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

**Annex to the 2007 Report from the Commission on the protection of the European
Communities' financial interests and the fight against fraud
STATISTICAL EVALUATION OF IRREGULARITIES- OWN RESOURCES,
AGRICULTURE, STRUCTURAL MEASURES, PRE-ACCESSION FUNDS AND
DIRECT EXPENDITURE -YEAR 2007
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1. THE SITUATION IN 2007

1.1. Legal bases and concepts

Community legislation provides for the protection of the Community's financial interests in all areas of activity¹. Member States are required to notify the Commission of evidence of fraud and other irregularities. This need is particularly evident in those sectors of the Community budget where the main responsibility for management is with the Member States, namely, in the fields of Agriculture and Structural Funds (on the expenditure side) and Own Resources (on the revenue side). In these areas, Member States must inform the Commission of all irregularities involving more than €10,000 of community finances. This applies at all stages in the procedure for recovering monies unduly paid or not received.

Regulation No. 1848/2006² specifies the requirement for the agriculture sector, Regulations Nos. 1681/94³ and 1831/94⁴, as amended, respectively by Regulations Nos. 2035/2005 and 2168/2005, for structural measures and Regulation No. 1150/2000 for own resources. In the case of pre-accession funds the obligation to report irregularities is specified in Community legislation and in the Pre-Accession and Accession Agreements between the European Community and the Candidate and Acceding States.

The European Parliament and the Council adopted a series of Regulations introducing a new system for the Structural Funds for the new 2007-2013 programming period⁵. A revised system for management and control was adopted through the new Regulations, introducing a certification authority and an audit authority (replacing the notions of paying and control authority). Some new responsibilities have now been added to the authorities, strengthening the control framework. The rules on reporting irregularities to the Commission have been

¹ See in particular Article 3(1) of Council Regulation (EEC) No 595/91 of 4 March 1991 (OJ L 67, 14.3.1997), Commission Regulation (EC) No 1681/94 of 11 July 1994 (OJ L 178 of 12.7.1994), as amended by Regulation (EC) No 2035/2005 of 12 December 2005 (OJ L 328 of 15.12.2005), and No 1831/94 of 26 July 1994 (OJ L 191, 27.7.1994), as amended by Regulation (EC) No 2168/2005 of 23 December 2005 (OJ L 345 of 28.12.2005), for expenditure, and Article 6(5) of Council Regulation (EC, Euratom) No 1150/2000 for traditional own resources.

² As of 1st January 2007, also the threshold for the agriculture sector has been increased to €10,000 following the provisions contained in article 6(1) of Regulation (EC) 1848/2006 of 14 December 2006 (OJ L 355 of 15.12.2006).

³ Regulation 1681/94 applies to the Structural Funds, that is to say European Regional Development Fund (ERDF), European Social Fund (ESF), European Agriculture Guidance and Guarantee Fund (EAGGF) – Section Guidance and Financial Instrument for Fishery Guidance (FIFG).

⁴ Regulation 1831/94 applies to the Cohesion Fund.

⁵ Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999; Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999; Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999; Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94, OJ L 210, 31.7.2006.

retained, but the communication procedure is now part of the implementing Regulations⁶ rather than a separate Regulation, as was previously the case. The old Regulations have been repealed, but will continue to apply with reference to former programming periods.

The provisions to be followed are mostly based on the Commission Regulation (EC) No 1681/1994. Member States are required to report irregularities under Article 3 of these regulation (for own resources the relevant provisions are contained in Article 6, paragraph 5. For agriculture, the relevant provisions are contained in article 3) within two months of the end of each quarter. Under Article 5 (again, Article 6, paragraph 5 for own resources) they have to submit updates of the cases communicated and relevant information about the financial, administrative and judicial follow-up.

