2.1.1. European Public Prosecutor's Office

Following the entry into force of Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO')[2] on 20 November 2017, the Commission made substantial progress on setting up the EPPO in 2019.

In October 2019, the Council and the European Parliament agreed to appoint Ms. Laura Codruța Kövesi as European Chief Prosecutor.

Procurement rounds needed for refurbishment work in the EPPO's seat in Luxembourg was completed. The recruitment process of EPPO staff continued, with nine members of staff recruited by the end of 2019. In addition, the Commission took the necessary steps to prepare for the development of a bespoke case management system at the EPPO. This will be a key tool for its operation.

The Commission continued to work closely with Member States on the adaptations in their national law to prepare for the EPPO, and to consult them on the different set-up steps in accordance with Article 20 of the EPPO Regulation. The Commission also engaged in discussions with Member States to facilitate the recognition of the EPPO as a competent authority under the European Convention on Mutual Assistance in Criminal Matters of 1959 and its protocols, as foreseen in the EPPO Regulation. This will ensure smooth cooperation of the EPPO in relation to non-EU countries.

2.1.2. Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law

The aim of Directive (EU) 2019/1937 ('the Whistleblowing Directive')[3] is to improve enforcement of Union law and policies in specific areas by ensuring a high level of protection to people who report breaches in areas where the breaches may cause serious harm to the public interest and where breaches can only be, or are best, unveiled by insiders. These areas include the protection of the EU's financial interests, the prevention of money laundering and terrorist financing, breaches relating to the internal market including abusive arrangements designed to obtain a corporate tax advantage and to evade legal obligations tax, and breaches of Union law on public procurement.

The directive was adopted on 23 October 2019. Member States have until December 2021 to transpose it into their national orders.

2.2. Shaping the future: European institutions' legislative and policy initiatives

This section gives an overview of major developments in Commission policy and legislative initiatives in 2019.

[1] (i) Implementation of Article 325 by the Member States in 2019;
(ii) Statistical evaluation of irregularities reported for own resources, natural resources, cohesion policy and pre-accession assistance and direct expenditure;
(iii) Follow-up of recommendations to the Commission report on the protection of the EU's financial interests — fight against fraud, 2018;
(iv) Early Detection and Exclusion System (EDES) — Panel referred to in Article 108 of the Financial Regulation; and
(v) Annual overview with information on the results of the Hercule III Programme in 2019.

[2] OJ L 283, 31.10.2017, p. 1–71.

[3] Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17–56.

2.2.1. Commission proposal to revise Regulation (EU, Euratom) No 883/2013

On 23 May 2018, the Commission adopted a proposal to amend Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office ('the OLAF Regulation')[4] with two main objectives: to adapt OLAF to the establishment of the EPPO and to improve the effectiveness of OLAF's investigations. The Commission proposal is a targeted revision of the OLAF Regulation, intended to ensure that the amendments will be in force by the time the EPPO becomes operational.

In 2019, the European Parliament and the Council adopted their negotiating positions on the Commission proposal (on 16 April and 12 June 2019 respectively). Negotiations started at the end of 2019 and two trilogues took place under the Finnish Presidency of the Council.

2.2.2. Horizontal provisions on the protection of the financial interests of the Union ('PIF provisions') within all multiannual financial framework Commission proposals

In 2019, in close cooperation with spending and central Commission services, OLAF agreed with the co-legislators that the standard provisions on the protection of the financial interests of the European Union would be part of all post-2020 spending programmes legislation harmonised by area (direct, indirect and shared management). These provisions reflect requirements laid down in the Financial Regulation and recall, *inter alia*, that the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of fraud and other irregularities. Any person or entity receiving Union funds is obliged to fully cooperate in the protection of the Union's financial interests, to grant the necessary access rights to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

2.2.3. Fighting corruption in the EU

The prevention and fight against corruption will be subject to regular monitoring and assessment of Member States legal framework under the newly established rule of law mechanism. Under the Rule of law mechanism, the Commission will monitor significant developments, both positive and negative, relating to the rule of law in Member States and will cover four pillars: (i) justice systems, (ii) the anti-corruption framework, (iii) certain issues related to media pluralism and (iv) other institutional issues related to checks and balances. The rule of Law mechanism will cover all Member States with objective and factual annual assessments by the European Commission and will act as a preventive tool, deepening dialogue and joint awareness of rule of law issues in the EU.

In the context of the European semester of economic governance, the challenges in the fight against corruption are assessed with a particular focus on areas of risk, such as public procurement, public administration, the business environment and healthcare.

The annual European Semester Country Reports include detailed analyses of corruption risks and associated challenges. In relevant cases, these issues are also reflected in the country-specific recommendations endorsed each year by national leaders in the European Council.

In the 2019 Country Reports the Commission focused its analysis on 15 Member States[5] that present particular challenges.

Eight of these Member States[6] have received related country-specific recommendations this year. In addition to the Semester, Romania and Bulgaria received recommendations in this area in the framework of the Cooperation and Verification Mechanism (CVM).

In the framework of the EU anti-corruption experience-sharing programme, the Commission organised workshops on preventing corruption in state-owned enterprises, targeting corruption risks in public procurement and corruption as a threat to security in May, June and October 2019, respectively.

The Commission also held a meeting of the National Contact Points on corruption.

In 2019, the EU became an observer to the Group of States Against Corruption (GRECO), and the Commission actively participated in several European and international anti-corruption *fora*. It represented the EU at the 9th Conference of States Parties to the United Nations Convention against Corruption and at the December plenary meeting of GRECO. The Commission also continued its work

[4] Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ L 248, 18.9.2013, p. 1–22.

[5] Bulgaria, Croatia, Cyprus, Czech Republic, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Portugal, Romania, Slovakia, Slovenia, Spain.

[6] Czech Republic, Croatia, Cyprus, Hungary, Italy, Latvia, Malta, Slovakia.

within the G20 Anti-Corruption Working Group, which in 2019 developed high-level principles for the protection of whistleblowers as well as a compendium of good practices to improve the prevention of corruption in infrastructure development. The Commission also participated in relevant work strands of the Organisation for Economic Cooperation and Development (OECD) and the European Partners Against Corruption/the European Contact-Point Network Against Corruption (EPAC/EACN), which adopted the Stockholm Declaration of December 2019[7] calling on European decision-makers to strengthen the fight against corruption.

OLAF has, *inter alia*, a unique mandate to carry out internal investigations into EU institutions, bodies, offices and agencies (IBOAs) for the purpose of fighting fraud, corruption and other illegal activity affecting the financial interests of the Union. Beyond internal investigations, OLAF fights corruption also through its external investigations, as fraud cases against the EU budget might involve corruption.

2.2.4. International cooperation

To more effectively combat fraud against the EU budget beyond the Union's borders, the Commission continued including anti-fraud provisions in agreements with non-EU countries and in templates for guarantee agreements with international financial institutions and other international organisations.

To solve complex transnational fraud cases and trace the proceeds of fraud, OLAF often works together with international organisations and the national authorities of non-EU countries. OLAF meets annually with representatives of the investigative arms of international organisations under the auspices of the Conference of International Investigators.

In 2019, OLAF organised specific events to support non-EU countries, in particular:

• the biannual Pilot Group Meeting with partner authorities from Africa, to reinforce relations with key African investigative and control authorities and anti-corruption bodies;

• the annual seminar for partner authorities in candidate countries and potential candidates (the theme was the interlink between fraud prevention and investigations); and

• study visits to OLAF from partner authorities from North Macedonia and Albania.

[7] http://www.epac-eacn.org/downloads/declarations/doc_download/185-stockholm-declaration-2019

2.2.5. Commission anti-fraud strategy and the new governance package

The new CAFS was adopted on 29 April 2019. It is based on an elaborate risk assessment of internal Commission policies and identified two main areas for improvement. These are (i) the collection and analysis of data on fraud and data analysis, (ii) and the cooperation and coordination between Commission departments. These aspects have therefore been put at the centre of the new CAFS. They also follow on from an in-house evaluation of the previous strategy.

Governance improvements were already being implemented in 2018[8], reinforcing the role of the Commission's Corporate Management Board in fighting fraud, and by the end of 2019, the Fraud Prevention and Detection Network (FPDNet) was reinforced with the introduction of thematic subgroups. This was part of the 63 actions which will be progressively implemented over the next few years, in accordance with the specific action plan that accompanies the new CAFS[9].

2.2.6. Implementation of the Hercule programme and support via SRSP

The 2014-2020 Hercule III programme[10] promotes activities to counter fraud, corruption and other illegal activities affecting the Union's financial interests. In 2019[11], the fifth year of its implementation, a budget of EUR 15.89 million was made available for:

- funding actions to strengthen the operational and technical capacities of national and regional authorities in the Member States, and IT support (74% of the programme's budget); and
- training activities and conferences, including digital forensic and analyst training for staff employed by law enforcement agencies in the Member States and partner countries, as well as comparative research and scientific publication activities (24% of the budget).

Beneficiaries of Hercule III grants reported substantial successes achieved with the help of equipment, training and other actions funded under the programme, such as:

[8] See 'Communication to the Commission: Streamlining and strengthening corporate governance within the European Commission', C(2018)7704 final of 21 November 2018.

[9] SWD(2019) 170 final.

[10] Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC (OJ L 84, 20.3.2014, p. 6).

[11] Commission Decision C(2018)8568 final of 17 December 2018.

- seizures of smuggled and counterfeit cigarettes and tobacco;
- improved operations and faster investigations into irregularities, fraud and corruption perpetrated against the EU's financial interests;
- enhanced cross-border cooperation and creation of networks;
- sharing best practices in preventing and combating fraud and illegal activities affecting the Union's financial interests.

Moreover, the Commission, via the Structural Reform Support Programme (SRSP), has earmarked funds for provision of technical support to two Member States for the following objectives:

- Enhance the functioning of the Greek Anti-Fraud Co-ordination Service (AFCOS) in accordance with the EU regulations and national legislation;
- Support the Spanish authorities in enhancing supervision of government expenditures using data and automated procedures and increasing the understanding and capacity to identify and mitigate fraud risks related to grants in key policy areas.

2.3. CJEU jurisprudence

In 2019, two landmark rulings by the General Court added to the case-law on the protection of the EU's financial interests.

2.3.1. Vialto v *Commission*

In case T-617/17 *Vialto* v *Commission*, the General Court rejected a damages claim by the applicant and endorsed, for the first time in EU case-law, OLAF's power and the method by which it carries out digital forensic operations in the context of on-the-spot checks.

The Court's ruling clearly states that OLAF is allowed to have access to all information and documents pertaining to the scope of its investigations during the on-the-spot check and to make copies of all documents necessary for it to carry out the control in question and for which it has a margin of appreciation. The ruling also confirmed that the right to collect documents under Article 7(1) of Regulation No 2185/96 comprises the carrying out of a forensic acquisition and that the operator, having refused to provide OLAF with the requested digital information, had correctly been excluded from the consortium for violating its contractual duty to cooperate with OLAF.

In practice, invoking the operator's contractual obligation to cooperate with OLAF is a very powerful and effective tool for OLAF's investigations, both within and beyond the EU's borders.

Vialto has appealed against the Court ruling, and the appeal is currently pending.

