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LIST OF ABBREVIATIONS

|  |  |
| --- | --- |
| AFCOS | Anti-Fraud Coordination Service |
| CAP | Common Agricultural Policy |
| CF | Cohesion Fund |
| CP | Cohesion Policy |
| CoI | Conflict of interest |
| DG | Directorate General |
| EAFRD | European Agricultural Fund for Rural Development |
| EAGF | European Agricultural Guarantee Fund |
| EC | European Commission |
| EFF | European Fishery Fund |
| EU | European Union |
| EUR | Euro |
| ERDF | European Regional Development Fund |
| ESF | European Social Fund |
| MS | Member State |
| OLAF | European Anti-Fraud Office |
| SME | Small and Medium Sized Enterprise |
| TFEU | Treaty on the Functioning of the European Union |

# Implementation of article 325 TFEU by Member States

Article 325(5) of the TFEU requires the Commission, in cooperation with the Member States, to submit a report each year to the European Parliament and the Council on the measures taken to implement that Article. The Commission bases the part of the report relating to the Member States on the answers to the 'Article 325' questionnaire, as agreed upon with them within the Advisory Committee for the Cordination of Fraud Prevention (COCOLAF), and adapted each year in the light of past experience, so as to facilitate the monitoring of anti-fraud measures. Consequently, each year the Commission draws up a report in cooperation with the Member States on the measures taken to implement this obligation, according to Article 325 of the Treaty on the Functioning of the European Union (TFEU). This report is addressed to the European Parliament and the Council and it is published.

This questionnaire covers the period from 1 January to 31 December 2014. Traditionally, information for this section of the Report is collected by the Commission through a questionnaire composed of a general part, where Member States list the three the most important measures (legislative, administrative, organisational or operational) taken, and of a part dealing with a specific subject agreed with Member States' COCOLAF representatives each year. Over time the report had become more and more voluminous. Both the Council and the European Parliament were concerned that its size was increasing and the fact that the document is annual, horizontal and multisectoral hampered a detailed assessment of all the aspects of the protection of the EU’s financial interests by the Member States. Since 2013, the Commission has therefore applied a new approach. In 2014, for the first time the questionnaire (for the PIF Report 2013) was structured around questions offering multiple ‘closed’ answers (with, when required, some sub-questions providing further limited choices) and limiting the possibility to submit free text (fixed at 300 characters maximum). As a result of Member States’ requirements, the number of available characters for the 2014 questionnaire has been increased to 600 maximum. In addition, the Member States were given the possibility to report up to 5 most important measures and additional measures, concerning mainly federal countries and countries with devolved administration in the field of anti-fraud strategy.

The questionnaire was successfully managed through the 'EU survey' platform, offering the possibility to extract data once the allowed time is up. This tool has proven to function well for replies and data collection since 2013 Report. The information, made available in a structured manner, allowed for a more comparative approach and better presentation of the replies provided by the Member States. Based on this experience, the same technical solutions were also used for the collection of the contributions of Member States for the 2014 Report.

As in previous years, the first part of the questionnaire asks the Member States to present the main measures that give effect to Article 325, i.e. measures to combat fraud and all illegal activities affecting the financial interests of the EU. This part is structured in the same way as the 2013 questionnaire. Member States are invited to describe two or three ‘key’ measures taken in 2014, in order to implement Article 325 of the Treaty. The second set of questions concerns the application of definitions used in irregularity reporting by the Member States.

# Most important Anti-Fraud measures adopted by member states in 2014 under the article 325 TFEU

## Results of the measures reported in the Questionnaire

Member States reported ninety-six measures adopted in 2014 in total, referring to various areas concerning the protection of the EU's financial interests and the fight against the fraud. Fifteen Member States[[1]](#footnote-1) used the opportunity to report more than three 'most important' measures adopted to protect the financial interests of the EU, while five Member States[[2]](#footnote-2) reported only one measure.

Most measures adopted by the Member States targeted fraud prevention and detection. The Member States reported an increased number of adopted anti-fraud provisions compared to 2013, which is explained by the adoption of the bulk of Union legislation for the new programming period 2014-2020.

The majority of the measures adopted concerned the fraud prevention phase of the anti-fraud cycle for both programming periods 2007-2013 and 2014-2020. Fraud prevention activities involved: a legislative definition of a specific topic adopted by ten Member States[[3]](#footnote-3), seven Member States[[4]](#footnote-4) reported conducting fraud awareness training or internal training measures, fourteen Member States[[5]](#footnote-5) adopted new measures or revised procedures concerning the management of funds, control and audit, and seven Member States[[6]](#footnote-6) adopted measures on the reporting of irregularities.

Five Member States[[7]](#footnote-7) reported that they have adopted a National Anti-fraud Strategy (NAFS) for the programming period 2014-2020. Nine Member States[[8]](#footnote-8) reported national anti-fraud measures with regard to the cohesion policy funds[[9]](#footnote-9), while six Member States[[10]](#footnote-10) adopted national anti-fraud measures pursuant to agriculture funds[[11]](#footnote-11).

A national fraud prevention strategy for public procurement for the new programming period 2014-2020 was adopted in Bulgaria. A national anti-corruption programme for the current programming period was adopted in Lithuania, and a regional programme was adopted in Italy. Thirteen Member States[[12]](#footnote-12) reported fraud detectionand six Member States[[13]](#footnote-13) reported investigation measures. Nine Member States[[14]](#footnote-14) adopted criminal sanctions and penalties concerning fraud prosecution.

*Table 1: Measures reported by Member States*



The table shows the number of measures reported by the Member States (ninety-six) and references to the related areas: the area of public procurement (PP), financial crime, conflict of interest (CoI), corruption, Anti-Fraud Coordination Service (AFCOS), a definition of fraud, whistle-blowers, organised crime and ‘other’ (one hundred eighty-two references in total). Reference to the 'area' is not the same as a measure adopted. The reason for this is that many measures were a ‘packages of provisions’ referring to more than one area.

## Measures reported by area

In areas pre-selected in the questionnaire[[15]](#footnote-15), the largest number of measures reported by the Member States were in relation to public procurement and financial crime (twenty-six), followed by conflict of interest (twenty-four), corruption (twenty), AFCOS (fifteen), fraud definition (fourteen), whistle-blowers (ten) and organised crime (six)[[16]](#footnote-16).

The ‘other’ field was selected by the Member States forty-one times, separately or in combination with the above mentioned areas, in order to clarify a measure, or to introduce another area (for example management and control of funds, state aid, etc.), or a strategy in the programming period 2007-2013 and 2014-2020 to counter fraud affecting the financial interests of the Union.

The amount of replies reported as ‘other’ for the year 2014 increased (from twenty-six to forty-one), which can be explained by the adoption of a bulk of provisions concerning the new programming period 2014-2020 and dealing with remaining issues regarding the old programing period 2007-2013.

All of the answers were analysed according to the anti-fraud cycle: prevention, detection, prosecution and sanctions.

### The ‘Other’ category

The Member States referred, in forty-one cases, to the category 'other' to clarify the area (preselected in the questionnaire as public procurement, financial crime, organised crime etc.) or in order to introduce a reference to 'another' area. These measures correspond to the following phases of the anti-fraud strategy:

* Fraud prevention regarding both PP 2007-2013 and PP 2014-2020[[17]](#footnote-17):
  + Fraud awareness training or internal training measures (Poland, Portugal and Sweden)
  + Fraud detection and investigation (Germany, Estonia, Ireland, Italy, Poland and United Kingdom)[[18]](#footnote-18)
  + Establishment of new measures or revision of procedures in the management of funds, control and audit (Greece[[19]](#footnote-19), Lithuania, Netherlands and Slovakia)
  + Reporting of irregularities (Croatia)[[20]](#footnote-20)
* National anti-fraud measures pursuant to Regulation (EU) No 1303/2013 (France, Croatia, Lithuania, Hungary, Netherlands, Portugal, Romania, Finland and the United Kingdom)[[21]](#footnote-21) and Regulation (EU) No 1306/2013 (Germany, Ireland, Portugal, Slovakia and the United Kingdom) [[22]](#footnote-22)
* National Anti-Fraud Strategy (NAFS) concerning the PP 2014-2020 for structural actions (Greece, Croatia, Malta[[23]](#footnote-23)) or for all sectors (Bulgaria and Slovakia[[24]](#footnote-24))

### Public Procurement

Member States reported twenty-six references concerning public procurement (legislative, administrative, organisational and operational measures). Similar to previous years, these were adopted either as a single measure or in combination with provisions in other areas, such as corruption, organised crime, conflict of interest, fraud definition, whistle-blowers and 'other'.