The distinction between irregularities⁷ and fraud⁸ is that fraud⁸ is a criminal act that can only be determined by the outcome of judicial proceedings. As such, it is only when the judicial procedure has come to an end that the actual amount of fraud can be determined. While awaiting the results, the Commission works on the basis of the information supplied by Member States concerning cases of irregularities some of which, in the opinion of the reporting Member States, give rise to suspicions of fraud⁹. The Commission's statistical assessment of, and ability to respond to,

⁶ Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund, OJ L 371, 27.12.2006. This repeals Regulations (EC) No 1681/94 and (EC) No 1831/94. Commission Regulation (EC) No 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund.

⁷ According to the definition provided for in Article 1(2) of Regulation No. 2988/1995, 'Irregularity' shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure. Sectoral legislation now reproduce a very similar definition adapted to the specific sector concerned.

⁸ According to the definition provided for in Article 1 of the Convention on the protection of the Community's financial interests of 26 July 1995 (OJ C No 316 of 27.11.1995), which entered into force on 17 October 2002, «[...] fraud affecting the European Communities' financial interests shall consist of:

(a) in respect of expenditure, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- the misapplication of such funds for purposes other than those for which they were originally granted;

(b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- misapplication of a legally obtained benefit, with the same effect.»

⁹ According to the definition provided for in Article 1a of Reg. No. 1681/94 as amended by Reg. No. 2035/2005, 'suspected fraud' means an irregularity giving rise to the initiation of administrative and/or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, such as is referred to in Article 1(1), point (a), of the Convention on the protection of

irregularities is influenced by the accuracy and timeliness of the notifications made by the Member States.

The practices of the national administrations still vary, though improvements have been achieved thanks to the efforts made to harmonise their approaches. The data communicated by Member States is sometimes incomplete. Furthermore, the distinction between “suspected frauds” and other irregularities is not consistent as Member States do not always have the same definition of criminal risk. Consequently, a significant proportion of communications received by the Commission do not distinguish between suspected fraud and irregularity.

The Commission works in close cooperation with the Member States to improve the notification system for irregularities, in particular to clarify the concepts of “fraud” and “irregularity”¹⁰ and as a result of this, attempts to measure the possible economic impact of fraud in certain sectors have been made. However, for the reasons outlined above, the figures presented below should be interpreted with caution. It would be particularly inappropriate to draw simple conclusions about the geographical distribution of fraud **or on the efficiency of the services which contribute to the protection of financial interests.**

1.2. Key Facts

Annex 22 gives an overview of all irregularities communicated by Member States under Regulation No. 1848/2006 for the agriculture sector, Regulations Nos. 1681/94 and 1831/94 for structural measures and Regulation No. 1150/2000 for own resources. No irregularities have been yet communicated under Regulation No. 1828/2006.

In general, the number of irregularities notified for the year 2007 has decreased by 9%.

The following paragraphs will provide details concerning the different sectors of the budget analysed in this document.

The total number of irregularities has increased for traditional own resources and structural funds. It has also increased for the pre-accession funds. It has decreased for the cohesion fund and agriculture.

However, the total financial amounts affected by irregularities notified for the year 2007 has increased by 19%.

the European Communities' financial interests. Similar definitions are inserted in relevant sectoral regulations as Reg. No. 1848/2006, for agriculture and Reg. No. 1828/2006 for the Structural Funds new programming period 2007-2013.

¹⁰ The Commission opened a dialogue with the representatives of the Member States to clarify basic concepts and to re-assure Member States that the communication of irregularities in no way prejudices the outcome of criminal judicial proceedings. A working document on the practical modalities for the communication of irregularities was established. Discussions are continuing in the Advisory Committee on the Coordination of Fraud Prevention.

The total amounts affected by irregularities have increased for traditional own resources, agriculture and structural funds. Irregular amounts also increased for the pre-accession funds. They have decreased for the cohesion fund.

1.2.1. Traditional Own Resources

In 2007, the number of cases of irregularities communicated by the Member States decreased from 5,705 to 5,321. However, the amount of TOR increased from EUR 353 million to EUR 377 million.

Communications from the ten new Member States have continued to grow since their accession in 2004. This is a result of increasing familiarity with the requirements of the reporting system.

1.2.2. Agriculture

In 2007, OLAF processed 7,155 communications under Regulation (EC) No 1848/2006. A large number of these communications, i.e. 6,406, were updates of cases that had been reported prior to 2007.