2.3.2. Dalli v *Commission*

The General Court rejected a damages claim by the applicant and addresses a large number of points of law and fact that have been debated over the past few years. The main points of the Court ruling are:

- OLAF's competence goes beyond the protection of EU financial interests, and the absence of an impact on EU financial interests does not preclude OLAF from opening an investigation.
- The criteria for the opening of an investigation referred to in OLAF's 'Guidelines on Investigation Procedures for Staff' (GIP) and Regulation 883/2013 do not require an in-depth assessment of that information, as this can only take place in the context of the investigation itself.
- Regulation 883/2013 does not prevent OLAF's Director-General from authorising an extension of the scope of a pending investigation, from internal to external and vice versa.
- OLAF's Director-General cannot be prevented, where the circumstances so require, from supervising a special investigation team or participating directly in investigation activities.
- OLAF Final Reports need not reproduce in full the evidence on which they are based; such evidence is to be included, where appropriate, in an annex to those reports.
- Requests for telephone logs are a legitimate investigation measure and do not require a formal legal check by OLAF's Selection and Review Unit; only investigative measures explicitly listed in Article 11.2 GIP and referred to in Article 12.1 and 12.2 GIP require such a formal opinion.
- A person concerned has the right to express his/her views on all the facts concerning him/her but not on the conclusions which can be drawn by OLAF, in the context of its final investigation report; OLAF is not obliged to request a person concerned to take a position on each statement of evidence but only with respect to facts concerning him/her.
- The Rules of Procedure of the Supervisory Committee cannot impose on OLAF obligations which are not provided for, *inter alia*, by Regulation 883/2013; the Supervisory

Committee cannot oppose the transmission of a Final Report to national judicial authorities.

- When informing the public, OLAF must strike a fair balance between the right to respect for the presumption of innocence of the person concerned and the right of the public to be informed, in the context of the right of freedom of expression – consisting in informing, as precisely as possible, the public of actions implemented in the context of possible failures or fraud.
- The requirement for OLAF to exercise its powers of investigation in complete independence, as provided for by Article 3 of Decision 1999/352, insofar as it guarantees the impartiality, the fairness and objectivity of its investigations, confers rights on individuals.
- It is legitimate for an IBOA to ask OLAF's Director-General to deal with a case as a matter of priority since it does not relate to the substance of the investigation.
- It is legitimate for an IBOA to ask OLAF's Director-General about the stage reached by the investigation; however, if such a question is posed repeatedly and insistently it may be considered as an instruction or pressure on OLAF interfering with OLAF's independence.

An appeal has been lodged against the Court ruling, and, the appeal is currently pending.

2.4. Measures taken by Member States

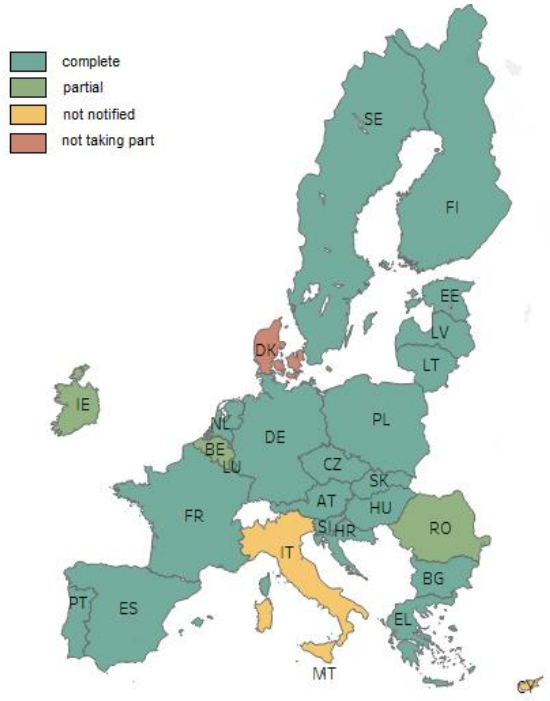
2.4.1. Transposition by Member States of the Directive on the fight against fraud to the Union's financial interests by means of criminal law

The PIF Directive[12] replaces the 1995 Convention on the protection of the European Communities' financial interests and its protocols ('the PIF Convention')[13] for the 26 Member States bound by it[14]. In order to step up the protection of the financial interests of the European Union, the PIF Directive harmonises the definitions, sanctions and limitation periods of certain criminal offences affecting those interests (i.e. fraud, corruption, money laundering and misappropriation). This includes cross-border value-added tax (VAT) fraud cases involving total damage of at least EUR 10 million.

Moreover, the PIF Directive defines the material competence of the EPPO, as the EPPO will have jurisdiction over the four offences established in the Directive. The nexus with the establishment of the EPPO makes timely transposition of the PIF Directive even more important.

The deadline for transposition of the PIF Directive into national law expired on 6 July 2019. Twelve Member States had notified full transposition by that date. By the end of 2019, 18 Member States had communicated complete transposition, four partial transposition, and four had not communicated any transposition measures (three by June 2020, as showed in Figure 1). The Commission launched infringement procedures in cases where transposition measures were not communicated, and started the assessment of compliance of the measures notified.

Figure 1: Transposition of the PIF Directive – state of play (June 2019)



2.4.2. Overview of measures taken by Member States[15]

In total, 27 cross-cutting measures have been reported by the Member States. These can be divided into four subgroups according to their respective area of implementation.

[12] Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29–41.

[13] Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, OJ C 316, 27.11.1995, p. 49–57.

[14] The PIF Convention remains applicable to Denmark.

[15] A full description of the measures reported by the Member States can be found in the CSWD quoted in footnote 1 (i).

2.4.2.1. Enhancing transparency, fighting corruption and conflict of interests in public procurement

In the area of enhancing transparency, fighting corruption and preventing conflicts of interest in public procurement, eight measures have been reported by the Member States.

The nature of these measures is quite diverse: they include legislative measures aimed at improving the efficiency and functioning of the administration[16] and better financial management in the field of public procurement[17], organisational measures like a workshop on bid rigging[18], training and awareness-raising on the fight against fraud[19] and administrative measures like methodological guidance, financial control and audit[20].

Two Member States[21] reported strategies to combat corruption on different levels: one strategy consists of operational measures and the other is a combination of operational, organisational and administrative measures.

To support Member States with endeavours to prevent and fight corruption (also corruption perpetrated against the EU financial interests) and other criminal activities, the EU provides valuable resources for implementation of projects. The Internal Security Fund (ISF) and its future successor in the MFF 2021-2027 aims at supporting exchange of information and cooperation between law enforcement and other public and private entities to address challenges posed by criminals.

2.4.2.2. Transposing EU law into national law

Ten measures of a legislative nature concerning the transposition of EU law into national law were reported by the Member States in 2019. Six Member States[22] reported their transposition of the PIF directive in 2019.

Other measures concern Council Regulation (EU) 2017/1939 on the establishment of the EPPO. Two Member States[23] reported taking national legislative measures related to the Regulation.

Finland[24] reported measures related to transposing the fifth anti-money laundering directive (EU Directive 2018/843), while Romania transposed EU Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

2.4.2.3. Combating financial and organised crime

Six measures were reported by the Member States in this domain. Italy reported operational measures, like the implementation of the ARACHNE tool and Malta on a project to enhance capacities of the national police.

Lithuania and Sweden reported on coordinative groups that implemented organisational and operational measures: the annual expert level meetings of Baltic States' Tax and Customs Crimes Investigation Services and of the Swedish Council for the protection of the EU's financial interests.

Spain took a similar measure through the creation of an Advisory Council for the prevention and fight against fraud affecting the financial interests of the European Union. It also adopted a national strategy against organised crime and serious criminal offences.

2.4.2.4. Legal measures to enhance cooperation with OLAF

Belgium, Slovakia and Latvia reported legislative measures to enhance cooperation between OLAF and national authorities.

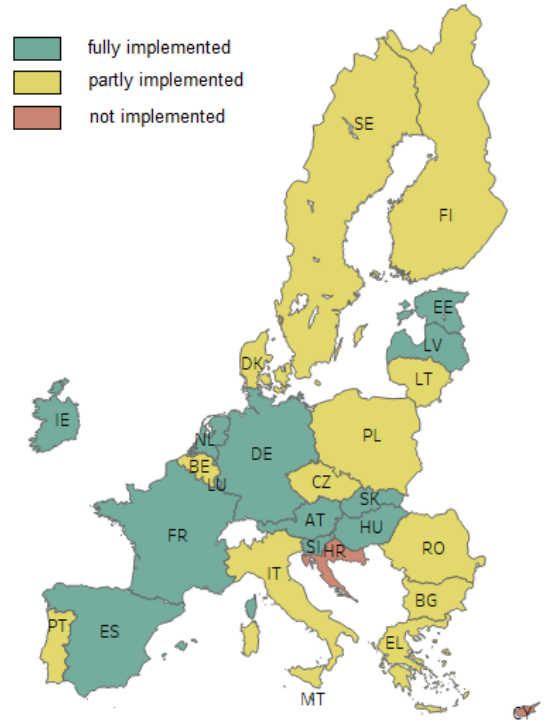
2.4.3. Implementation of 2018 recommendations

In the previous PIF report, the Commission made two sets of recommendations to the Member States. The Commission followed up on the implementation of the 2018 PIF report recommendations.

On the revenue side, 12 Member States have fully enhanced and enforced their customs control strategies for cross-border e-commerce, particularly for the potential abuse of low-value consignments reliefs (LVCR). The measures taken ranged from focused risk profiles for undervaluation (which cover low-value consignments) to upgrades and improvements of the Member States' customs systems. About half the Member States fully ensured that electronic customs declaration systems do not automatically apply 'claimed duty relief' on goods with a declared intrinsic value above EUR 150, on commercial consignments declared as gifts and on goods ineligible for relief.

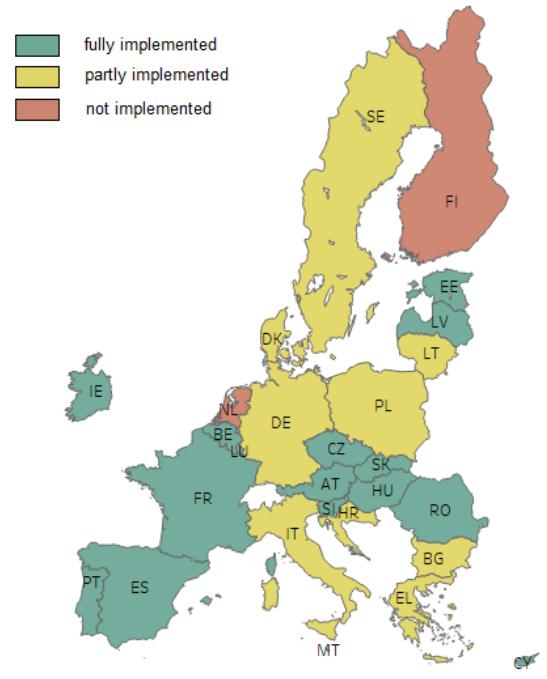
[16] Slovenia.
[17] Romania.
[18] Croatia.
[19] France.
[20] Slovakia.
[21] Czech Republic and Latvia.
[22] Austria, Estonia, France, Ireland, Latvia, Spain.
[23] Czech Republic, Greece.
[24] Finland.