Sixteen adopted measures concerned the treatment of public procurement along the anti-fraud strategy cycle:

* Fraud prevention:
  + National strategy for development of the public procurement sector for the programming period 2014-2020 adopted in Bulgaria and in preparation in Romania[[25]](#footnote-25)
  + Implementation of public procurement legislation in line with EU rules and/or administrative updates and/or improvement of IT tools[[26]](#footnote-26)
  + Monitoring, desk checks and audit[[27]](#footnote-27)
* Integrity rules and transparency measures ensuring that EU funds are used rationally and that procurement is transparent[[28]](#footnote-28)
* Sanctions and penalties[[29]](#footnote-29)

### Conflict of Interest and Corruption

#### Conflict of interest

Fifteen Member States[[30]](#footnote-30) referred to measures taken in order to eliminate conflict of interest in the framework of other measures or national strategies (corruption, transparency measures, auditing procedures).

Eight Member States[[31]](#footnote-31) introduced specific measures to prevent the **conflict of interest**. These concerned the following legislative and/or organisational provisions:

* Guidance on checks on conflict of interest (France and Italy in the Cohesion policy area)
* Provisions concerning detection and reporting (France, Austria)
* Reorganisation of existing bodies or strengthened cooperation (Austria, Romania)
* Amendments to the Penal Code in the framework of the fight against corruption (Estonia, Greece) and strengthened sanctions for conflict of interest (Romania)[[32]](#footnote-32)
* Publication of information on preventing conflict of interest and corruption – a new legislative measure (Spain)[[33]](#footnote-33)
* An IT tool as an ex-ante mechanism (Romania)

Examples of measures:

France introduced an updated administrative guidance on the introduction of checks on conflict of interest in a Vademecum, distributed by the Inspection Coordination Committee[[34]](#footnote-34) in 2014 to its operation controllers, which highlighted the issue of conflict of interest. When the inspection plan is drawn up, checks are made to ascertain whether a conflict of interest has arisen (previous jobs and relations with others persons are inspected). Should a conflict of interest be detected, the CICC must be informed so that it can decide which measures to take.

Italy introduced ex-ante checking for incompatibility and conflicts of interest, aiming to guarantee that staff of the Audit Authority are not led into collusive practices vis-à-vis persons involved in the management of the Structural Funds and the EMFF (management structures and beneficiaries), who might act or behave fraudulently.

Romania is developing an IT tool, 'Prevent', which is an ex-ante control mechanism for conflict of interest in public procurement (including those financed from EU funds). This IT tool will act as a kind of whistle-blower for stakeholders.

#### Corruption

Eleven Member States[[35]](#footnote-35) referred to measures taken in order to eliminate corruption in the framework of other measures or national strategies (corruption, transparency measures, auditing procedures) and introduced specific measures to fight **corruption in the public procurement** (see in the table below).

These involved the following provisions:

* Concerning the prevention of corruption:
* Legislative measures to 'prevent corruption of officials' implementing the legal instruments of the Council of Europe and the Council Framework Decision into national law (Germany, Latvia and Romania)[[36]](#footnote-36)
* National Anti-Corruption programme (Lithuania)[[37]](#footnote-37) or a regional plan (Italy – a three year anti-corruption plan for Emilia Romagna)
* Declaration of Conflict of interest (Lithuania – clarified declarations of private interests and restrictions on the acceptance and offering of gifts and services by customs officers and state officials)
* Enhanced the transparency strategy to fight corruption in public procurement (Hungary - activities by the Public Procurement Authority)
* Targeted investigation (Italy - on the basis of the risk analysis concerning EU funding in the Agriculture food sector)
* Sanctions and penalties (Estonia, Greece, Spain)

*Table 2: Measures taken by Member States to counter corruption in public procurement*



The table shows answers of eleven Member States concerning adopted measures to fight corruption in public procurement (selected in the general part of the questionnaire). M1-M5 are numbers of measures answered in order in the general part of the questionnaire

*.*

*Table 3: Additional answers and comments*



The table shows additional answers and comments of four Member States regarding ‘other measures to fight corruption in public procurement’ or ‘comments’ (free text field in the general part of the questionnaire).

#### Examples of adopted measures:

Horizontal measure: Estonia introduced amendments to the Penal Code, which also includes fraud involving the use of aid funds, the violation of public procurement rules and corruption offences. The Code removed the distinction between gratuities and bribes (both in terms of passive and active corruption), i.e. in the case of bribery, from the point of view of classification it is no longer important whether the official activity for which the bribe was given was legal or illegal. In light of this, the range of sanctions provided for bribery has been amended (§ 293 298). The criminal liability provision relating to breaches of public procurement requirements has been amended (Section 300).

Specific measure: Greece adopted two main legislative measures aimed at fighting conflict of interest and corruption. The first legislative measure adopted to prevent corruption of officials concerns the introduction of a penalty to prevent both active and passive corruption of officials in the public sector. Secondly, a legislative amendment concerning the competence of the Audit Committee was introduced in the audit of declarations of assets and conflict of interest.

### Measures on the Protection of Whistle-blowers

#### Description of measures

Although the ‘whistle-blowers’ area was marked in the responses of nine Member States[[38]](#footnote-38), only Belgium and Latvia adopted direct measures on the protection of Whistle-blowers (see below). In Denmark the paying agency for agricultural funds established a web portal for reporting fraud.

These concerned the following provisions:

* Improvements in the context of the prevention of conflict of interest in the activities of public officials:

- Adoption of new or amended legislative provisions on the basis of proposed measures to ensure the implementation of the recommendations adopted by the OECD Working Group on Bribery of Foreign Public Officials in International Business Transactions (Latvia and Slovakia).

- Reporting system of a suspected breach of integrity in a federal administrative authority by a member of its staff (Belgium).

* Fraud prevention, detection and prosecution:
* Inter-institutional working group established to elaborated whistle-blowers’ protection regulation (Latvia)
* Amended legislation to strengthen the protection of whistle-blowers (Belgium-federal, Belgium – Flanders)
* IT tools: establishment of a web-portal for reporting fraud in Agriculture (Denmark)

#### Example of a measure adopted in Belgium

On federal level in Belgium a Royal Decree of 9 October 2014 implementing Article 3(2) of the Law of 15 September 2013 concerning the ‘reporting of a suspected breach of integrity in a federal administrative authority by a member of its staff’ lays down arrangements for the establishment, organisation, operation, responsibilities, powers, roles, functions, selection and all other necessary procedures for the smooth operation of the internal component of the reporting system.

An additional measure was adopted by the Flemish Government, which approved a revised regulation on the protection of whistle-blowers’ and on 9 May 2014 it concluded a new protocol with the Flemish Ombudsman to strengthen the protection of whistle-blowers.

The new features of the whistleblowing system are as follows:

- the Ombudsman is no longer bound by pre-determined deadlines for investigating reported irregularities and formally deciding to place a staff member under whistle-blowers protection;

- the Ombudsman no longer has to disclose at the start of the investigation the name of the protected staff member to the head of the authority concerned;

- the authority concerned must show that any specific measure or disciplinary penalty against a protected staff member is unrelated to the whistleblowing;

- the option of voluntary relocation of the staff member in question is now expressly provided for.