Member States reported 1,548 new irregularities compared with 3,249 in 2006. The total amount affected in 2007 was about EUR 155 million, as against approximately EUR 87 million in 2006.

Irregularities notified in this sector represent 0.33% of the agricultural budget.

1.2.3. Structural Measures

In 2007, Member States reported 3,740 irregularities under Regulation (EC) No. 1681/94 which covers the four Structural Funds and 92 under Regulation (EC) No. 1831/94 (on the Cohesion Fund). In 2006 the reported irregularities were 2,988 and 228 respectively.

The total amount affected by irregularities in 2007 was about EUR 827.6 million, EUR 717.4 million of which was from the Structural Funds (EUR 516.6 million in 2006) and EUR 110.2 million from the Cohesion Fund (EUR 186.6 million in 2006).

Irregularities reported in this sector were equivalent to 1.83% of the budget allocated to structural measures in 2007.

1.2.4. Pre-accession Funds

In 2007 Member States and Acceding Countries sent to OLAF 1,615 reports of which 332 new communications and 1,283 updates of cases which had been reported previously.

The total amount affected by irregularities reported in 2007 was EUR 32 million where PHARE accounts for EUR 16 million (96 cases), SAPARD – EUR 11 million (150 cases), ISPA – EUR 6 million (86 cases).

Irregularities reported in this sector represent 2.46% of the budget allocated to pre-accession measures in 2007.

1.2.5. Direct Expenditure – Centralised Direct Management

In 2007, 411 cases of irregularities were detected by Commission Services.

The total value of contracts in which irregularities have been detected amounts to EUR 300 million of which EUR 33 million has been identified as irregular

The financial impact of these irregularities amounted to 0.30% of the total value of contracts managed on a centralised direct basis by the Commission.

PART I - REVENUES

2. TRADITIONAL OWN RESOURCES (ANNEXES 1-10)

2.1. Management of Traditional Own Resources (TOR)

The Community must have access to Traditional Own Resources ('TOR')¹¹ under the best possible conditions. In conformity with Regulation (EC, Euratom) 1150/2000¹² Member States are responsible for making available to the Commission, within the deadlines set, TOR that they have established. Established amounts of customs or agricultural duties which have been recovered and debts which are guaranteed and not under appeal are to be made via the *A-account*. However where TOR has been established by a Member State but not yet recovered and where no security has been provided or the established amount has been disputed Member States may enter these TOR amounts in the *B-account*. *These amounts of TOR are not then* made available until actually recovered. Most fraud and irregularity cases relate to B-account items.

2.1.1. Monitoring of establishment and recovery of TOR

In order to get the right picture of Member States TOR recovery activity it is important to keep in mind that over 95% of all amounts of TOR established are subsequently recovered without particular problem. These amounts are entered in the A-account and made available to the Commission. This covers most of the 'normal' import flows where release for free circulation gives rise to a customs debt. The remaining exceptional items are entered in the B-account. This proportion should be borne in mind when evaluating Member States' recovery activity. In return for their collection task, and to support sound and efficient management of public finances, Member States may keep 25% of the amounts involved. In its capacity as Authorizing Officer responsible for executing the EU budget, the Commission (DG Budget as delegated Authorizing Officer) monitors Member State activity concerning establishing and recovering TOR.

The following three methods are used:

1. Overall monitoring of recovery of TOR via the write-off procedure;
2. Regular inspection in Member States of the establishment and recovery of TOR, and B-account entries;
3. Specific monitoring (in close cooperation with OLAF) of Member States follow-up of recovery in individual cases with significant financial impact and which involve Mutual Assistance.

These three methods allow the Commission to monitor Member States' performance without interfering too much in their day to day operations.

¹¹ These are mainly customs and agricultural duties.

¹² Regulation 1150/2000 of 22 May 2000.