Figure 2: customs control strategies for cross-border e-commerce trade



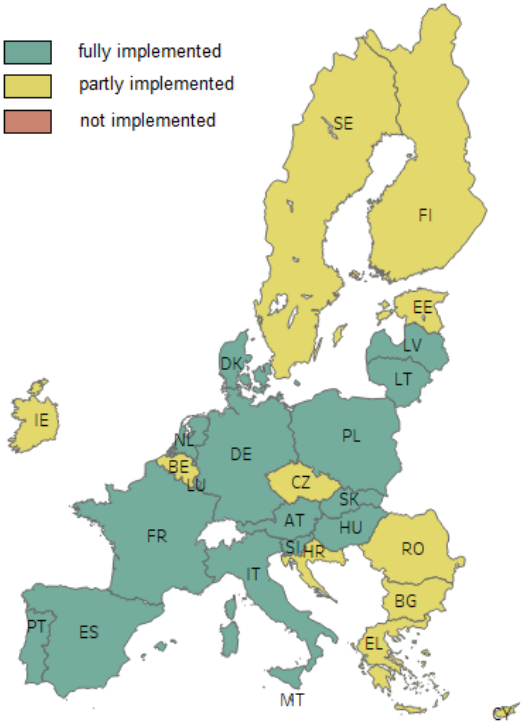
In addition, 15 Member States fully ensured the systematic detection of potentially undervalued or incorrectly declared goods under LVCR by means of risk profiles or randomly.

Figure 3: systematic detection of potentially undervalued or incorrectly declared goods under LVCR



Thirteen Member States[25] fully ensured that ex-post controls include verifications of traders' compliance with customs duty relief for low-value consignments.

Figure 4: verifications of traders' compliance



Twenty-four Member States fully ensured that authorised economic operators (AEOs) are not excluded from compliance checks with customs duty relief for low-value consignments[26].

On the expenditure side, the follow-up for 2018 showed that ten Member States have adopted or updated a national anti-fraud strategy (NAFS), which they have communicated to the Commission. Sixteen Member States have not adopted a NAFS and four are considering adopting or are preparing a new NAFS.

In addition, 16 Member States have strengthened risk analysis to detect fraud and irregularities, including via the use of IT tools (such as ARACHNE)[27], and 13 made use of ARACHNE during their risk analysis[28].

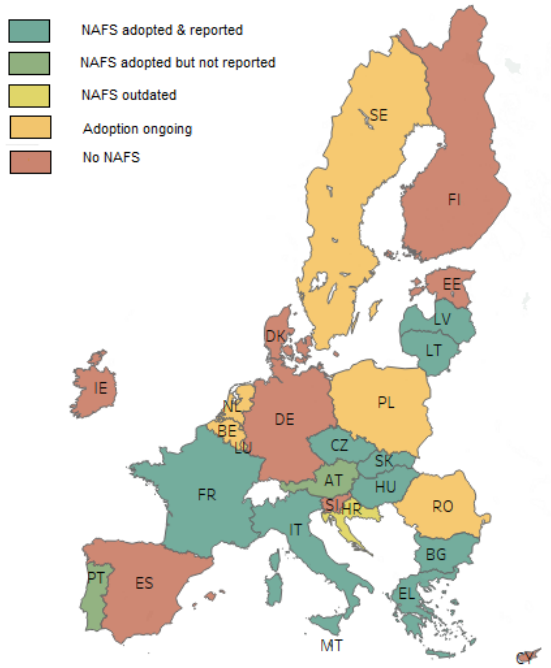
[25] Germany, Ireland, Spain, France, Italy, Latvia, Luxembourg, Lithuania, Malta, Austria Romania, Slovenia and Slovakia.

[26] For more detailed information, please see the SWD' referred to in footnote 1, point (iii).

[27] Bulgaria, Czech Republic, Germany, Greece, Croatia, Italy, Latvia, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania and Slovakia.

[28] Belgium, Bulgaria, Czech Republic, Denmark, Ireland, Italy, Latvia, Hungary, Netherlands, Portugal, Romania, Slovenia and Slovakia.

Figure 5: NAFS state of play



Fifteen Member States[29] shared concrete results deriving from the use of PIF Report findings in their fraud risk assessments. As regards cross-cutting issues, 13 Member States have fully facilitated and assessed the spontaneous reporting of irregularities and strengthened the protection of whistleblowers[30]. There has been no significant change in the implementation of this recommendation in comparison with last year's follow-up. This year, however, the Member States focused on providing information on their stage of implementation in 2018 and 2019. Several Member States referred to the upcoming transposition of the EU Whistleblowing Directive by 17 December 2021[31]. Some Member States adopted legislation on whistleblowers already in 2019[32]. Furthermore, 17 Member States have fully promoted systematic and timely cooperation between judicial and administrative authorities[33]. Most Member States provided updated information on initiatives taken in 2019, with AFCOS being given a more prominent role as a coordinator for cooperation in anti-fraud matters between different national authorities[34].

2.5. Summary of statistics on detected irregularities and fraud[35]

In 2019, 11 726 irregularities were reported to the Commission, 2% fewer than in 2018. They involved approximately EUR 1.6 billion, 34% lower than in the previous year.

The detection and reporting of an irregularity implies that corrective measures have been taken in order to protect the EU's financial interests and that, whenever relevant, criminal proceedings have been launched.

[29] Belgium, Bulgaria, Czech Republic, Germany, Estonia, Greece, Croatia, Italy, Latvia, Luxembourg, Hungary, Poland, Portugal, Slovenia and Slovakia.

[30] Bulgaria, Croatia, Greece, Italy, Latvia, Hungary, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia and Sweden.

[31] Germany, Ireland, Greece, Spain, France.

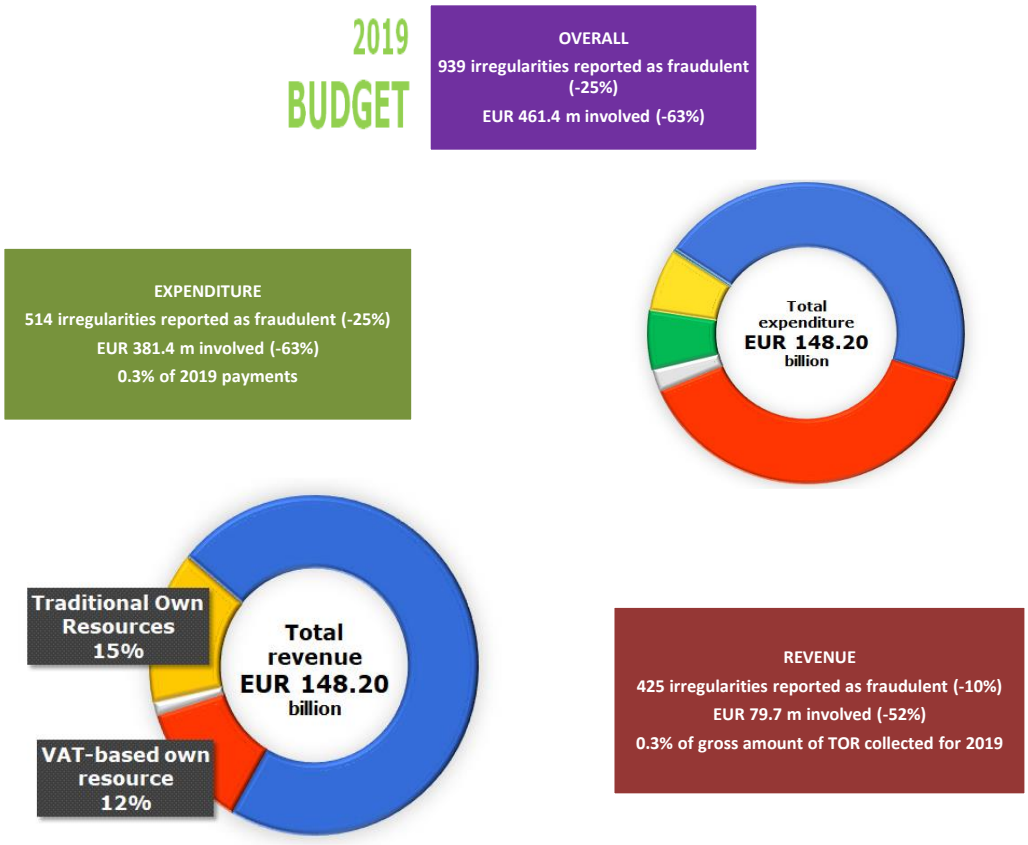
[32] Latvia and Slovakia.

[33] Belgium, Czech Republic, Greece, Spain, Croatia, Italy, Latvia, Luxembourg, Hungary, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia and Sweden.

[34] For more detailed information on the implementation of the recommendations, please see the SWD referred to in footnote 1, point (iii).

[35] For a detailed analysis of the reported irregularities, see the SWD referred to in footnote 1, point (ii).

Figure 6: Irregularities reported as fraudulent in 2019



2.5.1. Detected fraudulent irregularities

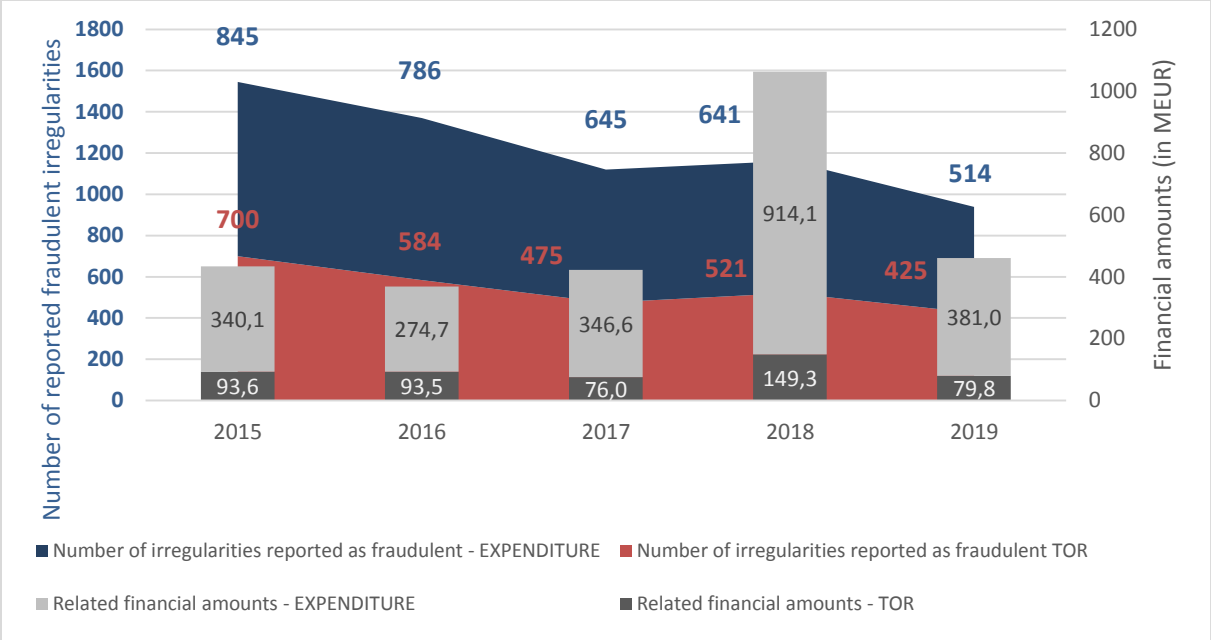
The number of irregularities reported as fraudulent (which includes cases of suspected or established fraud) and the associated amounts are not a direct indicator of the level of fraud affecting the EU budget. They are, first and foremost, an indication of the level of detection and reporting of potential fraud by Member States and EU bodies.

In 2019, a total of 939 irregularities were reported as fraudulent (i.e. 8% of all irregularities detected and reported)[36], involving about EUR 461.4 million (representing 28% of all financial amounts affected by irregularities)[37] and covering both expenditure and revenue, as shown in Figure 6. The number of fraudulent irregularities reported in 2019 and their related financial amounts decreased significantly compared to 2018. Looking at a 5-year period (2015-2019), the number of reported fraudulent irregularities was 40% less than in 2015, and 25% below the 5-year average. The financial impact fluctuates greatly (see Figure 7), as it can be affected particularly by individual cases involving large sums.