A member of staff of the Flemish Government can, therefore, ask the Flemish Ombudsman for whistleblowing protection if he or she reports irregularities (Article II 3 VPS) and fears reprisal.

Under the procedure provided for in the Ombudsdecreet, the Flemish Ombudsman can decide to place the person concerned under protection (Article 2a (2)). Such protection continues for two years after the end of the investigation.

### Measures to prevent financial crime, organised crime and tax fraud

Seventeen Member States[[39]](#footnote-39) reported measures to prevent financial crime, organised crime and tax fraud.

These measures concerned the following areas in the whole anti-fraud cycle:

#### Financial and Organised Crime:

* Fraud prevention:
* Legislative and operational provisions introducing or amending criminal offences to prevent financial crime (Romania)[[40]](#footnote-40)
* Legislative measures to specifically tackle terrorist financing (Spain)[[41]](#footnote-41)
* Administrative guidelines for authorities on the treatment of a suspected crime (Spain, Sweden)[[42]](#footnote-42)
* Operational measure on structured cooperation with law enforcement (Hungary)[[43]](#footnote-43).
* Prosecution and sanctions:
* Legislative measures to control cross-border movements of cash, new sanctions introduced (Belgium and Malta)[[44]](#footnote-44)

#### Financial Crime and Tax Fraud:

* Fraud prevention:
* Measures to tackle fraud in the **VAT area** (Latvia, Estonia and Poland) [[45]](#footnote-45)
* Measure to tackle tax avoidance: the introduction of a residence disclosure notification requirement (Belgium)[[46]](#footnote-46) and measure in the **tobacco sector** (Poland) [[47]](#footnote-47)
* Fraud prevention, detection and prosecution:
* Nine Member States[[48]](#footnote-48) introduced administrative, legislative, organisational and operational measures to combat financial crime and tax fraud in the **customs sector**[[49]](#footnote-49)

### Measures Reported Concerning Anti-Fraud Coordination Service (AFCOS)

Six Member States reported in the general part of the questionnaire specific measures concerning their Anti-Fraud Coordination Service (AFCOS):

* Fraud prevention:
* Designation of AFCOS (Spain and Sweden)[[50]](#footnote-50)
* AFCOS reorganisation (Bulgaria)
* Introduction of a new communication strategy for AFCOS (France)
* New definitions of fraud offences and training (Romania)
* Investigation (Bulgaria and Malta).

Sweden communicated the **designation of the** **Economic Crimes Authority** (Ekobrottsmyndigheten) **as the Swedish Anti-Fraud Coordination Service (AFCOS)**. The decision was implemented by means of an amendment to the authority's instructions and entered into force on 1 January 2015[[51]](#footnote-51). **Spain appointed the national Anti-Fraud Coordination Service** (Servicio Nacional de Coordinación Antifraude) **as their Anti-Fraud Coordination Service (AFCOS)** and adopted relevant administrative anti-fraud measures[[52]](#footnote-52).

In Bulgaria there was AFCOS reorganisation (administrative and organisational measures) in 2014 which involved the creation of the ‘Administrative Investigations sector’ to carry out administrative investigations with powers to require documents and information by state and local authorities, organizations, companies and individuals, conducting on-the-spot checks and taking statements from individual persons, while the control on the procedures for irregularity administration were transferred to the ‘Irregularities reporting’ sector. AFCOS staff have undergone training at OLAF. The creation of ‘Administrative investigations sector’ links up with the Directorate's statutory powers to conduct administrative investigations for the purpose of establishing irregularities.

The French AFCOS (la Délégation Nationale à la Lutte contre la Fraude, DNLF) used part of its website to improve communication on measures to prevent fraud against the European Union's financial interests. It contains information summarising the DNLF's role as an Anti-Fraud Coordination Service, action undertaken by relevant national administrations, a presentation of OLAF, an interactive map of Europe showing all European AFCOS that are DNLF partners (with a description and contact details) and, since December 2014, OLAF's press releases have been included on the site. The DNLF website improves communication on measures to prevent fraud against the European Union's financial interests by presenting the action of all the actors concerned and also by highlighting the European network of anti-fraud coordination services.

Romania reported the adoption of new definitions of fraud offences against the EU’s financial interests and training on this matter. The amended legislation is a part of implementation rules of the new Romanian Criminal Code and aligns with EU trends on fraud definition. In this regard the Romanian AFCOS (Departmentul pentru Lupta Anti-Frauda, DLAF) has been involved in enhancing cooperation with judicial authorities and law enforcement agencies for targeting inspections and investigations and for the preparation of a proper implementation of antifraud preventive measures for the Multiannual Financial Framework for 2014-2020.

Malta reported the preparation of a Manual on the Financial Investigative Function and Operations of the Internal Audit and Investigations Department (IAID). The manual includes Malta's obligations under bilateral, multilateral and other international agreements/arrangements against irregularities and fraud.

## Structured answers of 28 Member States – measures taken concerning the EXPENDITURE areas of the EU budget



























































## Structured answers of 28 Member States – measures taken in the REVENUE part of the EU budget













# Specific part of the questionnaire 2014: definitions used in irregularity reporting by the Member States

The purpose of this year’s specific part was to identify differences among the Member States in applying the definitions relating to irregularity reporting, the timing in which the reporting is done and the timing of the reporting of 'suspected fraud'.

The information collected is analysed thoroughly by OLAF, with the aim of guiding the Member States toward a harmonised approach in the interpretation of such definitions and increasing the comparability of data reported by the Member States.

## Summary of the replies

The purpose of this year’s specific part was to identify differences among Member States in applying the definitions relating to irregularity reporting (fraudulent and non-fraudulent) and the timing of the reporting. The information collected is analysed by OLAF, with the aim of guiding the Member States toward a harmonised approach in the interpretation of such definitions and increasing the comparability of the data reported by the Member States.

Almost all Member States made reference to their Civil Servants Code or Penal Code regarding legal obligations for public officials to refer to law enforcement or a judicial authority on any crime an official becomes aware of in the execution of their tasks, while the remaining four Member States[[53]](#footnote-53) have no such provision in their national legislation.

All Member States reported the existence, and use, of guidelines on irregularity reporting; Twenty Member States[[54]](#footnote-54) provided details on which definitions are specifically included in their internal guidelines.

Seven Member States[[55]](#footnote-55) reported the application of the definition of *‘economic operator’* in line with the relevant Union sectorial Regulations and guidelines for their application[[56]](#footnote-56), as well as consistent with the Council Regulation on the protection of the Union’s financial interests[[57]](#footnote-57), with exception of a Member State exercising its prerogatives as a public authority.

A national definition of the *'primary administrative or judicial finding' (PACA)*, which determines the timing of the reporting of irregularities, was reported by sixteen Member States[[58]](#footnote-58). The questionnaire ascertained some differences in the application of the 'primary administrative or judicial finding' (PACA) according to the sector and irregularity. While half of the Member States reported uniform application of the PACA in all sectors and types of irregularity (fraudulent or non-fraudulent)[[59]](#footnote-59), uniform application for all types of irregularity but different applications per sector is applied in six Member States[[60]](#footnote-60), in two Member States[[61]](#footnote-61) there are different applications of PACA between types of irregularity but uniform application per sector and in five Member States[[62]](#footnote-62) there are different applications per sector and per type of irregularity. As regards the reporting of ‘suspected fraud’, all except two Member States[[63]](#footnote-63) pointed out that they do not request authorisation from the judicial authority before reporting suspected fraud. Eight Member States[[64]](#footnote-64) use the definition of ‘suspected fraud’, as set out in EU legislation, in their national guidelines.

Sixteen Member States[[65]](#footnote-65) make explicit reference in national legislation to fraud against the EU budget, while twelve Member States[[66]](#footnote-66) say that their national legislation contains general definitions of the behaviour, without any specific reference to the ‘victim’.