2.1.2. Procedure for managing Member States' requests for write-off

Member States must take all available measures to ensure that amounts corresponding to the entitlements established are made available to the Commission. This requirement is in Article 17.1 of Regulation 1150/2000. That article also provides that a Member State may only be released from its obligation where established entitlements prove irrecoverable either:

(a) for reasons of *force majeure*; or

(b) for other reasons which cannot be attributed to that Member State.

Amounts of established entitlements become irrecoverable by one of two routes. The first is by a decision of a Member State *declaring* that they cannot be recovered – this declaration may be made at any time. However, TOR must be *deemed* irrecoverable by a Member State at the latest five years from the date on which the amount was established, or in the event of an administrative or judicial appeal, the final decision was given, or the last part-payment of an established amount was made, whichever is the later. Where the irrecoverable amount of TOR exceeds a threshold of EUR 50,000 the write-off must be reported to the Commission. For amounts under EUR 50,000, Member States do not have to communicate the case to the Commission unless the Commission makes a specific request. A 2004 amendment to Regulation No 1150/2000¹³ introduced the 5-year timeframe within which a Member State has to provide the Commission with information on amounts of established entitlements of TOR deemed irrecoverable. As a result it is expected that before 2009 there will be a marked increase in requests by Member States to write-off established TOR amounts deemed irrecoverable, whereas 2007 showed a decrease in requests compared with 2006 (↓ 60 requests). The increase will consist of old cases not yet reported to the Commission, but which meet the 5-year deadline triggering application of the write-off procedure. DG Budget is preparing to deal with the anticipated increase in the number of cases. A new IT-application called WOMIS¹⁴ will be introduced in 2008 to support Member States and DG Budget in managing the write-off requests.

In 2007 100 write-off requests amounting to EUR 37,854,293.39 were communicated to the Commission by 8 Member States. In total, 117 requests were processed in 2007¹⁵ with the following result:¹⁶

¹³ Regulation No. 2028/2004, amending Regulation No. 1150/2000.

¹⁴ WOMIS: Write-Off Management and Information System.

¹⁵ Origin of the cases: 8 cases from Belgium, 62 from Germany, 9 from Denmark, 8 from France, 2 from Italy, 1 from the Netherlands, 6 from Sweden and 4 from the UK.

¹⁶ The breakdown between the amounts for each of the positions is, at present, only an estimate because sometimes elements from the same case may be partly accepted, considered not suitable or refused. Additional information from the Member States (in particular on the proportion covered by guarantee) is then needed to provide the final classification and quantification of the amounts concerned.

Table OR 1: Write-off requests treated in 2007 – results

Commission position	cases	% cases	€	% amount
Unsuitable exemption request	0	0%	0	0%
Write-off accepted	79	66,90%	33,250,905.56	50,41%
Required additional information	23	19,60%	4,458,985.69	6,76%
Write-off refused	16	13,55%	28,143,171.43	42,67%
TOTAL	118*	100%	65,953,062.68	100%

* One case was part accepted and part refused so the total is 118.

Examination of Member States diligence in these cases constitutes a very effective mechanism for gauging their activity in the field of recovery. It encourages national administrations to intensify their recovery activity in terms of regularity, efficiency and effectiveness, since a lack of diligence leading to failure to recover results in individual Member States having to foot the bill. During 2007 over EUR 16.5 million was paid by Member States, because of refused write-offs.

2.1.3. Particular cases of Member State failure to recover TOR

Where TOR are not established because of an administrative error by a Member State, the Commission applies the principle of financial responsibility¹⁷. As a result during 2007 over EUR 20 million was paid by Member States, aside from belated interest¹⁸.

All together the cases of financial responsibility dealt with by DG Budget up until the end of 2007 total nearly EUR 190 million. The main objective of this procedure is to encourage individual Member States to improve their administrations' performance and to address weaknesses leading to a loss of TOR and national taxes. This money is in effect transferred back to the Member States in proportion to their contribution to the EU budget as it reduces their contributions via the GNI-resource.