[36] This indicator is the 'fraud frequency level' (FFL). See Section 2.3.2 of the SWD 'Methodology regarding the statistical evaluation of reported irregularities for 2015' (SWD(2016) 237 final).

[37] This indicator is the 'fraud amount level' (FAL). See Section 2.3.3 of the document referred to in footnote 36.

Figure 7: Irregularities reported as fraudulent and associated amounts, 2015-2019



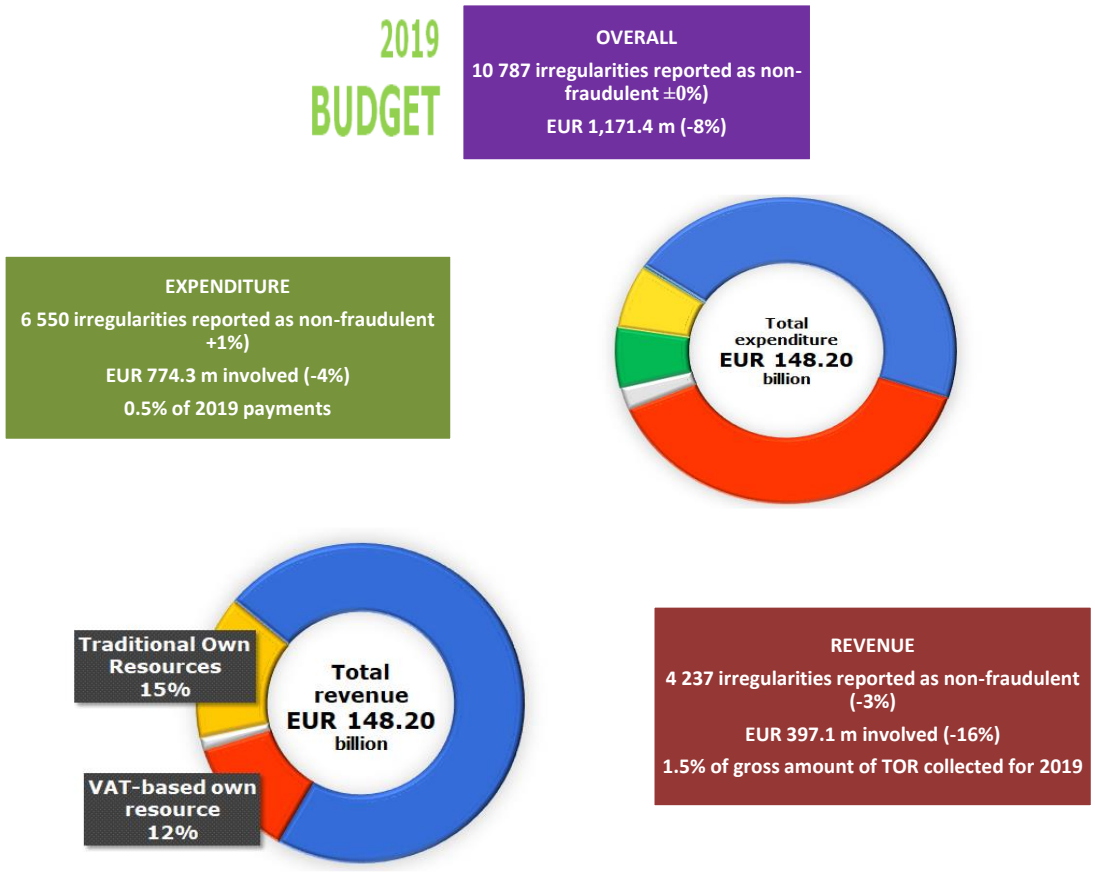
A breakdown of fraudulent irregularities reported in 2019, by Member State and by budget sector, is set out in Annex 1.

2.5.2. Detected and reported non-fraudulent irregularities

In 2019, the Commission was notified of 10 787 irregularities reported as non-fraudulent (stable in comparison to 2018). The financial amounts involved decreased by 8% to approximately EUR 1.2 billion, as shown in Figure 8.

A breakdown of non-fraudulent irregularities reported in 2019, by Member State and by budget sector, is set out in Annex 2.

Figure 8: Irregularities reported as non-fraudulent in 2019



2.5.3. OLAF investigations

Consolidated figures on OLAF's investigations in 2019 were not available at the time of adoption of this reportbut will be published in the annual OLAF report later this year[38].

3. ANTI-FRAUD POLICIES, MEASURES AND RESULTS — REVENUE

3.1. The EU institutions' anti-fraud measures – revenue

3.1.1. Mutual administrative assistance

3.1.1.1. Legislative developments

Given the transnational nature of customs fraud, it is essential that customs authorities of the Member States cooperate with each other in order to prevent, investigate and prosecute breaches of customs and agricultural legislation.

Regulation 515/97 on mutual administrative assistance in customs matters is the law that defines how administrative bodies in the Member States should cooperate with each other and with the European Commission in their fight against customs fraud. It puts particular emphasis on mutual exchange of information, including information on suspicious movements of goods and means of transport, and places where goods are stored.

Regulation 1525/2015, amending Regulation 515/97, introduced two more databases, the Container Status Messages (CSM) directory and the Import, Export and Transit (IET) directory. Furthermore, it advances the cooperation framework and speeds up OLAF investigations by setting deadlines for Member States to provide investigation-related documents and by facilitating the use of information obtained on the basis of mutual assistance as evidence in national judicial proceedings.

An evaluation process on Regulation 515/97 started in 2019. After the publication of the roadmap and the setting up of an Inter-Service Steering Group (ISSG) within the Commission, a targeted consultation of relevant stakeholders was launched to evaluate how useful Regulation 515/97 has been in the past on preventing customs fraud.

[38] At the following address: https://ec.europa.eu/anti-fraud/about-us/reports/olaf-report_en.

3.1.1.2. Anti-Fraud Information System (AFIS)

AFIS[39] is an umbrella term for a set of anti-fraud IT applications operated by the European Commission aiming at the timely and secure exchange of fraud-related information between the competent national and EU administrations, as well as storage and analysis of relevant data. The AFIS Portal is a single and common infrastructure for the delivery of the services listed in the next paragraph to about 9 000 registered end-users in nearly 1 400 competent services from Member States, non-EU partner countries, international organisations, Commission services and other EU institutions. The AFIS programme encompasses two major areas: mutual assistance in customs matters and irregularities management.

AFIS supports mutual assistance in customs matters with the secure real-time information exchange system VOCU (Virtual Operations Coordination Unit), used for Joint Customs Operations, secure web mail (AFIS Mail), specific information exchange modules such as CIS+ (Customs Information System) and FIDE (Customs Investigation Files Identification Database), databases such as IET (Import, Export and Transit directory) and CSM (Container Status Message directory), analysis tools such as A-TIS (Anti-Fraud Transit Information System) and electronic workflow applications such as ToSMA (Tobacco Seizures Management Application).

AFIS also provides the Irregularity Management System (IMS), a secure electronic tool that supports the management and analysis of irregularities and facilitates the Member States' obligation to report irregularities detected in agricultural, structural, cohesion and fisheries funds, the Asylum, Migration and Integration Fund (AMIF), the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (ISF Police), the Fund for European Aid to the Most Deprived (FEAD), as well as pre-accession aid.

3.1.1.3. Joint customs operations (JCOs)

In addition to its investigations into cases of revenue fraud, OLAF coordinates large-scale JCOs involving EU and non-EU operational partners. JCOs are targeted actions of limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or on identified trade routes.

In 2019, OLAF was involved in 13 JCOs, of which two were led by OLAF. The remainder were co-organised or supported by OLAF in cooperation with Member States (Belgium, France and Poland), Europol, FRONTEX, the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) or the Customs Eastern and South Eastern Land Border Expert Team (CELBET).

In addition to providing the necessary support for the countries involved to conduct coordinated actions by means of OLAF's permanent technical infrastructure, IT and communications tools, OLAF also provides strategic analysis, administrative and financial support.

These operations help improve the effectiveness of customs services in conducting targeted checks at European level, identify where the risks lie on specific trade routes, protect the public and legitimate businesses by preventing illegal products from entering the EU and safeguard EU public finances.

Figure 9 presents a summary of these operations.

[39] Its legal basis is Regulation 515/97 as amended by Regulation 1525/2015.

Figure 9: JCOs in 2019

Operation	Participating countries / organisations	Scope	Results
JCO HYGIEA	Organised within the Asia-Europe Meeting (ASEM) framework and coordinated by OLAF. All EU Member States, Norway, Bangladesh, the People's Republic of China, Indonesia, Japan, Mongolia, Malaysia, Pakistan, the Philippines, Singapore, Thailand and Vietnam and Europol participated in the operation.	Fight against trade in counterfeit goods - international trade in fast-moving consumer goods (personal hygiene products, detergents, cosmetics, etc.).	Approximatively 200 000 items of counterfeit perfumes, toothpastes and cosmetics, 120 tonnes of counterfeit detergents, shampoos and diapers and more than 4.2 million of other counterfeit goods (battery cells, footwear, toys, tennis balls, shavers, electronic devices, etc.), as well as 77 million cigarettes and 44 tonnes of counterfeit water pipe tobacco were seized by the Asian and European customs authorities.
JCO SNAKE II	Led by OLAF in cooperation with the General Administration of Customs of People's Republic of China (Anti-Smuggling Bureau (ASB)); participation of Member States and Europol. Liaison officers of China, Greece, Italy, the Netherlands and Europol assisted in the coordination of the JCO from OLAF's permanent operational coordination unit (POCU).	Revenue fraud.	Evaluation ongoing.
JCO POSTBOX II	Co-organised by Belgian Customs and OLAF, with the participation of 22 Member States and Europol.	Illegal trade in counterfeit products, drugs and endangered animal and plant species (CITES) using both the open and the dark web.	Detention of more than 2 000 shipments, the opening of 50 investigation case files and the identification of 30 suspects in Member States.
JCO DAPHNE	Coordinated by the Italian Customs Administration and OLAF, with the involvement of all Member States and Europol.	Controlling failures to declare cash and combating money laundering and criminal organisations involved in terrorist activities.	Evaluation ongoing.
JCO OPSON IX	Organised under the umbrella of Interpol and Europol. OLAF led and coordinated the Targeted Enforcement Action on wine and alcoholic beverages. This action had the participation of various competent authorities of the Member States.	Combating counterfeit and substandard food and drinks with a focus on products that pose a risk to human health.	Evaluation ongoing.
Joint Border Control Operation SCORPION	Co-organised by EUBAM and OLAF.	Smuggling of tobacco products at the EU eastern border.	Seizure of more than 15 million cigarettes, 4 245 kg of raw tobacco and 233 kg of hookah tobacco.
Joint CELBET Activities – JCA6	Organised by CELBET with the support of OLAF.	Detection of illegal cigarettes and cheap whites as well as equipment and materials for the illegal production of cigarettes in EU.	More than 1 million cigarettes seized.
Joint Intensified Activity (JIA) on risk analysis & operational control during the application of transit procedures	Organised by CELBET with the support of OLAF.	Main goal of the JIA was to test specific transit procedures and examine the possibility of these being systematically abused by organised criminal groups, which would constitute a significant threat to EU financial interests.	Promoting the cooperation between EU Member States and non-EU countries, as well as raising awareness among all the involved parties regarding the vulnerability of the Internal Union Transit Procedure.