Half of the Member States[[67]](#footnote-67) use an internal system for signalling suspected irregularities outside of the Irregularity Management System (IMS), used for reporting of irregularities by the Member States to the Commission. Ten Member States[[68]](#footnote-68) rely upon IMS only and four Member States[[69]](#footnote-69) do not use internal IT systems for signalling suspected irregularities at all.

There are differences in relation to the reporting of cases subject to criminal proceedings: eight Member States[[70]](#footnote-70) report the follow-up to the Commission after indictment, seven Member States[[71]](#footnote-71) report the follow-up after the initial sentence, fifteen Member States[[72]](#footnote-72) say that they do so after the definitive sentence (final court decision) and seventeen Member States[[73]](#footnote-73) specify an ‘other’ practice of follow-up reporting.

## Legal obligation for public officials to refer to law enforcement or a judicial authority on any crime he/she becomes aware of in the execution of his/her tasks.

The Member States were asked to specify whether there is any legal obligation for public officials to inform a law-enforcement or a judicial authority about any crime he/she becomes aware of in the execution of his/her tasks. Twenty-four Member States referred to an Article of their Civil Servants Code or Penal (Procedure) Code regarding legal obligations for public officials to refer to law enforcement or a judicial authority on any crime he/she becomes aware of in execution of his/her tasks, while the remaining four Member States[[74]](#footnote-74) answered no existence of such provision.

The replies received are detailed in Table 4.

*Table 4: Legal obligation for public officials to refer to law enforcement or judicial authority on crimes they become aware of in the execution of their tasks*









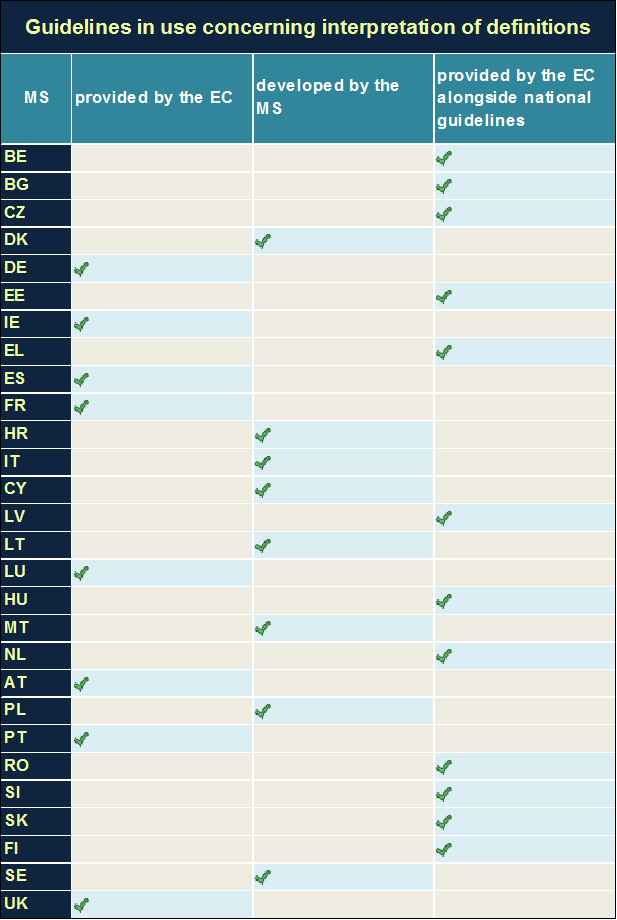


## Guidelines regarding the application of definitions in irregularity reporting

The Member States were asked to clarify if there are any guidelines in use concerning the interpretation of the definitions and on which base they were elaborated. All Member States reported the existence and use of guidelines on irregularity reporting.

The majority of Member States reported the use of internal guidelines developed by the Member States, in some instances based on former guidelines provided by the European Commission[[75]](#footnote-75) and in other instances based on guidelines provided by the European Commission along with national guidelines[[76]](#footnote-76). Eight Member States[[77]](#footnote-77) reported the use of guidelines provided by the European Commission only.

*Table 5: Use of guidelines by Member States*



The table above shows what type of guidelines are in use in the Member States

### Internal guidelines on the interpretation of definitions in irregularity reporting developed by the Member States

The twenty Member States which have replied that they use internal guidelines (alongside those provided by the Commission or not) were asked to specify whether they have developed specific instructions on how to interpret certain specific concepts defined in the regulations. Three ‘concepts’ were identified and a fourth category allowed Member States to provide additional inputs:

* “economic operator”[[78]](#footnote-78);
* “primary administrative or judicial finding (PACA)”[[79]](#footnote-79);
* “suspected fraud”[[80]](#footnote-80);
* “other definitions” to be further specified.

*Table 6: Concepts and definitions specified in internal guidelines*



*The table shows what type of definition is used in the internal guidelines of the Member States*

* **Definition of economic operator** was reported by Belgium, Czech Republic, Estonia, Latvia, Netherlands, Poland and Romania.
* **Definition of Primary administrative or judicial finding (PACA)** was reported by Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Greece, Italy, Cyprus, Latvia, Lithuania, Hungary, Netherlands, Poland, Romania, Slovakia and Finland.
* **Definition of suspected fraud** was reported by Belgium, Bulgaria, Czech Republic, Estonia, Greece, Latvia, Romania and Slovakia.
* **‘Other definitions’** were reported by Belgium, Bulgaria, Estonia, Croatia, Cyprus, Latvia, Malta, Netherlands Romania, Slovenia, Slovakia, Finland and Sweden (will be explained later).

#### Definition of economic operator

Seven Member States[[81]](#footnote-81) reported the application of the **definition of economic operator** and natural, or legal, person acting as a project applicant or beneficiary, in their national guidelines[[82]](#footnote-82). The definition is applied in line with the relevant EU Regulations and guidelines for their application issued by the European Commission (1828/2006, 1848/2006) and is in line with the Council Regulation on the protection of European Communities (Article 7 of Regulation EC, Euratom 2988/95).

*Table 7: Interpretation of the definition of economic operator in internal guidelines*



#### Definition of Primary administrative or judicial finding (PACA)

The Member States were asked to specify whether there is a specific interpretation of the definition of primary administrative and judicial finding (PACA) in the national guidelines. Sixteen Member States reported about such interpretation[[83]](#footnote-83). The definitions are in line with the EU regulations in force and reflect specific national procedures applied and bodies involved. Denmark, Lithuania and Slovakia specifically reported guidance on PACA for the current programming period 2014-2020.

Concerning the date (or phase) of the primary administrative or judicial finding, more details are provided in the specific replies provided in relation to this question (see paragraph 3.4 on ‘Types of PACA’).

*Table 8: Definition of the Primary administrative or judicial finding (PACA) in national guidelines on reporting*







#### Definition of suspected fraud

The Member States were asked to provide further information on the application of the ‘definition of suspected fraud’ in their national guidelines. Eight Member States (Belgium, Bulgaria, Czech Republic, Estonia, Greece, Latvia, Romania and Slovakia) reported information about the interpretation of such definition in their national guidelines[[84]](#footnote-84).

The national legislation reflects the definitions used in the relevant EU legislation, i.e. the Article 1.1.(a) of the Convention on the Protection of European Communities’ Financial Interests drawn up on the basis of Article K.3 of the Treaty on European Union and Article 27 of Regulation (EC) No 1828/2006. In addition, Bulgaria reported using the 'suspicion of irregularity' and Slovakia reported a new procedure on IRQ3 irregularity qualification[[85]](#footnote-85), in force as of 2015.

The replies provided are detailed in Table 9.

*Table 9: Application of the definition of ‘suspected fraud’ in internal guidelines on the reporting of eight Member States*





#### Other relevant definitions in use

‘Other definitions’ in use concerning the reporting of irregularities in their national guidelines were reported by the following ten Member States: Bulgaria, Estonia, Croatia, Latvia, Malta, Netherlands, Romania, Slovakia, Finland and Sweden.