2.2. Reporting Discipline

Under Article 6(5) of Regulation 1150/2000, Member States are required to communicate to the Commission, via the OWNRES system¹⁹, cases of fraud and irregularity where the TOR-amount exceeds EUR 10,000. The requirement to report such cases is designed to inform the Budgetary Authority of the state of play relating to fraud and irregularities in TOR. This political dimension is a clear signal to all stakeholders of the importance of prompt, accurate and complete reporting. The OWNRES-database is a key tool obtaining data for global analyses of fraud and irregularities, and presents valuable information to the Budgetary Authority.

¹⁷ Case C-392/02 of 15 November 2005. These cases are identified on the basis of Articles 220(2)b (administrative errors not detectable by the operator) and 221(3) (time-barring resulting from Customs' inactivity) of the Community Customs Code; of Articles 869 and 889 of the Provisions for application of the Code; or on the basis of non-observance, by the customs administration, of articles of the Community Customs Code giving rise to legitimate expectations on the part of an operator.

¹⁸ In such a situation there is no registration in OWNRES of the fraud or irregularity.

¹⁹ OWNRES is an abbreviation for Own Resources.

Because all TOR-amounts exceeding EUR 10,000 in the B-account represent an irregularity (fraud included) by definition a match between the two from the perspective of the B-account should be 100%²⁰. In the past (2003-2006) specific attention was given to this question in ACOR²¹ meetings, resulting in an improvement in matching from 30% in 2003 to over 90% in 2006. In the absence of any signals of significant changes in 2007 no new comparison has been demanded by the Commission. However, previous experience had shown shortcomings in registering in OWNRES irregularities where no debt was subsequently established (most commonly cigarette smuggling where the goods are seized and subsequently confiscated thus extinguishing the debt) so a reminder was sent to Member States in 2007. This has resulted in improvements in registration²².

OWNRES is not a reliable source of data on fraud alone isolated from irregularity. This is because (until a Court judgement is obtained) the distinction between fraud and irregularity has usually been made on subjective grounds. These grounds vary greatly between national administrations and so the results cannot be relied upon. Please bear these considerations in mind, when looking at the following analysis of OWNRES data.

Year of detection versus year reported

Cases should be included in OWNRES upon the initial discovery of the irregularity or fraud case. As a result the year of the customs operation and the year of discovery of the irregularity or fraud can diverge. Member States are continually adding new cases and updating existing items. So the information generated by OWNRES represents the situation on the date of the query. For instance, the number of irregularities and frauds concerning 2006 in last year's report was 5,243 cases whereas the number of cases now shown for 2006 is 5,705 cases²³. This continuing development is inherent to the system.

2.3. General Trends

The number of cases communicated to OWNRES decreased by 6.7% in 2007 in comparison with 2006 (from 5,705 in 2006 to 5,321 in 2007), but the amount of TOR involved increased by nearly 7% (up from EUR 352 million in 2006 to EUR 377 million in 2007)²⁴. The trend for the number of belatedly discharged transit operations to decrease continued²⁵, although their proportion of the amount increased.

²⁰ Items registered in OWNRES are not necessarily also in the B-account. Where a debt has been paid or not established (for instance where goods have been seized and confiscated) the amounts should not be entered in the B-account.

²¹ ACOR= Advisory Committee on Own Resources, section Traditional Own Resources.

²² See annex 8.

²³ The information generated by OWNRES used to produce the figures in this chapter was all requested by queries made on 9 March 2008.

²⁴ See annex 1 (table) and annex 2 (chart).

²⁵ In 2005 the number of cases of belatedly discharged Transit was 2,325 being 38.4% of the total number of cases registered and 3.7% of the total amount. In 2006 there were 1,440 cases (25.2% of the cases and 4.4% of the total amount) and in 2007 there were 1,193 cases (22.4% of the cases and 6.9% of the amount).

Communications from the ten new Member States have continued to grow since their accession in 2004, however the rate of growth has significantly slowed. 2007 shows 12% growth when compared with 2006 whereas when 2006 was compared with 2005, it showed growth of 47%. If the comparisons are made using the amounts of TOR, the growth rates are 22% and 123% respectively.