Operation	Participating countries / organisations	Scope	Results
Joint Action Day (JAD) ARKTOS	Led by FRONTEX and co-led by Estonia and Finland. Organised under the EU policy cycle/EMPACT framework serving the counteraction of organised and serious international crime. OLAF, Europol, Interpol and the customs, police and border guard authorities of Latvia, Lithuania, Poland and Slovakia.	Smuggling of excise goods, illegal immigration and document fraud.	
Joint Operation HEXAGON	Organised by the Customs and Tax Administrations of the Visegrad Group Countries (Czech Republic, Hungary, Poland and Slovakia), Austria and Slovenia, with the support of OLAF.	Counteract abuses arising from the usage of customs procedure 42.	Several recommendations issued.

3.1.2. Mutual assistance and anti-fraud provisions in international agreements

Cooperation with non-EU countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance (MAA) in customs matters. Currently, there are agreements in force with more than 80 countries, including with major EU trade partners like the United States, China and Japan. In 2019, negotiations with Andorra, Azerbaijan, Chile and Kyrgyzstan were finalised; negotiations with Australia, Indonesia and Uzbekistan remain ongoing. The European Commission presented negotiating directives for an agreement with Belarus, adopted by the Council in December 2019.

Free trade agreements usually contain an anti-fraud clause, which allows for a temporary withdrawal of tariff preference for a product in cases of serious customs fraud and persistent lack of adequate cooperation to combat it. Such a clause is a mandatory condition for granting tariff preference to non-EU countries. Therefore, OLAF attaches great importance to these negotiations and actively participates in the negotiation process. In 2019, negotiations were ongoing with Australia, Chile, New Zealand, Indonesia and Tunisia.

The WTO Trade Facilitation Agreement (Bali Agreement), to which the EU is a party, has been in force since 2017. Article 12 on customs cooperation provides for additional possibilities to exchange information with third countries with the purpose of verifying import or export declarations where there are reasonable grounds to doubt the truth or accuracy of the declaration.

3.1.3. Fight against illicit trade in tobacco products

In addition to its operational role in fighting the illicit tobacco trade, OLAF also helps strengthen EU policy in this field.

On 7 December 2018, the European Commission presented a second action plan[40] to enable the European Union to continue fighting the illegal tobacco trade, a phenomenon that deprives the Union and its Member States of roughly EUR 10 billion in public revenue every year. This action plan builds upon the 2013 strategy to step up the fight against the illicit tobacco trade[41], and the 2017 report on its implementation[42].

The action plan puts forward both policy and operational law enforcement measures, as only a combination of these is liable to lead to a sustainable reduction in illicit tobacco trade. The recent entry into force of the WHO Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products (FCTC Protocol) and the establishment of the EU traceability system for tobacco products in 2019 are important milestones in this regard and are set to remain the key elements of the EU's policy action in this area in the long term.

Implementation of the action plan is well underway, with some key actions ongoing or completed. The Commission plays a leading role at multilateral level as well as engaging bilaterally with source and transit countries. The authorisation to open negotiations on a customs

[40] https://ec.europa.eu/anti-fraud/media-corner/news/07-12-2018/new-action-plan-reaffirms-commission-leading-role-fight-against_en.
[41] COM(2013) 324 final.
[42] COM(2017) 235 final.

cooperation and mutual administrative assistance agreement with Belarus is a notable step in this regard.

Within the EU, the Commission assisted Member States in rolling out the new tobacco traceability system, which was launched on 20 May 2019. Considerable progress has been made in the area of analysis and intelligence; for instance, the independent tobacco laboratory handled more than 100 requests in 2019. A study to identify a methodology to measure the illicit tobacco market is due to be completed by mid-2020, and the Commission surveyed public perceptions of illicit tobacco across the EU, an important demand-side indicator.

The FCTC Protocol entered into force on 25 September 2018. Since then, the Commission, in close cooperation with the Member States, has been actively engaged in the work at international level, which focuses on securing the supply chain of tobacco products and international cooperation. The Commission has intensified its efforts to contribute to the work at international level ahead of the second Meeting of the Parties scheduled for November 2021, including by acting as a 'Key Facilitator' for the working group on tracking and tracing. Another important aspect is international cooperation, as the Commission provides its expertise as an active member of the working group on assistance and cooperation. The Commission will continue to contribute to this work at international level.

3.1.4. Financial Risk Criteria

In May 2018, in the context of the customs risk management framework (CRMF), the Commission adopted an implementing decision[43] laying down measures for the uniform application of customs controls by establishing common financial risk criteria and standards (FRC).

The FRC are a set of rules that allow the Member States' customs clearance systems to systematically identify transactions that present a potential financial risk and thus require further scrutiny and/or control action. The FRC encompasses the majority of known financial risks and contributes to a more consistent approach to customs controls.

The decision and the 2019 guidance on its implementation are only made available to Member State customs risk management experts.

3.1.5. The Common Customs Risk Management System (CRMS)

The common customs risk management system (CRMS) is designed to provide a fast and easy-to-use mechanism to exchange risk-related information directly between operational officials and risk analysis centres in the Member States. It is a key element in the development of the Union risk management framework as it facilitates EU-wide customs intervention for the highest risks at the EU's external frontier and within its borders.

The 'Risk Information Form (RIF)' is completed online and is instantly made available to all connected customs offices. It ensures that information about identified new and important risks is distributed as quickly as possible to operational customs offices in all Member States so that immediate measures can be taken across the whole EU to tackle such risks. It also establishes a level playing field for traders and combats diversion of dangerous, irregular or fraudulent trade.

During 2019, 1 777 RIFs were issued.

3.1.6. Data analysis initiatives

Customs work is essential to protect the Union from both revenue and non-revenue risks. A key means of achieving this is an integrated European approach to reinforcing customs risk management and supporting effective controls by the Member States.

The Hercule III funded project INTELF4CUSTAF was established in 2018 by OLAF with the Joint Research Centre, following requests from Member States. The project brings together Commission departments and Member States' customs authorities, to identify ways to make best use of new and emerging data sources and analytical techniques. In the first year of operation (2018), efforts focussed largely on identifying and understanding analytical needs and priorities, and resulted in the creation of a community of some 100 experts.

In 2019 five pilot projects were conducted, bringing together experts from interested Member States to share experience and test analysis. These pilots developed analysis both in well-known fraud categories such as misdescription, undervaluation and new, more experimental approaches such as an attempt to systematically detect "eTraders" using SAD declarations, or a novel approach to identifying potentially suspect containers based on weight. Results from these pilots, together with further examples of national customs anti-fraud analysis were shared at the fourth workshop, organised

[43] (C(2018)3293 final).

in collaboration with the customs administration of Czech Republic. The work continues in 2020.

In 2019 a successful pilot on Joint Analysis Capabilty between OLAF and the concerned Commission services was implemented for analysing trade flow data by combining their expertise and several data resources available in the respective services. The analysis identified high risks of misdeclaration for several products under trade defence measures that merited operational follow-up, such as disseminating risk information to the Member States (RIFs). This pilot has paved the way for further development of customs data analytics within the Commission, also in view of proposing a more permanent and ambitious framework for providing an EU layer of data analytics in the customs field.

3.2. Member States' anti-fraud measures – revenue

Sixteen revenue measures were reported by the Member States in 2019. They can be divided, according to their respective area(s) of implementation, into customs fraud and tax fraud (some cover both).

3.2.1. Customs Fraud

Member States reported eight measures in the area of customs fraud. Three are operational, like sharing best practices in the field of post-clearance checks between the Visegrad countries[44], the introduction of individual-based and commodity-based risk management[45] and the introduction of a system for the profiling and segmentation of economic operators[46].

Two Member States reported an organisational measure, for example the Circular 'OLAF files on traditional own resources (TOR)[47]' or the establishment of an operational planning and coordination directorate[48]. Another two Member States reported administrative measures, namely detection of falsely declared goods[49] and measures in the field of tax revenue[50]. Romania reported implementing a package of administrative, organisational and operational measures in the field of tobacco and tobacco products smuggling.

3.2.2. Tax fraud

In the area of tax fraud, five measures have been reported by the Member States. Three of them are operational: Croatia[51] reported organising technical training on 'tools for monitoring and auditing of e-commerce and acquisition of tools', Estonia increased inspections of sub-contractors in the construction sector while Italy introduced IT applications to combat VAT fraud. Poland also reported two legislative measures in the area of tax fraud, concerning, *inter alia*, amendments to the VAT Act.

3.2.3. Customs and tax fraud

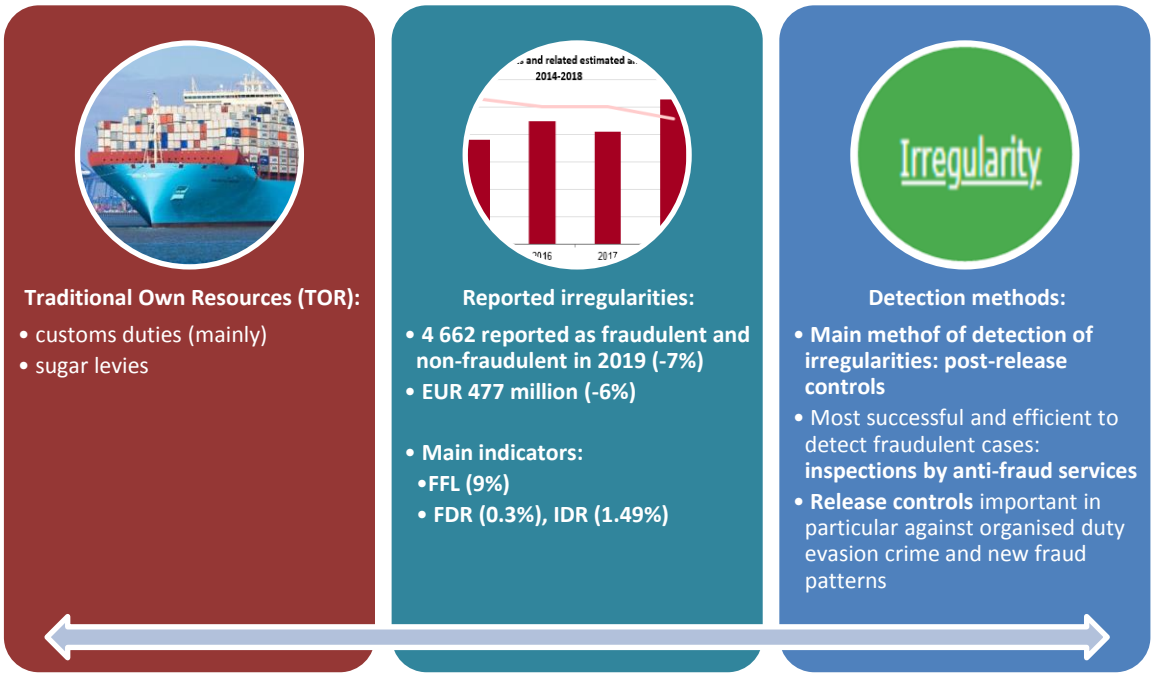
Three measures concerned both customs and tax fraud. Bulgaria reported new provisions to the VAT Act and an amendment to the Customs Act. Hungary implemented a package of measures of an organisational and operational nature taken by their customs and risk management departments.

3.3. Statistics on detected irregularities and fraud – revenue

Figure 10 presents the main statistical data and findings on irregularities detected and reported for TOR[52]. For both fraudulent and non-fraudulent irregularities, a fall in the number of reported cases in comparison with the 5-year average is, however, accompanied by an increase in the related amounts.