These include clarifications about the definitions of:

* irregularity (the notion of irregularity, the suspicion of irregularity or suspected infringement of the EU law)
* bankruptcy (insolvency proceedings in line with the Council Regulation (EC) No 1346/2000).

The replies are detailed in Table 10.

*Table 10: Other definitions in use by ten Member States in their national guidelines on the reporting of irregularities*





## Definition of Primary administrative or judicial finding (PACA)

All Member States were asked to give information on how the concept of primary administrative or judicial finding (PACA) is applied and specify the relevant procedures in place.

The questionnaire proposed four types of possibilities:

* TYPE A, applying a uniform procedure in all sectors and types of irregularity, was answered by fourteen Member States[[86]](#footnote-86);
* TYPE B, applying a uniform procedure for all types of irregularity, however differently per sector, was answered by six Member States[[87]](#footnote-87);
* TYPE C, applying different procedures between types of irregularities but uniform per sector, was answered by two Member States[[88]](#footnote-88);
* TYPE D, applying different procedures per sector and per type of irregularity, was answered by five Member States[[89]](#footnote-89).

### TYPE A: Uniform application of Primary administrative or judicial finding (PACA) in all sectors and types of irregularity

In Malta and Slovenia the PACA is the date of the **first information or document** (based on the management verification, audit report before contradictory phase, etc.).

In Bulgaria, Estonia, Croatia, Romania and the United Kingdom it is the date of the **first officially confirmed information** or document (on the basis of the final on the spot report, final audit report etc.).

In Germany and Austria the Primary administrative and judicial finding is defined by the **date of the recovery order**.

Ireland, Italy, Hungary, Poland and Sweden reported **other type of uniform** procedure of PACA.

*Table 11: Application of PACA for type A (‘uniform application’)*



### TYPE B: Uniform application of Primary administrative or judicial finding (PACA) for all types of irregularity but different application per sector

Belgium, Denmark, France, Cyprus, Lithuania, Netherlands reported uniform procedure of PACA for all types of irregularity, however differing per sector.

#### Agriculture sector

Table 12 shows the definition of PACA used by some Member States for type B (uniform procedure for all types of irregularity, but differing per sector) in the AGRICULTURE sector.

*Table 12: Application of PACA for type B - Agriculture*



#### Fisheries sector

Table 13 shows the definition of PACA used by some Member States for type B (uniform procedure for all types of irregularity, but differing per sector) in the FISHERIES sector.

*Table 13: Application of PACA for type B - Fisheries*



#### Cohesion policy sector

Table 14 shows the definition of PACA used by some Member States for type B (uniform procedure for all types of irregularity, but differing per sector) in the COHESION POLICY sector.

*Table 14: Application of PACA for type B – Cohesion policy*



### TYPE C: Different application between types of irregularities but uniform application per sector

Two Member States, Latvia and Slovakia, replied that they apply different procedures between types of irregularities but have uniform application per sector.

*Table 15: Application of PACA for type C*



### TYPE D: Different application per sector and per type of irregularity

Five Member States, Greece, Spain, Luxembourg, Portugal and Finland, reported different procedures per sector and type of irregularity.

#### Agriculture - simple irregularities and suspected or established fraud

Table 16 shows the application of PACA for type D in the agriculture Sector as regards simple irregularities and suspected or established fraud used by five Member States.

*Table 16: Application of PACA for type D - Agriculture*



#### Fisheries - simple irregularities and suspected or established fraud

Table 17 shows the application of PACA for type D in the FISHERIES SECTOR as regards simple irregularities and suspected or established fraud used by five Member States.

*Table 17: Application of PACA for type D - Fisheries*



#### Cohesion policy - simple irregularities and suspected or established fraud

Table 18 shows the application of PACA for type D in the COHESION POLICY SECTOR as regards simple irregularities and suspected or established fraud used by five Member States.

*Table 18: Application of PACA for type D – Cohesion policy*



## Reporting of suspected or established fraud (irregularities reported as fraudulent)

Twenty-six Member States replied that they do not request authorisation from the judicial authority before reporting suspected fraud, Italy requests it systematically and Romania does so on a case by case basis.

Table 19 shows the replies of the Member States on whether there is an authorisation requested from the judicial authority before reporting suspected fraud.

*Table 19: Requesting authorisation to Judicial Authorities before reporting suspected fraud*



## Reference in national legislation to fraud against the EU budget

On the specific reference in national legislation to *fraud against the EU budget*, sixteen Member States[[90]](#footnote-90) replied positively, while twelve Member States[[91]](#footnote-91) replied ‘no’, their national legislation contains general definitions of the behaviour without any specific reference to the ‘victim’ (the ‘EU financial interests’, in this context).

Table 20 details the replies provided by Member States.

*Table 20: Specific reference in national legislation to ‘fraud against the EU budget’*



## Internal system of signalling of suspected irregularity, developed outside Irregularity Management System (IMS), in use

Fourteen Member States[[92]](#footnote-92) reported that they use an internal system of signalling of suspected irregularity developed outside of IMS[[93]](#footnote-93). Ten Member States[[94]](#footnote-94) replied that they rely solely on IMS to signal suspected irregularities, while four Member States[[95]](#footnote-95) replied no application of suspected irregularity signalling.

Table 21 shows the replies of the Member States.

*Table 21: Use of an internal system of signalling of suspected irregularity (outside IMS)*



The Member States which indicated that they have an internal system outside IMS to signal suspected irregularities were requested to specify how it functions. Table 22 shows the detailed replies.

*Table 22: Answers describing internal systems of signalling suspected irregularities (developed outside IMS) in use in fourteen Member States*









## Follow-up concerning cases reported to the European Commission in the Irregularity Management System (IMS) under criminal proceedings

On the follow-up concerning cases under criminal proceedings reported to the European Commission in the IMS, eight Member States[[96]](#footnote-96) replied that they proceed so ‘after indictment’, one Member State (Austria) replied ‘after the initial sentence’, six Member States[[97]](#footnote-97) replied ‘after the definitive sentence’ (final court decision)and seventeen Member States[[98]](#footnote-98) specified ‘other’ circumstances[[99]](#footnote-99), including more of the above mentioned options. It is to be noted that there are certain differences concerning the reporting periodicity, also in relation to the role of the Public Prosecutor, on the basis of completion of each stage of criminal proceedings, or depending on the funds involved.

Table 23 shows the follow-up stage of cases under criminal proceedings reported by the Member States to the EC via the Irregularity Management System (IMS) and Table 24 provides the detailed information concerning the ‘Other’ replies.

*Table 23: follow-up stage of cases under criminal investigation via IMS*



*Table 24: ‘Other’ stages of the follow-up reporting reported by thirteen Member States*







## Reporting of irregularities where the beneficiary is a public authority/body

All Member States replied that they apply equal treatment of the reporting of irregularities where the beneficiary is a public authority/body, as in other cases, irrespective of the type of beneficiary.

