# 2013 annual report on the protection of the EU's financial interests - Fight against fraud

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PURPOSE: to present the Commission's annual report on the protection of the European Union's financial interests.

CONTENT: the report covers the measures taken by the Commission and Member State in the fight against fraud, and their results. The conclusions and recommendations included in the report are based on an analysis of the information available for the past five years (2009-2013) and the problems and risks identified during this time.

**Measures to protect the EU's financial interests - 2009-2013** : this series of measures started in 2011, when the Commission adopted its multi-annual Anti-Fraud Strategy (CAFS). The Strategy was pivotal in raising awareness of fraud among the national authorities responsible. and specific antifraud provisions were introduced into the new spending programmes for 2014-20. A second milestone was marked by the adoption of the new OLAF Regulation in 2013.

In 2013, the Hercule II Programme (2007-13) continued to support actions aimed at strengthening the operational and investigative capacity of customs and law enforcement agencies to combat fraud against the EU.

In 2012 and 2013, the Commission **addressed the criminal law aspect of the protection of the**

**EU's financial interests** by adopting proposals for:

- a directive on the fight against fraud by means of criminal law in July 2012 which should remove loopholes in Member States' anti-fraud legislation that impede the effective prosecution of fraudsters;

- a regulation on the establishment of a European Public Prosecutor's Office (EPPO) in July 2013.

The Commission has also taken a number of significant measures specifically to protect the revenue side of the EU budget. These include:

- the proposal for an amendment of Regulation 515/97 on mutual administrative assistance in the customs area;

- the Directives on a quick reaction mechanism against VAT fraud and a reverse charge mechanism;

- the signing of the FCTC Protocol against illicit tobacco trade; and

- the Communication on the fight against tobacco smuggling in 2013.

The Commission invites the co-legislators to **swiftly complete the legislative work** started and to adopt the pending proposals.

**Detection and reporting of irregularities :** in 2013, **1609 irregularities** were reported as fraudulent (this includes both suspected and established fraud), involving EUR 309 million in EU funds.

- There are still significant differences in the number of fraudulent irregularities reported by each Member State, possibly due to different approaches to detecting fraud and different interpretations when applying the legal framework.

- Reported fraudulent irregularities have been decreasing on the revenue side.

- On the expenditure side, their number dropped sharply between 2009 and 2011, but is increasing again.

- The involvement of administrative bodies in detecting fraudulent irregularities has continued to increase and the use of falsified documentation has become the most common way of committing fraudulent acts.

- Irregularities not reported as fraudulent have increased, particularly in terms of amounts.

**Preventive and corrective measures :** in 2013, the Commission made several decisions to ensure that EU resources are spent according to the principle of sound financial management and that EU financial interests are protected.

- It made **217 decisions to interrupt payment** (involving over EUR 5 billion) in the cohesion policy area. Of these, 131 were still open at the end of 2013 (involving about EUR 2 billion of interrupted payments).

- The Commission also made four new suspension decisions (three of these were still ongoing at the end of the year).

- The Commission made financial corrections of over EUR 2.5 billion and issued recovery orders for EUR 955 million.

**Anti-Fraud Coordination Services (AFCOS) :** the report focuses on the requirement for each Member States to set up an Anti-Fraud Coordination Service (AFCOS) to facilitate effective cooperation and exchange of information with the European Anti-Fraud Office (OLAF).

So far, 23 Member States have appointed an AFCOS. These include all post-2004 Member States, plus Belgium, Denmark, Greece, France, Italy, the Netherlands, Austria, Portugal,

Finland and the United Kingdom.

The responsibilities of national AFCOS vary depending on the country. All Member States gave their AFCOS a coordinating role, albeit to varying extents. Only a few Member States empowered their AFCOS to act in an investigative capacity.

**The four Member States who have not formally designated their AFCOS yet – Ireland, Spain, Luxembourg and Sweden - are expected to finalise these before the end of 2014.**

**Amongst other recommendations,** the Commission invites Member States to :

- take into account the recommendations included in the **anti-corruption reports** and the best practices highlighted there ;

- implement the legal requirements regarding main regulatory provisions for the 2014-20 spending programmes according to the **guidelines** on fraud risk assessments and effective and proportionate ant-fraud measures, adopted with national authorities ;

- review their **control strategies** to ensure that well-targeted, risk-based customs controls are in place to make it possible to effectively detect fraudulent import operations ;

- step up work to **ensure timely reporting on and updating of fraud and irregularity cases.** To ensure effective monitoring and follow-up, reliable information on fraud and irregularity cases should be entered in OWNRES ;

- correctly implement the EU's anti-fraud rules, based on carefully prepared and up-to-date **fraud risk assessments**, and supported by adequate IT tools that will help to better target checks ;

- ensure **structured coordination** (exchange of data and information) between anti-fraud bodies and managing authorities, which has proved to be a best practice.

As some Member States report very low numbers of fraudulent irregularities, the Commission recommends **strengthening their work on detecting and/or reporting fraud**: (i) in the area of cohesion policy: France, Spain, Ireland, Hungary, Denmark and the Netherlands; (ii) in the area of agriculture: Lithuania, the Netherlands, Portugal and Finland.

It is recalled that the European Parliament resolution of 3 July 2013 welcomed OLAF's work on implementing the action plan on cigarette smuggling and the Protocol on eliminating illicit trade in tobacco products.

The Commission supports the European Parliament's recommendation for Member States to make it easier for **tax officials to access customs data.** It adopted new provisions on irregular payments, as requested by Parliament in discussions on the recovery system in the agricultural sector.

Lastly, the Commission appreciates the Parliament's support for the Anti-Fraud Strategy for administrative arrangements with third countries and international organisations.