[44] Czech Republic.
[45] Estonia.
[46] Portugal.
[47] Belgium.
[48] Greece.
[49] Croatia.
[50] Portugal.
[51] Croatia.
[52] Information concerning recovery of the TOR amounts affected by fraud and irregularities is given in the Commission Staff Working Document 'Statistical evaluation of the irregularities reported in 2019'.

Figure 10: TOR - Key facts and patterns[53]



[53] Sugar levies do not constitute TOR any longer and will gradually disappear after the final settlement with Member States.

3.3.1. Detected fraudulent irregularities

In 2019, 425 irregularities were reported as fraudulent in the revenue area. This is 21% lower than the 5-year average of 541 irregularities per year for 2015-2019. The affected amount of TOR estimated and established (EUR 80 million) in 2019 is 19% lower than the 5-year average of EUR 98 million.

Inspection by anti-fraud services was the most successful method of detecting fraudulent cases and related amounts in 2019. Post-release controls ranked second. Release controls remain very efficient for detecting organised duty-evasion crime and new fraud patterns such as undervaluation.

The 2018 PIF report detailed cases of undervaluation detected in the United Kingdom that affected TOR revenue. As a consequence of investigations carried out by OLAF on undervaluation fraud concerning textile and shoes imported from China via the United Kingdom, and those conducted by the Commission within the framework of own resources management, serious doubts exist on the accuracy of the traditional own resources (custom duties) amounts transferred to the EU budget by the United Kingdom.

On 7 March 2019, the Commission referred to the CJEU its infringement case against the UK concerning the TOR losses due to undervalued imports. Court proceedings against the UK are still in progress.

Considering the magnitude of the TOR losses at stake, between 2017 and 2019 the Commission carried out on-the-spot inspections on the control strategy in the field of customs value in all Member States, to check compliance with the obligation to properly collect and make TOR available to the EU budget in a timely manner. As a result, several inspection reports (the latest finalised in late 2019) found that the EU's financial interests were not effectively protected, leading to significant losses of TOR to the EU budget. To date OLAF has also issued investigation reports with financial recommendations to six Member States (Hungary, Greece, Slovakia, Czech Republic, Malta and France). In general, Member States have not fully implemented the necessary measures to tackle undervaluation fraud consistently.

Already in 2018 the Commission asked all Member States to assess their own liability and correct the amounts established since 2012. The Commission will quantify the TOR losses in all Member States.

3.3.2. Detected non-fraudulent irregularities

In 2019, 4 237 irregularities were detected and reported as non-fraudulent for 2019. This is 6% lower than the 5-year average (4,484 per year for 2015-2019). The affected amount of TOR estimated and established is EUR 397 million in 2019, which is 3% lower than the 5-year average of EUR 407 million per year.

Non-fraudulent irregularities were primarily detected by means of post-release controls.

4. SECTORAL ANTI-FRAUD POLICIES, MEASURES AND RESULTS — EXPENDITURE

4.1. Member States' sectoral anti-fraud policies and measures involving several expenditure sectors

Member States reported four measures that address different funds at the same time. Bulgaria reported an amendment of its regulation on indicating irregularities. Greece reported a package of operational and legislative measures connected to the establishment of the National Transparency Authority. Hungary reported a package of operational measures that came with the further development of a beneficiary data link system and a package of organisational measures related to several training courses within the network of institutions dealing with EU funds.

4.2. Agriculture — sectoral anti-fraud policies, measures and results

4.2.1. Agriculture and fisheries — Member States' anti-fraud measures

Member States reported four measures in this area. Austria reported a measure concerning the transfer of the overall implementation of measures in the wine sector to the paying agency. Italy reported a cooperation project between administrative agencies and the judicial authorities. Lithuania reported a measure regarding the approval of a legislative measure concerning sanctions for violation of legal acts in the implementation of the Rural Development Programme. Denmark reported a package of organisational and operational measures as part of an action plan to prevent fraud using resources from agriculture funds.

Furthermore, two measures were reported that addressed both agriculture and fisheries. The first, an administrative measure by Germany, aims to raise awareness on conflicts of interest among competent authorities, while the second, by Slovenia, concerned the organisation of

dedicated training on fraud prevention and detection for the staff of a national agency.

4.2.2. Agriculture — statistics on detected irregularities and fraud

The common agricultural policy (CAP) comprises two main components (see Figure 12):

- direct support, through direct payments to farmers ('direct support') and market support measures ('market measures'), financed by the European Agricultural Guarantee Fund (EAGF); and
- rural development, mainly financed through the European Agricultural Fund for Rural Development (EAFRD).

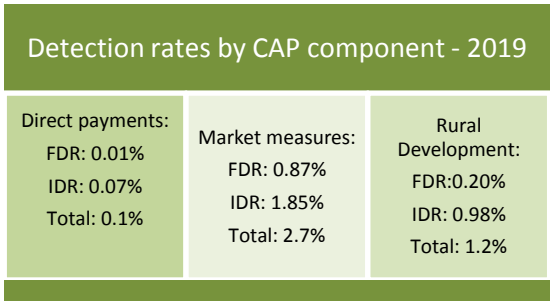
The EAGF follows an annual implementation cycle, while the EAFRD finances multiannual programmes.

After a significant drop, the number of irregularities related to CAP has been stable since 2017. The number of detections followed a flat trend for direct support, while it declined for rural development, due to a decrease in the number of irregularities related to the 2007-2013 programming period (PP),. There were significant fluctuations in the financial amounts involved in irregularities.

In 2019, the overall financial amounts were relatively stable, but direct support and rural development followed opposite patterns. Irregular financial amounts in the latter dropped, while the irregular financial amounts in direct support increased in particular because of a few irregularities of significant value affecting market measures. Such measures also recorded the highest average financial amounts detected as irregular. Figure 13 shows the most affected measures.

Detections were concentrated in a few Member States, in particular for fraudulent irregularities, beyond what could be expected on the basis of the distribution of relevant payments. This could be due to many different factors, including different underlying levels of irregularities and fraud, different quality of prevention or detection activities or different practices concerning the stage of the procedure when potentially fraudulent irregularities were reported. The concentration of detections was more accentuated for fraudulent irregularities, suggesting that different approaches to the use of criminal law to protect the EU budget or reporting practices concerning suspected fraud could be an additional and significant factors leading to differences among Member States.

Figure 11: Detection rates by CAP component

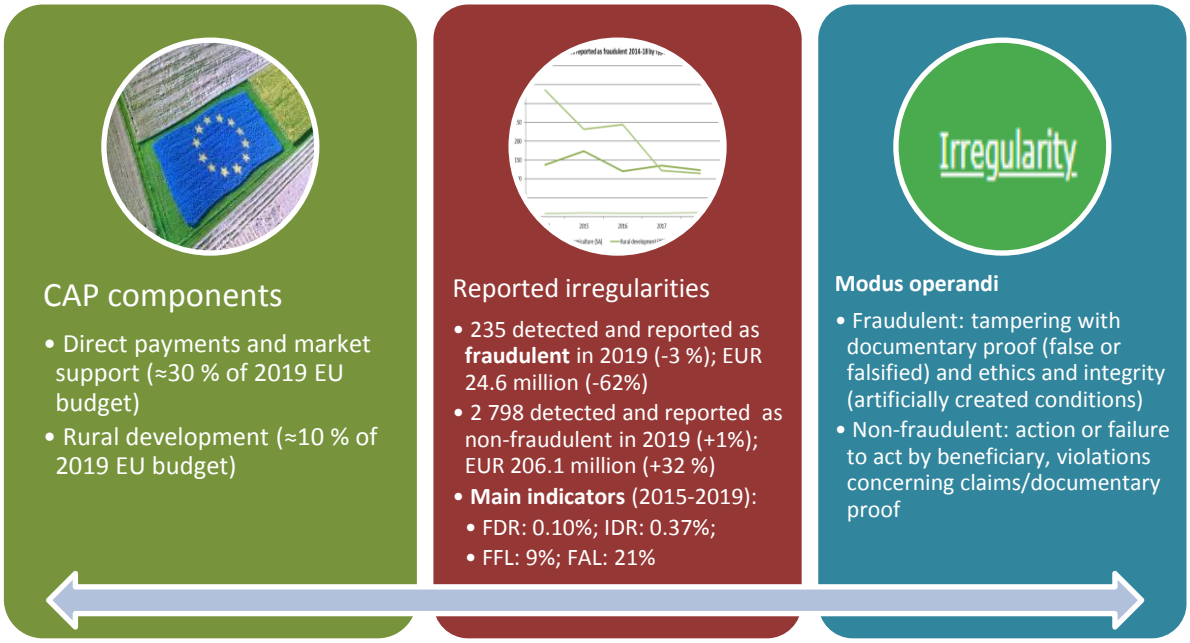


4.2.2.1. Detected fraudulent irregularities

The number of detections of fraudulent irregularities has been declining and is concentrated in few Member States.

There was a strong decrease of fraudulent irregularities in rural development, due to the decline in detections related to PP 2007-2013, in line with the programming lifecycle, and a slow start of detections related to PP 2014-2020, which should be monitored.

Figure 12: Agricultural policy – key facts and figures



As a result of the drop in the area of rural development as well as in direct support, the total financial amounts affected by irregularities reported as fraudulent dropped by 62% in 2019.

More fraudulent irregularities were still detected in rural development than in direct support. However, market measures recorded the highest fraud detection rate (FDR)[54], at 0.87%, more than four-times that of rural development (see Figure 11).

In the area of direct support, most detections pointed to the use of falsified documentary proof or requests for aid. Artificially created conditions for receiving financial support was another common type of fraud. In rural development, many detections were related to the implementation of the action. The creation of artificial conditions for receiving financial support is a source of concern also for this area.

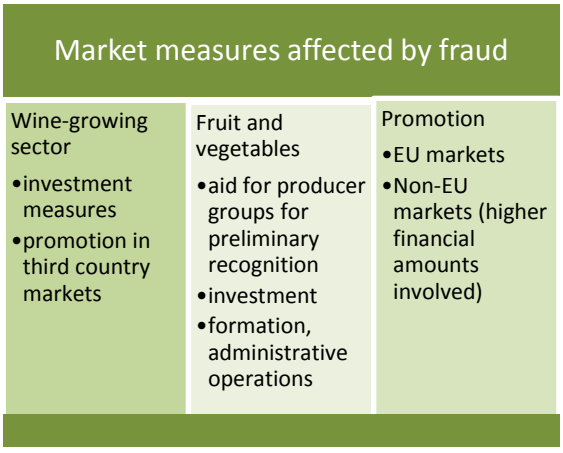
4.2.2.2. Detected non-fraudulent irregularities

Over the past five years, the trend of non-fraudulent irregularities in direct support was flat, but fluctuated significantly in terms of financial amounts, due to one-third of irregularities in market measures involving exceptionally high financial amounts (reported in 2015, 2017 and 2019). Since 2015, non-fraudulent irregularities in rural development followed a decreasing trend, in particular in terms of financial amounts involved, in line with the multi-annual nature of its programmes.

Rural development was still more affected by non-fraudulent irregularities than direct support. However, market measures recorded the highest Irregularities Detection Rate (IDR)[55], nearly double that of rural development (see Figure 11). This was partially (but not only) due to a few irregularities involving exceptional financial amounts in market measures.

Non-fraudulent irregularities related to the implementation of the supported action, payment claims and documentary proof are the most frequently detected. Market measures show the highest IDR, followed by rural development.

Figure 13: Market measures most affected by fraudulent irregularities



[54] For the definition of this indicator, see Section 2.3.1 of the SWD mentioned in footnote 36.