1. Belgium, Bulgaria, Greece, Spain, France, Italy, Latvia, Lithuania, Hungary, Netherlands, Poland, Portugal, Romania, Slovakia and Sweden [↑](#footnote-ref-1)
2. Five measures were reported by Belgium, Bulgaria, Greece, Spain, Italy, Latvia, Lithuania, Hungary, Poland, Portugal, Romania and Slovakia, four measures were reported by France, Netherlands and Sweden. Only 1 measure was reported the Czech Republic, Denmark, Cyprus, Luxembourg and Finland. [↑](#footnote-ref-2)
3. Belgium, Bulgaria, Estonia, Spain, Latvia, Lithuania, Austria, Poland, Romania and Slovakia [↑](#footnote-ref-3)
4. Denmark, Germany, Ireland, France, Hungary, Portugal and Sweden [↑](#footnote-ref-4)
5. Germany, Ireland, Greece, Italy, Latvia, Lithuania, Hungary, Netherlands, Austria, Poland, Slovenia, Slovakia, Finland and Sweden [↑](#footnote-ref-5)
6. Bulgaria, France, Croatia, Austria, Portugal, Slovakia and Sweden [↑](#footnote-ref-6)
7. Bulgaria, Greece, Croatia, Malta and Slovakia (NAFS concerning structural actions: Greece, Croatia and Malta, while NAFS concerning all sectors: Bulgaria and Slovakia) [↑](#footnote-ref-7)
8. France, Croatia, Lithuania, Hungary, Netherlands, Portugal, Romania, Finland, and the United Kingdom [↑](#footnote-ref-8)
9. Article 125, 4. (c) of Regulation (EU) No 1303/2013, OJ 347, 20.12.2013, p. 320. [↑](#footnote-ref-9)
10. Germany, Ireland, Hungary, Portugal, Slovakia and the United Kingdom [↑](#footnote-ref-10)
11. Article 58, of Regulation (EU) No 1306/2013, OJ 347, 20.12.2013, p. 549. [↑](#footnote-ref-11)
12. Bulgaria, Czech Republic, Greece, Ireland, Italy, Latvia, Luxembourg, Netherlands, Austria, Poland, Romania, Slovenia and the United Kingdom. [↑](#footnote-ref-12)
13. Estonia, France, Italy, Hungary, Netherlands and Poland. [↑](#footnote-ref-13)
14. Belgium, Estonia, Greece, Spain, France, Hungary, Malta, Portugal, Romania. [↑](#footnote-ref-14)
15. The questionnaire outlined eight areas of specific PIF sectors to which the measures taken by the Member States applied; the 'other' field was used to report miscellaneous areas or horizontal strategies. Federal countries and countries with devolved administration in the field of anti-fraud strategy had the possibility to list 'additional measures' in a special field (Belgium and Latvia). [↑](#footnote-ref-15)
16. Reference to 'area' is, therefore, not equal to a single measure adopted. [↑](#footnote-ref-16)
17. **Ireland** (Anti-Fraud Seminar on EAFRD with participation of EC-red flags; reorganisation of existing bodies to prevent fraud affecting ESF claims), **Latvia** (clarification of the obligations of the audited entity, legislative horizontal provision), **Lithuania** (criteria for identifying applicants or aid recipients who have artificially created conditions for obtaining aid under measures under the Lithuanian Rural Development Programme for 2014-2020), **Netherlands** (new specific procedures for establishing the eligibility of the declared costs in the ESF fund), **Portugal** (seminars organised by the Audit Authority and the Agency for Development and Cohesion with the participation of EC, to improve the quality of expenditure at the end of the 2007-2013 programming period and to set up efficient systems for the prevention and detection of errors), **Poland** (1.working group on combating fraud in projects co-financed by EU funds in the Cohesion policy, aiming at efficient exchange of information with investigative authorities and 2.prevention of undue payments - stronger mechanisms for verification of aid applications for small scale projects, provincial governments performing the tasks of MAs under rural development program of the PP 2007-2013), **Portugal** (ESIF: creation of a database containing information on beneficiaries), **Slovakia** (1.ESIF: legislative consolidation for controls and auditing under a single provision, 2. amended administrative provision concerning financial management of structural funds, monitoring and controls, regarding the Cohesion fund and EMFF for PP the 2014-2020, 3. A system for the financial management and control regarding EAFRD for the programming period 2014–2020), **Sweden** (Seminar for authorities involved in managing and protecting EU funds, exchange of best practice in audit with FI and DK representatives) and **United Kingdom** (Agriculture/fraud risk management at UK PAs: regular revision of guidance or enhancement of anti-fraud measures concerning CAP on the basis of fraud risk assessment, fraud response plan - updated operational and organisational measure). [↑](#footnote-ref-17)
18. **Germany** (EMFF: working group on fraud prevention to produce guidance for paying agencies in the agricultural sector and fishing sector, risk indicators, increased targeted checks), **Estonia** (organisational and operational measure: establishment of a centrally-administered Economic Crimes Bureau to investigate fraud connected with aid funds), **Ireland** (a set of organisational and operational measures, risk indicators and increased number of checks to reduce ineligible expenditure in the ESF fund), **Italy** (extension of powers of Guardia di Finanza also to a Special Unit for Public Spending and Combating EU Fraud in order to control for the purposes of controlling payments from the budgets of the EU) and **Poland** (working group on combating fraud in projects co-financed by EU funds in the Cohesion policy to draw rules for efficient exchange of information- administrative measure). [↑](#footnote-ref-18)
19. **Greece** (Register of Fiscal Auditors and Auditors of the Fiscal Audit Committee (EDEL) with a view to ensuring full harmonisation of fiscal control with the internationally accepted auditing standards in line with the need to continuously evaluate and register staff engaged in fiscal control relating to the audits - single organisational measure). [↑](#footnote-ref-19)
20. **Croatia** (New administrative measure: Guidelines on management of irregularities and fraud in the context of structural funds programmes for the period 2007-2013). [↑](#footnote-ref-20)
21. Pursuant to Article 125 (4) c of the Regulation (EU) No 1303/2013 the managing authorities of structural funds have a clear duty to establish and apply proportional anti-fraud measures on the basis of risk analysis (in their management and control system): **France, Lithuania** (new legislation), **Malta** (Pursuant to Article 125(4)(c) of Regulation (EU) No 1303/2003, the managing authorities (MAs) have implemented proportionate anti-fraud measures in their management and control system. The MAs will aim to control the risk of fraud (and combat fraud) by means of a proactive, structured and targeted approach), **Netherlands** (administrative measure), **Slovakia** (administrative measure to enhance transparency), **Finland** (set of legislative provisions) and the **United Kingdom** (Anti-Fraud Policy developed in line with requirements for the 2014-2020 Cohesion policy programmes; operational (new risk indicators + increased number of checks). [↑](#footnote-ref-21)
22. **Ireland** (Strategy for implementation and inspection of the 2014-2020 EAFRD co-funded LEADER programme) and **Slovakia.** [↑](#footnote-ref-22)
23. **Malta** reported their National Anti-Fraud Strategy separately out of the PIF questionnaire. [↑](#footnote-ref-23)
24. **Bulgaria** (Adoption of the ‘National Strategy for the period 2014-2020’ setting out goals in both the expenditure and revenue areas, for preventing and combating irregularities and fraud affecting the financial interests of the EU, specific activities will be set out in an Action Plan for 2015-2016 for the Implementation of the National Strategy; package of legislative, administrative, organisational and operational measures), **Greece** (National antifraud strategy, new legislation concerning NSRF 2014-2020)**, Croatia** (National anti-fraud strategy for 2014-2016 and an Action plan, single administrative measure), **Hungary** (Legislative, organisational and operational measures) and **Slovakia** (Reported their National Anti-Fraud Strategy separately out of the PIF questionnaire: the National Strategy for the Protection of EU Interests in the Slovak Republic was drafted in 2014, formally approved on 7 January 2015 by the government). [↑](#footnote-ref-24)