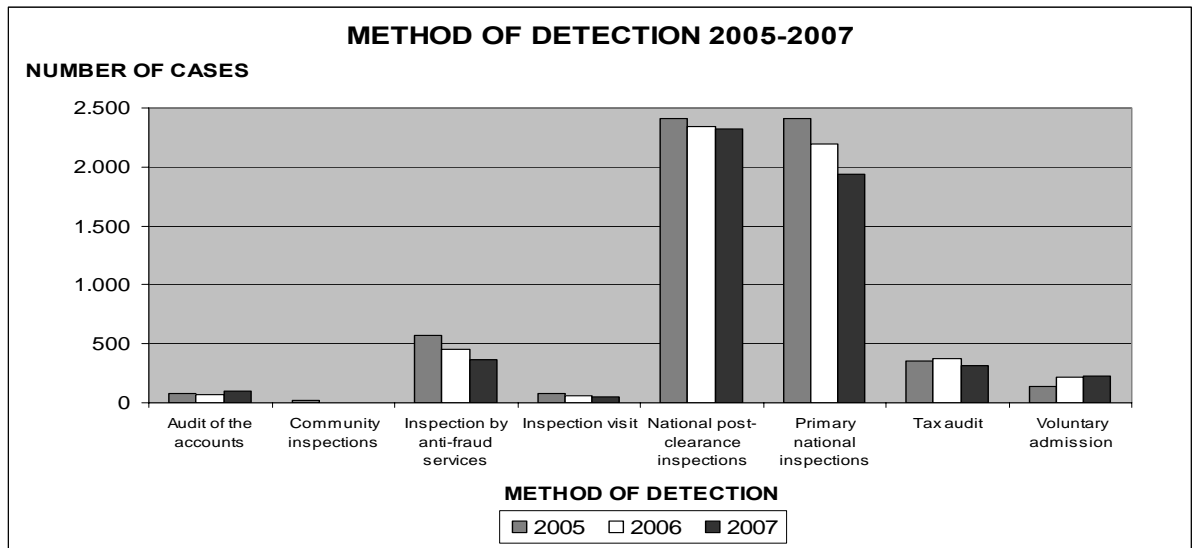
The OWNRES database now contains 44,103 cases in total (1989-2007), showing an increase of over 16% during 2007. Significant changes in the number of registrations in 2007 compared with 2006 can be seen for Poland (+129%), Latvia (+43%), Portugal (+35%), the Czech Republic (-38%), and Spain and Hungary (-35%). Significant changes in amounts can be seen in Poland (+374%), Belgium (+90%), Portugal (-52%), the UK (+87%) and Spain (-57%).

2.3.1. Method of detection

A variety of detection methods can reveal irregularity or fraud. Judging from the 2007 data the most fruitful methods are *national post-clearance inspections* and *primary national inspections* (either physical inspections or inspections of documents – the latter category featuring most frequently). Post-clearance inspections feature in 43.6% of the cases discovered whereas primary national inspections cover 36.5%.

It seems that the shift which could already be seen in 2006 from primary (38.4%) to post-clearance inspections (41.1%) is continuing in 2007. It may mark the beginning of a trend related to ongoing changes in declaration and control procedures. The relative importance of inspections by anti-fraud services was stable with 6.9% in 2007 compared to 7.9% in 2006.