[55] See footnote 54.

4.3. Cohesion policy and fisheries — sectoral anti-fraud policies, measures and results

4.3.1. Cohesion policy and fisheries — Member States' anti-fraud measures

Nine countries reported adopting cohesion policy measures. It was in this area that the highest number of initiatives, mainly operational ones, were adopted, as summarised in Figure 1.

Figure 14: Measures adopted by Member States in cohesion policy

Operational measures

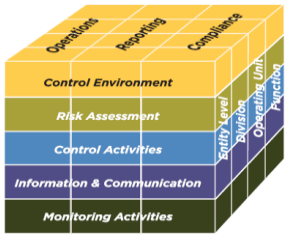
Self-assessment of the fraud risk as regards the ESF: Germany

Strengthening LE analytical capacity in preventing and detecting corruption crimes: Lithuania

'Cross-checks' IT applications: Poland

Strengthening cooperation between administrative and judicial authorities: Portugal

Administrative measures



OBS lists to facilitate the analysis of big quantities of data and a whistle-blower scheme: Denmark

Updated ERDF-related procedures: Germany

Project tackling fraud and corruption within the ESIF implementation (in cooperation with the OECD): Slovakia

Other measures

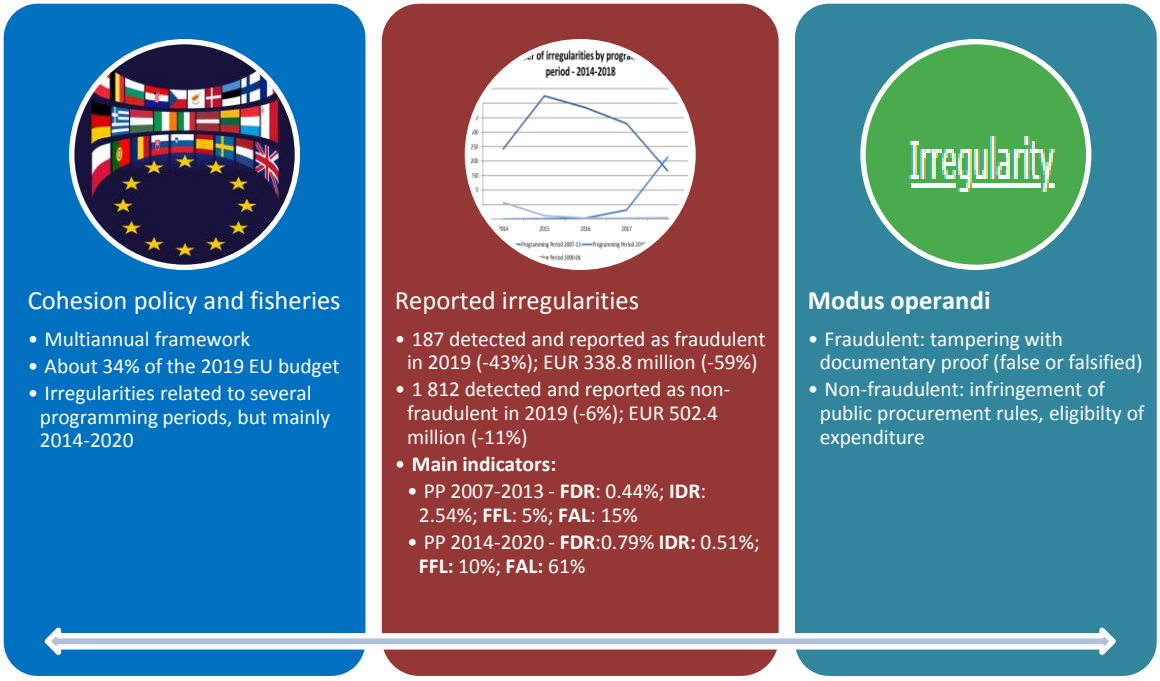
Package of measures related to the establishment of a fraud-reporting channel: Finland

High density of verifications: Austria

Training to enhance fraud prevention and detection capacity: Belgium

Denmark reported a specific fisheries measure dedicated to securing the arm length's principle between beneficiary and supplier.

Figure 15: Cohesion and fisheries policies – key facts and figures



4.3.2. Cohesion policy and fisheries — statistics on detected irregularities and fraud

Analysis of cohesion policy is more complex than for other budget sectors, because reported irregularities relate to different PPs and partially different rules.

Furthermore, PPs are multiannual, which significantly affects the underlying trends. Given the similarities in management, fisheries and cohesion policies are analysed together.

As expected, the number of PP 2007-2013 detections continued decreasing from the peak in 2015, when the PP closed, while the number of PP 2014-2020 detections has been growing. These opposite trends are due to the different phases these PPs were going through.

Irregularities reported in 2019 concern the last three PPs, with more than three quarters related to PP 2014-2020. The financial amounts reported are significantly lower than in 2018 (which was an exceptional year).

Considering the two last PPs together, the continued upward trend of the average financial amount for the Cohesion Fund is confirmed, while, in 2019, there was a slowdown for the other funds.

4.3.2.1. Detected fraudulent irregularities

In general, for all funds and periods, the average financial amounts of fraudulent irregularities were significantly higher than those of non-fraudulent irregularities, which underlines the threat posed by fraud and the importance of cooperation with the judicial authorities.

The tendency of the Member States to focus on fraudulent irregularities seems to be higher for PP 2014-2020. Despite this tendency, excluding 'exceptional' cases, the financial amounts involved in fraudulent irregularities have been decreasing for all funds, including for PP 2014-2020 in 2019. This downturn for PP 2014-2020 was not expected and requires attention.

The ERDF was the fund impacted by the highest number of cases reported as fraudulent, and the highest related irregular financial amount. However, in 2019 there was a significant drop, also unexpected.

Since 2015, the fraudulent irregularities related to the European Social Fund (ESF) declined, except for an isolated rebound in 2018. Fraudulent irregularities affecting the Cohesion Fund have been reported regularly since 2010. However, there are significant fluctuations of the amounts in respect of these cases, because of fewer cases and high amounts involved.

Member States showed different reporting patterns in terms of their tendency to detect fraudulent irregularities with high financial amounts involved.

Regardless of the previous considerations and apart from outliers, the number and financial amounts reported as fraudulent in PP 2014-2020 were in line with those that had been detected in PP 2007-2013 after a comparable time elapsed from the start of the programming period.

In terms of numbers, the priorities most concerned were 'RTD', 'Increasing the adaptability of workers and firms, enterprises and entrepreneurs' and 'Improving access to employment and sustainability'. In terms of financial amounts, they were 'RTD', 'Transport', 'Urban and rural regeneration', 'Environmental protection and risk prevention' and 'Tourism'.

4.3.2.2. Detected non-fraudulent irregularities

For PP 2014-2020, detected irregularities not reported as fraudulent and related irregular financial amounts have been increasing for all funds, but less than expected in view of the advanced stage of implementation of that PP.

In comparison with the previous PP, the fall in the number and financial amounts reported 6 years from the start of the programming period is striking, and can hardly be explained by delayed implementation. The gap is significant for all funds, but in particular for the ERDF.

A number of rules changed from PP 2007-2013 to PP 2014-2020 (e.g., the introduction of the annual accounts), which may have helped strengthen internal control at Member State level.

Together with some implementation delays, a wider use of simplified cost options might be contributing to the decline of non-fraudulent irregularities for ESF. However, the situation should be closely monitored.

Also with reference to non-fraudulent irregularities, Member States showed different reporting patterns.

4.3.2.3. European Structural and Investment (ESI) Funds and the COVID-19 crisis

The COVID-19 crisis could call for more funding, in particular for health sectors, in the years to come. To this end, a dedicated analysis of the priority related to investment in health infrastructure is included in a Staff Working Document accompanying this report[56].

Fifteen Member States reported irregularities in actions related to health infrastructures; 7 of them also detected fraud. More than half of the fraudulent irregularities and related financial amounts were reported by Romania and Slovakia. More than one-third of the non-fraudulent irregularities were detected by Poland, while Slovakia reported more than half of the irregular financial amounts.

Actions related to health infrastructure are strongly affected by violations of public procurement rules. Among the fraudulent irregularities, the most common issues detected concern supporting documents.

Non-reporting of irregularities in this area by other Member States is not an indication that they are not affected by such risks.

4.4. Indirect management (pre-accession) — statistics on detected irregularities and fraud

As regards indirect management, this report focuses on the pre-accession instruments.

Reported irregularities concern two periods (2007-2013 and 2014-2020), with the bulk of the reported irregularities relating to the pre-accession instruments for the period 2007-2013 (IPA I) [57].

This policy area shows marked differences in reporting from the various beneficiary countries. Turkey has consistently reported detected irregularities and fraud through the years.

As in previous years, the main area affected by irregularities and fraud is rural development support. The relevant indicators (FFL and FAL)[58] are the highest of all policies analysed in this document (19% and 22%, respectively). The typologies identified are issues of documentary proof and eligibility.

4.5. Direct management — sectoral anti-fraud policies, measures and results

4.5.1. Direct management — statistics on detected irregularities and fraud

Statistics on direct management are based on recovery orders issued by Commission departments and recorded in the Commission's accrual-based accounting system (ABAC).

The policy areas mostly affected by irregularities were 'Communication networks, content and technology' and 'Research and Innovation'.

4.5.1.1. Detected fraudulent irregularities

In 2019, 37 recovery items recorded in ABAC were classified as fraudulent[59], accounting for EUR 10.6 million.

4.5.1.2. Detected non-fraudulent irregularities

For non-fraudulent irregularities, 1 778 recovery items totalling EUR 55.4 million were recorded in 2019.

5. RECOVERY AND OTHER PREVENTIVE AND CORRECTIVE MEASURES

Detailed information on recoveries, financial corrections and other preventive and corrective measures (interruptions and suspension of payments) is published in the Commission's Annual Management and Performance Report[60].

Irregularities which have been detected and reported, as referred to in the PIF Report, are the object of corrective measures to make sure that EU funds are not used to finance irregular or fraudulent projects. When necessary, recovery procedures are put in place and followed up by national authorities in line with the national regulatory frameworks.

6. COOPERATION WITH THE MEMBER STATES

The Advisory Committee for Coordination of Fraud Prevention (COCOLAF) brings together Commission and Member State experts. It provides a forum for discussing the main developments in the fight against fraud and the preparation of this report, as required by

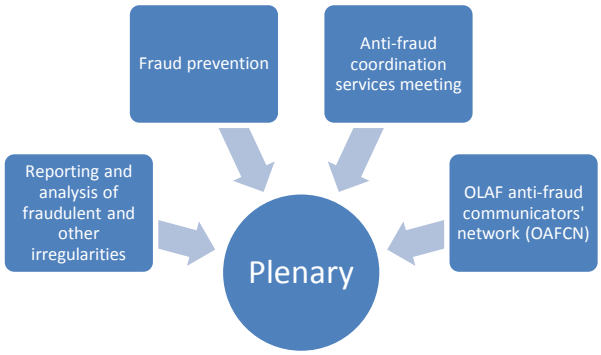
[56] See paragraph 4.2.2.3 of the SWD referred to in footnote 1, point (ii).
[57] See Chapter 5 of the SWD referred to in footnote 1, point (ii).
[58] See footnotes 36 and 37.
[59] Referred to in the system as 'OLAF notified' cases.
[60] The AMPR is part of the EU budget integrated financial reporting package (COM(2019)299 final/2). Information on recovery on the revenue side is also given in the SWD referred to in footnote 1, point (ii).