25. **Bulgaria** (Improvement in the legislative and institutional framework in the field of public procurement, enhancing the degree of publicity and transparency in the awarding of such contracts. As part of the implementation of the National Strategy adopted in 2014, drafting work is under way on a new Framework Act on Public Procurement which is scheduled to enter into force as from 1 January 2016. The draft public procurement act will transpose the new European Directives 2014/24/EU and 2014/25/EU and the existing Directives 2009/81/ЕC and 2007/66/ЕC; package of measures) and **Romania** (Establishment of an Inter-ministerial Group in order to set up a new Public Procurement Strategy in line with EU Directives on Public Procurement or other Public Policies in this matter). [↑](#footnote-ref-25)
26. Legislative, administrative and operational measures: **Germany** (update of administrative procedure concerning the management of funds), **Spain** (2 legislative measures: on the competence of the Transparency Council and legislation on functional requirements of accounting register), **Hungary** (updated administrative guidance on implementation of public procurement law), **Romania** (aligning national legislation with EU Recommendation concerning corrections and new Public Procurement National Strategy on the management of funds), **Sweden** (simplified administrative procedure to reduce administrative burden on aid recipients, transparent accounting rules for project owners to reduce the risk of errors and fraud); IT tools: **Bulgaria** (unified information system for managing all operational programmes co-financed through ESIF for the PP 2014-2020), **Spain** (public access to the National Subsidies database under responsibility General State Controller IGAE, penalties for lack of transparency) and **Hungary** (the Public Procurement authority improving transparency of its portal to ensure open access to national procurement notices). [↑](#footnote-ref-26)
27. **Luxembourg** (enhanced administrative measure on better monitoring, control and documentation of public contracts submitted by beneficiaries), **Portugal** (operational measure to strengthen procedures regarding auditing and certifying expenditure). [↑](#footnote-ref-27)
28. **Belgium** (legislative measure on reporting of a suspected breach of integrity in a federal administrative authority by a staff member), **Bulgaria** (the above mentioned National strategy 2014-2020 with the aim to improve transparency), **Spain** (reported a new horizontal legislative measure establishing the statute of the Transparency Council and listed additional provisions on transparency reported by **autonomous communities** (Balearic Islands, Catalonia, Galicia, Castile and Leon, Murcia and Navarre) and **Lithuania.** [↑](#footnote-ref-28)
29. **Latvia** (administrative penalties regarding violation of procedures in public procurement being imposed by the Procurement Monitoring Bureau as of 2014, selective ex-ante control of procedures). [↑](#footnote-ref-29)
30. Belgium, Bulgaria, Estonia, Spain, Ireland, France, Italy, Latvia, Lithuania, Hungary, Austria, Portugal, Romania, Slovenia and the United Kingdom. [↑](#footnote-ref-30)
31. Germany, Estonia, Greece, Spain, France, Italy, Austria and Romania. [↑](#footnote-ref-31)
32. **Romania** (As a part of the new criminal public policy, introduced an adapted definition of the conflict of interest criminal offence in the Criminal Code, which included strengthened sanctions). [↑](#footnote-ref-32)
33. **Spain** (Statute of the ‘Transparency Council’: obligation of active and regular publication of the most relevant information for the prevention of possible conflict of interest and corruption - a new strategy which must guarantee and apply the law by monitoring its implementation. Among the powers of the TC is initiation of a disciplinary procedure with possible application of penalties. The published information concerns tender, subsidies and public aid granted, indication of the amount, purpose and beneficiaries; remuneration received annually by senior officials and heads of public institutions and received compensation, if any, to cease or leave the office; decisions of approval or recognition of compatibility affecting public employees, and authorisation of private activities of the public officials). [↑](#footnote-ref-33)
34. Commission de Coordination des Contrôles (CICC). [↑](#footnote-ref-34)
35. Belgium, Estonia, Ireland, Greece, Spain, Italy, Latvia, Lithuania, Hungary, Romania and Slovenia [↑](#footnote-ref-35)
36. **Germany** (improved legal framework), **Latvia** (concerning liability of legal persons), **Romania** (adopted new definitions of corruption offences in their amended Criminal Code as a part of their National Anticorruption Strategy 2012-2015). [↑](#footnote-ref-36)
37. [↑](#footnote-ref-37)
38. Belgium, Denmark, Ireland, Italy, Latvia, Lithuania, Hungary, Portugal and Slovakia: **Belgium** (legislative amendments on reporting of a suspected breach of integrity in a federal administrative authority by a member of its staff, separate measure in Flanders: introduction of a new protocol which enhances the role of the Flemish Ombudsman), **Denmark** (operational measure: paying agency for agricultural funds has established a web-portal for reporting fraud), **Ireland** (Anti-fraud briefing seminar vered by advisor from Dg AGRI in relation to EAFRD), **Italy** (anti-corruption plan for Emilia Romagna), **Latvia** (1. extended scope of public officials in the Criminal Law, liability of legal persons was improved including adjudicating offences of public officials holding managerial positions, 2.operational measure: Inter-institutional working group established to elaborate whistleblower protection regulation), **Lithuania** (application of anti-fraud measures as required by Art. 125(4) of Regulation (EU) No 1303/2013, **Hungary** (operational measure on structured cooperation with law enforcement), **Portugal** (1.anti-fraud seminar organised by IFAP in collaboration with DG AGRI, 2.legislation drafted by IFAP on the process of identifying risk situations of fraud) and **Slovakia** (legislative measure on the basis of proposed measures to ensure implementation of the recommendations adopted by the OECD Working Group on Bribery in International Business Transactions for Slovakia). [↑](#footnote-ref-38)
39. Belgium, Bulgaria, Czech Republic, Estonia, Greece, Cyprus, Spain, Latvia, Lithuania, Netherlands, Hungary, Malta, Poland, Portugal, Romania, Slovenia and Sweden. [↑](#footnote-ref-39)
40. **Romania** (new definition of criminal offences as foreseen by its new Criminal Code and its implementing rules + operational provision: enhancing recovery of criminal prejudices through data analysis on perpetrators assets and through exchanging information with similar structures for other Member States or other international networks). [↑](#footnote-ref-40)
41. **Spain** (amendment on prevention of money laundering and terrorist financing). [↑](#footnote-ref-41)
42. **Spain** (money laundering and terrorist financing (risk-based approach, remodelling of procedural requirements and revision of institutional structure), **Sweden** (guidelines to clarify what is meant by errors and suspected crime: the target group are administrators and directors within the Swedish authorities who deal with EU funds, horizontal measure, applicable to all funds). [↑](#footnote-ref-42)
43. **Hungary** (horizontal provision: exchange of information among bodies and authorities involved in auditing EU aid). [↑](#footnote-ref-43)
44. **Belgium** (horizontal provision: control measures, powers and record of notifications – punishment of infringements), **Malta** (introduced an increased punishment related to a number of offences - sanctions for obtaining money or property by false pretences, corporate liability for offences and other cases of fraudulent gain- consolidation of the Penal laws and laws of criminal procedure). [↑](#footnote-ref-44)
45. **Latvia** (introduced operational measure to include risk indicators to ensure that in relevant countries of the EU involved in transactions the VAT tax is correctly calculated and paid), **Estonia** (VAT - changes in the taxation law), **Poland** (legislative measure - change in the rules governing the deduction of VAT from expenditure related to motor vehicles). [↑](#footnote-ref-45)
46. **Belgium** (legal arrangements to be declared by BE residents: disclosure obligation targets trusts, but also non-resident companies, corporations, associations, foundations that are located in tax havens - in line with EU Savings Tax Directive). [↑](#footnote-ref-46)