Chart OR 1: Method of detection 2005-2007

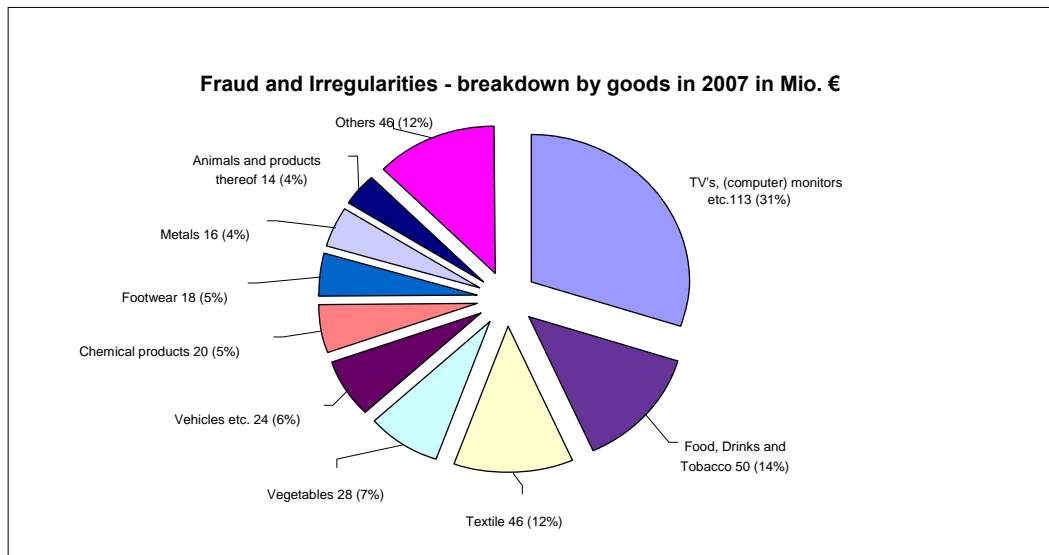


2.3.2. Types of irregularity and fraud

A breakdown of frauds and irregularities by *customs procedure* and by *mechanism type* confirms that release for *free circulation* is the procedure most commonly specified (64% of the cases²⁶). Smuggling, misdescription and false declarations (incorrect value, origin, and preferential arrangements) are the mechanisms most frequently mentioned.

The goods (defined by the first two numbers of the CN-code²⁷) most affected by fraud and irregularities in 2007, as in previous years, are TVs/monitors etc. (CN 85) and tobacco products (CN 24). Vegetables (specifically garlic) (CN 07) increased in importance when compared to 2006 as did footwear (CN 64), (parts of) cars and motors (CN 87) and clothing (CN 61-62), whereas meat (CN 02), articles of iron and steel (CN 73) and cereals (CN 10) went down²⁸.

Chart OR 2²⁹: Fraud and irregularities – breakdown by goods in 2007



Analysis of the *origin* of goods subject to fraud and irregularity³⁰ reveals that, just as in 2006, goods originating from China, Japan, the USA, Thailand and South Korea remain very much affected. The number of cases in the origin category *non-specified* decreased, as in 2006, in parallel with the decrease in Transit cases.

²⁶ See annex 3. In 2005 there was a decrease in importance of the customs procedure free circulation (53% of the cases) which was directly related to an increase in cases of transit (38% of the cases). This increase of transit cases was in its turn linked to an improvement in registering those cases.

²⁷ Combined nomenclature or CN - nomenclature of the Common Customs Tariff.

²⁸ See annex 4 and 5.

²⁹ The product description in the chart is a generic description the goods involved. See annexes 4 and 5 for detailed analyses.

³⁰ See annex 6.

2.3.3. Irregular and fraudulent import of monitors and televisions

Specific OWNRES queries were made about imports in CN 85³¹ and for CN 85 28 specifically (TVs and monitors), because these goods showed the highest risk in past years therefore gaining the attention of Parliament and the Commission.

Interpreting the data in OWNRES presented below, it is important to realize that the date on which an irregularity or fraud is discovered by customs does not have to coincide with the date of occurrence of the fraud or irregularity itself. In OWNRES Member States register the date upon the initial discovery of the irregularity or fraud. This means that no conclusions about the date of occurrence of the fraud or irregularity itself can be drawn based on the OWNRES data alone, unless the fraud or irregularity was discovered as a result of primary national inspections involving the release for free circulation customs procedure. In that case the discovery usually coincides with the moment of the import declaration (presuming the case is registered accurately by the Member State). As a result one should be very careful drawing conclusions about fraud or irregularities by extrapolating the figures and interpreting them as today's risks.