Article 325(5) TFEU. Its work is structured around four working groups and a plenary session (see Figure 16).

COCOLAF's reporting and analysis subgroup provided the ideal forum for discussing and fine-tuning the analyses presented in the SWD on the 'statistical evaluation of irregularities' and sharing the knowledge developed therein.

Within the fraud prevention subgroup, work in 2019 focused on the development of a methodology for country profiles describing the anti-fraud systems of the Member States. This tool will continue to be developed over the coming years.

Figure 16: COCOLAF structure and subgroups



6.1. Cooperation with OLAF

Both from an investigative and a policy-making perspective, the work carried out by OLAF leads to better results when OLAF joins forces with Member State authorities to engage in the fight against fraud and corruption.

The anti-fraud coordination services (AFCOS) of Member States meet annually under the chairmanship of OLAF. In 2019 the AFCOS discussed with OLAF the development of their role, particularly the relevant provisions under discussion in the ongoing negotiations to amend Regulation 883/2013, opportunities offered by the Hercule III programme, and the ECA recommendations[61] to expand AFCOS' policy role to improve coordination. The impact of the CJEU judgements on OLAF investigations in Member States was also on the agenda, as were complex OLAF on-the-spot checks.

The OLAF Anti-Fraud Communicators' Network (OAFCN) brings together communication officers and spokespersons from OLAF's operational partners in the Member States. In 2019, OLAF organised a joint social media campaign with national authorities in a number of Member States to promote the Hercule programme through showcasing Hercule-funded projects and equipment. OLAF also supported the Latvian AFCOS with the launch of the 3rd edition of their successful campaign encouraging people to say no to fraud.

In 2019, Member States and the Commission also exchanged views on anti-fraud matters in meetings of the Council's Working Party on Combating Fraud (GAF) under the Romanian and Finnish Presidencies, as well as in the inter-institutional Exchange of Views on OLAF[62].

6.2. Better Spending Network

In October 2019, the Commission organised a conference with Member States representatives of the Public Internal Control (PIC) network renamed afterwards the Better Spending Network (BSN). This is a platform for structured dialogue among Member States and the European Commission on internal control systems, exchange of information and good practices on how to ensure a better use of public funds across the entire public sector.

7. EARLY DETECTION AND EXCLUSION SYSTEM (EDES)

The European Commission manages the Early Detection and Exclusion System (EDES) foreseen in Articles 135 to 145 of the Financial Regulation applicable to the EU budget[63]. The EDES is an effective tool for reinforcing the protection of the EU's financial interests against unreliable persons and entities by excluding them from participation in EU funds award procedures. It is one of the well-established exclusion systems among those of various international organisations and multilateral development banks.

The EDES comprises a broad range of proscribed practices such as fraud, corruption and grave

[61] Special Report no 06/2019 Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination

[62] See paragraph 9.1.

[63] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193 of 30.7.2018, p.1.

professional misconduct as well as poor performance (e.g. significant deficiencies in the implementation of contracts).

In particular, the EDES ensures:

- the early detection of persons or entities, which pose a risk to the EU's financial interests;
- the exclusion of persons or entities from obtaining EU funds and/or the imposition of a financial penalty; the registration of the above information in the EDES Database accessible to the community of financial actors in charge of the implementation of EU funds;
- in the most severe cases, the publication of the names of the persons or entities concerned on the Commission's website[64].

The EDES allows a centralised assessment of exclusion situations, while protecting the fundamental rights of persons and entities concerned, in particular their right to be heard..

The singularity and strength of the EDES system lies in the power given to the EU institutions and bodies[65] to act 'in the absence of a final national judgment or, where applicable, a final administrative decision'[66]. The imposition of sanctions can be based on established 'facts and findings' stemming from audits, checks or controls performed under the responsibility of the competent authorising officer[67], investigations carried out by OLAF or non-final administration decisions of national authorities or international organisations.

The decision to impose a sanction on unreliable entities or persons can only be made by the relevant authorising officer after obtaining a recommendation[68] from the centralised interinstitutional panel which establishes a preliminary classification in law in the absence of the final judgment or final administrative decision[69]. The panel has no investigative powers. It is composed of a standing high-level independent chair[70], two permanent members representing the Commission as owner of the system, and one ad hoc Member representing the authorising officer of the department requesting the recommendation. The panel is in charge of ensuring the respect of the right of defence by means of an adversarial exchange with the economic operator concerned, and its recommendations comply with the principle of proportionality[71].

In 2019, 19 referrals of cases were brought before the panel through its permanent secretariat, of which one by an institution other than the Commission, one by a decentralised agency and one by a joint undertaking.. In addition to these 19 cases sent to the secretariat of the panel in 2019, three cases referred in 2018 have been added in the Staff Working Document (SWD) accompanying this report[72], since they were referred to the panel in 2019. In the first six months of 2019, eight cases have been referred one of which is presented in the mentioned SWD.

The Commission must also report on decisions taken by authorising officers[73], regarding:

- non-exclusion of economic operators where it is indispensable to ensure continuity of service for a limited period and pending the adoption of remedial measures by the economic operators concerned;
- non-publication of information on administrative sanctions on the Commission website, either due to the need for confidentiality of investigations, or to respect the principle of proportionality where a natural person is concerned;
- any decisions of the authorising officer deviating from the recommendation of the panel.

Since the panel began its work in 2016, such situations have never occurred. Each authorising officer concerned choose to follow the panel's recommendations in full.

In 2018, the EDES was audited by the Commission's Internal Audit Service, which resulted in a positive view of the system in place. As follow-up, the Commission has in particular continued closely monitoring, in cooperation with OLAF, the systematic follow-up of recommendations.

The Court of Justice has again upheld the validity of the EDES (Judgment of the General Court of 13

64 http://ec.europa.eu/budget/edes/index_en.cfm
65 For their respective budget implementation.
66 Wording used throughout Article 136 FR.
67 The authorising services can be those of EU institutions, agencies, offices and bodies.
68 For the situations referred to in Article 136(1)(c)-(h) of the Financial Regulation (i.e. grave professional misconduct, fraud, serious breaches of contractual obligations, irregularities, shell company creation).
69 Panel referred to in Article 143 of the Financial Regulation.
70 The chair has a standing high-level independent deputy.
71 More information on the panel is included in the SWD mentioned in footnote 1, point (v).
72 See footnote 71.
73 Data provided in the SWD mentioned in footnote 1, point (v).

May 2020 in Case T-290/18, "AGMIN" v Commission). In its judgment, the Court has, in particular, confirmed the validity of the respective roles of the panel and the authorising officers, and that the adversarial procedure led by the panel had fully respected the right to be heard of the entity concerned[74].

8. FOLLOW-UP TO THE EUROPEAN PARLIAMENT RESOLUTION ON THE 2018 ANNUAL REPORT

The European Parliament's resolution on the 2018 PIF Report was adopted in the July 2020 Parliamentary session, after having received a favourable vote by the Budgetary Control Committee (CONT) on 7 May 2020.

9. INTER-INSTITUTIONAL COOPERATION

9.1. Inter-institutional exchange of views

In line with Article 16 of Regulation 883/2013, the European Parliament, the Council, the Commission and OLAF meet every year to discuss OLAF's activities in an inter-institutional exchange of views at political level. The 2019 exchange of views took place on 11 December and was chaired by the Finnish Presidency of the Council. The institutions discussed the role of OLAF in the medium to long term, and confirmed their strong support for OLAF.

9.2. European Court of Auditors

9.2.1. Special reports on the anti-fraud policy

In two special reports adopted in 2019[75], the European Court of Auditors recognised the progress made in this policy but identified areas where improvements are needed. Most are underpinned by the conclusions presented in the PIF reports, while some others call for new measures. The Commission Anti-Fraud Strategy of April 2019 addresses most of the Court's concerns, aiming to strengthen the Commission's analysis capability and internal coordination framework to meet the new challenges posed by a continuously changing environment.

9.2.2. Cooperation between OLAF and the European Court of Auditors

Given their shared mission to protect the EU budget, OLAF cooperates with the ECA on a continuous basis. In May 2019, OLAF and the ECA concluded an administrative arrangement providing for a structured framework for cooperation and facilitating the timely exchange of information. In particular, the arrangement provides for the exchange of know-how and risk analysis, as well as for shared training and staff exchanges. The arrangement was signed at the occasion of a joint workshop, which took place for the first time in 2019 with the participation of management and staff from both organisations, as well as with members of the ECA. The workshop is intended to take place annually.

10. CONCLUSIONS AND RECOMMENDATIONS

10.1. Revenue

The Commission and the Member States took action to counter known and emerging threats in the area of revenue. Protecting EU's own resources is necessary to ensure that the EU budget can finance the policies it supports through EU funding.

In 2019, solar panels were the goods most affected by fraud and irregularities in monetary terms, just as in previous years. Also revenue fraud through the undervaluation of goods, including e-commerce, imported in the EU is and will remain a threat to revenue, posing a significant challenge to be dealt with in the coming years.

OLAF's investigations in these areas reaffirm the importance of the Office and of its coordination role for the protection of the EU's financial interests and combating fraud.

Sound and flexible control strategies, appropriate legal instruments and interconnected IT applications combined with well-equipped and skilful customs officials, are the key to combating revenue fraud. The Commission and the Member States are currently in the process of reviewing existing systems and IT applications and developing new ones. Together with compliant traders, they are the leading actors in meeting the challenges of the digitalisation of today's global economy and adapting quickly to new economic circumstances. Also here, OLAF plays an important role in defining anti-fraud policy and coordinating stakeholders' actions with regard to fraud prevention and detection.

The Covid-19 crisis has caused the emergence of a new threat: the movement of illicit medicines and medical supplies across borders has increased dramatically. Cooperation between OLAF, customs and enforcement authorities from the EU and all over the world is key to

[74] For a more detailed analysis of the case-law of the European Court of Justice, see SWD mentioned in footnote 1, point (v).

[75] SR 01/2019 Fighting fraud in EU spending: action needed; and SR 06/2019 Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and coordination.

prevent substandard medical products with fake EU conformity certificates from entering Europe.

10.2. Expenditure

In period of crisis, every euro spent to support the economic recovery counts. This is why countering fraud and irregularities affecting the EU funds is of the outmost importance. This Report has described how the Commission and the Member States have strived to increase the protection of the EU budget and has pointed to areas where more can be done.

In agricultural expenditure, the market measures represent the greatest challenge. Over the past few years, European bodies have detected high-value fraud, highlighting the need for Member States to step up their activities in this area.

Regarding cohesion policy, a significant decrease in non-fraudulent irregularities was detected in the current programming period in comparison with the previous one. This should be carefully monitored to ensure that the decrease is the result of new preventive measures, and not of increased deficits in detection and reporting.

Spending related to the COVID-19 crisis will put further pressure on EU bodies and national authorities disbursing the funds. The Commission will step up its fraud prevention work to ensure that EU money continues to get the highest possible level of protection against fraudsters who may try to take advantage of the current situation.

Likewise, Member States must not lower their guard against the risks highlighted in this report.

Recommendation

The Commission recalls that verifications and monitoring measures should be kept at a high level.

Emergency procurement should be used on the basis of a case-by-case assessment.

The present situation is also the right opportunity to complete the transition to e-procurement processes for those Member States which have not already achieved this.

Member States should consider the possibility of further strengthening transparency in the use of EU funds, in particular in relation to emergency procurement.

For the 2014-2020 programming period, the reporting of irregularities, in particular non-fraudulent, needs to be closely monitored.