47. **Poland** (clarification of the rules on tobacco taxation to prevent tax avoidance). [↑](#footnote-ref-47)
48. Bulgaria, Czech Republic, Estonia, Greece, Latvia, Netherlands, Poland, Portugal and Slovenia [↑](#footnote-ref-48)
49. **Bulgaria** (checks performed by the customs authorities, introduction of equipment for measuring and testing excise goods), **Czech Republic** (organisational measure: establishment of a special team bringing together the Corruption and Financial Crime Detection Section, the Directorate-General for Finance and the Directorate-General for Customs to tackle financial crime, in particular customs duty and VAT evasion), **Estonia** (changes in the taxation law), **Greece** (introduced risk analysis criteria within the ICISnet, Customs information system to apply targeted customs control on exports of any goods), **Latvia** (amended legislation on mutual assistance and cooperation – Naples II Convention – better cooperation for faster detection, prevention and punishment of perpetrators), **Netherlands** (adopted two specific operational measures in customs: 1. antidumping measure concerning solar panels - focus on declaring false countries of origin or by transhipment and 2. general intensified controls on origin – targeted checks in customs), **Poland** (guidelines on ‘Verifying the declared customs value of textile goods and footwear imported from Far Eastern countries mainly from China’), **Portugal** (national budget law introduced law on customs crimes, indication of organised crime or with an international dimension) and **Slovenia** (reorganisation and adoption of a legislative framework which newly defined process for financial investigation). [↑](#footnote-ref-49)
50. **Sweden** and **Spain** reported the designation of AFCOS as one of their most important measures to protect the financial interests of the EU, however, in 2014 AFCOS were also designated in Denmark, Ireland, Greece, Luxembourg, Austria, Portugal and the United Kingdom, thus by the end of 2014 all the Member States had designated or established their Anti-Fraud Coordination Service. [↑](#footnote-ref-50)
51. Pursuant to Article 3(4) of the OLAF Regulation (single legislative measure). [↑](#footnote-ref-51)
52. It was established by the Royal decree 802/2014 of 19 September which involved various anti-fraud measures, including the creation of the ‘National Accounting Office’ and updating of powers of various bodies (D.G. for Community Funds; Secretariat-General for Autonomous and Local Coordination; D.G. for Public Service; D.G. for Coordination of powers with the Autonomous Communities and Local Authorities). [↑](#footnote-ref-52)
53. Denmark, Ireland, Sweden and the United Kingdom [↑](#footnote-ref-53)
54. Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Greece, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Netherlands, Poland, Romania, Slovenia, Slovakia, Finland and Sweden [↑](#footnote-ref-54)
55. Belgium, Czech Republic, Estonia, Latvia, Netherlands, Poland and Romania [↑](#footnote-ref-55)
56. Regulations (EC) Nos 1828/2006 and 1848/2006 [↑](#footnote-ref-56)
57. Article 7 of Regulation (EC, Euratom) No 2988/95. [↑](#footnote-ref-57)
58. Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Greece, Italy, Cyprus, Latvia, Lithuania, Hungary, Netherlands, Poland, Romania, Slovakia and Finland [↑](#footnote-ref-58)
59. Bulgaria, Germany, Estonia, Ireland, Croatia, Italy, Hungary, Malta, Austria, Poland, Romania, Slovenia, Sweden and the United Kingdom [↑](#footnote-ref-59)
60. Belgium, Denmark, France, Cyprus, Lithuania and Netherlands [↑](#footnote-ref-60)
61. Latvia and Slovakia [↑](#footnote-ref-61)
62. Greece, Spain, Luxembourg, Portugal and Finland [↑](#footnote-ref-62)
63. Italy requests authorisation systematically and Romania does so on a case-by-case basis. [↑](#footnote-ref-63)
64. Belgium, Bulgaria, Czech Republic, Estonia, Greece, Latvia, Romania and Slovakia [↑](#footnote-ref-64)
65. Belgium, Bulgaria, Czech Republic, Denmark, Greece, Spain, Croatia, Italy, Cyprus, Hungary, Malta, Portugal, Romania, Slovenia, Slovakia and Sweden [↑](#footnote-ref-65)
66. Germany, Estonia, France, Latvia, Lithuania, Luxembourg, Netherlands, Ireland, Austria, Poland, Finland, and the United Kingdom [↑](#footnote-ref-66)
67. Belgium, Bulgaria, Czech Republic, Estonia, Spain, Croatia, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Romania and Slovakia [↑](#footnote-ref-67)
68. Germany, Ireland, France, Italy, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden [↑](#footnote-ref-68)
69. Denmark, Greece, Poland and the United Kingdom [↑](#footnote-ref-69)
70. Belgium, Denmark, Germany, Greece, Latvia, Poland, Romania and Finland [↑](#footnote-ref-70)
71. Belgium, Germany, Greece, Latvia, Austria, Romania and Finland [↑](#footnote-ref-71)
72. Belgium, Denmark, Germany, Greece, Spain, Latvia, Luxembourg, Hungary, Malta, Austria, Poland, Romania, Slovenia, Slovakia and Finland [↑](#footnote-ref-72)
73. Belgium, Bulgaria, Czech Republic, Estonia, Ireland, France, Croatia, Italy, Cyprus, Lithuania, Netherlands, Austria, Poland, Portugal, Slovenia, Sweden, United Kingdom [↑](#footnote-ref-73)
74. Denmark, Ireland, Sweden and the United Kingdom [↑](#footnote-ref-74)
75. Denmark, Croatia, Italy, Cyprus, Lithuania, Malta, Poland and Sweden [↑](#footnote-ref-75)
76. Belgium, Bulgaria, Czech Republic, Estonia, Greece, Latvia, Hungary, Netherlands, Romania, Slovenia, Slovakia and Finland [↑](#footnote-ref-76)
77. Germany, Ireland, Spain, France, Luxembourg, Austria, Portugal and the United Kingdom [↑](#footnote-ref-77)
78. The concept of “economic operator” is linked directly to the definition of “irregularity”. For a legal definition, in relation to irregularity reporting, see, *inter alia*, article 27 (a) of Regulation (EC) No 1828/2006. [↑](#footnote-ref-78)
79. The PACA is the triggering moment for the obligation to report an irregularity to the Commission. For a legal definition, in relation to irregularity reporting, see, *inter alia*, article 27 (b) of Regulation (EC) No 1828/2006. [↑](#footnote-ref-79)
80. Suspected fraud is a specific subset of the irregularity concept. For a legal definition, in relation to irregularity reporting, see, inter alia, article 27 (c) of Regulation (EC) No 1828/2006. [↑](#footnote-ref-80)
81. Belgium, Czech Republic, Estonia, Latvia, Netherlands, Poland and Romania [↑](#footnote-ref-81)
82. I.e. developed by the Member States or provided by the European Commission alongside national guidelines. [↑](#footnote-ref-82)
83. Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Greece, Italy, Cyprus, Latvia, Lithuania, Hungary, Netherlands, Poland, Romania, Slovakia and Finland [↑](#footnote-ref-83)
84. The full version of definitions can be seen in the two tables below. [↑](#footnote-ref-84)
85. IRQ3 Irregularity qualification refers to the specific code used in the Irregularity Management System (IMS) to indicate that a given irregularity is a “suspicion of fraud”. [↑](#footnote-ref-85)
86. Germany, Bulgaria, Estonia, Croatia, Ireland, Italy, Hungary, Malta, Austria, Poland, Romania, Slovenia, Sweden and the United Kingdom [↑](#footnote-ref-86)
87. Belgium, Denmark, France, Cyprus, Lithuania and Netherlands [↑](#footnote-ref-87)
88. Latvia and Slovakia [↑](#footnote-ref-88)
89. Greece, Spain, Luxembourg, Portugal and Finland [↑](#footnote-ref-89)
90. Bulgaria, Czech Republic, Denmark, Greece, Spain, Croatia, Italy, Cyprus, Hungary, Malta, Portugal, Romania, Slovenia, Slovakia and Sweden. [↑](#footnote-ref-90)
91. Germany, Estonia, France, Latvia, Lithuania, Luxembourg, Netherlands, Ireland, Austria, Poland, Finland, and the United Kingdom. [↑](#footnote-ref-91)
92. Belgium, Bulgaria, Czech Republic, Estonia, Spain, Croatia, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Romania and Slovakia. [↑](#footnote-ref-92)
93. the full answers are to be seen on the pp.74-77. [↑](#footnote-ref-93)
94. Germany, Ireland, France, Italy, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden. [↑](#footnote-ref-94)
95. Denmark, Greece, Poland and the United Kingdom. [↑](#footnote-ref-95)
96. Belgium, Denmark, Germany, Greece, Latvia, Poland, Romania, Finland [↑](#footnote-ref-96)
97. Spain, Luxembourg, Hungary, Malta, Slovenia, Slovakia [↑](#footnote-ref-97)
98. Bulgaria, Czech Republic, Estonia, Ireland, France, Croatia, Italy, Cyprus, Lithuania, Netherlands, Portugal, Sweden and the United Kingdom [↑](#footnote-ref-98)
99. full answers are on pp.80-83 [↑](#footnote-ref-99)