The cases for 2007 relating to CN 85 (932 cases) indicate a TOR impact of EUR 93 million, whereas both in 2006 (1031 cases) and in 2005 (1102 cases) the amount involved was EUR 65 million. Of the 932 cases for 2007, 622 are closed (i.e. paid or no longer due) leaving 310 cases open, of which 98 cases, representing EUR 14 million (15% of the total amount), are indicated as fraudulent. Of these 98 cases, 44 cases were discovered during a primary national inspection during the release for free circulation customs procedure, involving EUR 8 million. For this last group of cases, where in principle the date of discovery coincides with the date of the fraud, one could conclude there is a current risk of this type of fraud, however in those circumstances the traditional own resources that could be due are usually guaranteed before the goods are released for free circulation. In the table below the figures are compared with 2005 and 2006.

Table OR2: open fraud cases free circulation customs procedure - 2005-2007

2005			2006			2007		
Total (I)	Open fraud cases (II)	Open fraud cases free circulation (III)	Total (I)	Open fraud cases (II)	Open fraud cases free circulation (III)	Total (I)	Open fraud cases (II)	Open fraud cases free circulation (III)
1102	90	37	1031	122	53	932	98	44
€65 MLN	€8 MLN	€1.2 MLN	65 MLN	€8 MLN	€4 MLN	€93 MLN	€14 MLN	€8 MLN

(I) Total number of cases of irregularity and fraud.

(II) Open cases registered as fraud.

(III) Open fraud cases discovered during primary national inspections during release for free circulation customs procedure

Incorrect classification is the primary cause - EUR 40 million of the total amount registered. Half of that relates to TVs and monitors proper to CN 85 28 being

³¹ CN 85: Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles.

initially declared as computer monitors (CN 84 71). Another cause was misdescription of origin - this accounted for some EUR 13 million of the amounts registered in 2007, but actually related to goods from China (TVs (CN 85 28)) all of which had been imported in earlier years. This trade was the focus of inquiries as Member States followed up MA communication 2002/06. Other types of irregularities (or fraud) totalled EUR 3 million. Summarizing, for 2007, 93% of the cases involving CN 85 28 were related to incorrect classification, making it, just as in previous years, the most common type of irregularity or fraud.

Focusing on CN 85 28, the financial impact trend *of all cases* is up overall after a drop last year. In 2005 the amount involved was EUR 28 million (226 cases), in 2006 (247 cases) the amount involved dropped to EUR 13 million, whereas in 2007 (246 cases) the amount increased to EUR 56 million.

In the table below you will find the figures for 2005-2007 where the total number of cases involving CN 85 28 is compared with the cases discovered during primary national inspections regarding the release for free circulation customs procedure (identical analysis like above for CN 85).

Table OR3: comparison of cases involving CN85 28 with cases free circulation 2005-2007

2005			2006			2007		
Total (I)	Open fraud cases (II)	Open fraud cases free circulation (III)	Total (I)	Open fraud cases (II)	Open fraud cases free circulation (III)	Total (I)	Open fraud cases (II)	Open fraud cases free circulation (III)
226	29	8	247	26	10	246	37	23
€28 MLN	€2.3 MLN	€0.3 MLN	€13.5 MLN	€1.6 MLN	€1.2 MLN	€56 MLN	€8.5 MLN	€6.7 MLN

(I) Total number of cases of irregularity and fraud.

(II) Open cases registered as fraud.

(III) Open fraud cases discovered during primary national inspections during release for free circulation customs procedure.

The figures show an increase in registered fraud cases during the release for free circulation customs procedure in 2007 for CN 85 28, however before drawing conclusions, further analysis is necessary. OWNRES does not provide enough details or background information for that.

MA communications

In 2007 there was a reference to an MA communication in 9% of the cases regarding CN 85 involving an amount of EUR 14 million (15% of the total amount)³². The percentage of cases in which there is a reference to MA communications remains relatively stable, having been 7% in 2005 and 6% in 2006. The percentage of the amount involved is more volatile as in 2005 it was 18%, and in 2006, 28%. We also looked specifically at references for MA communications for those items relating to CN 85 28. We found that 24 references (10%) had been made in 2007 for an amount of EUR 9 million (16%)³³.

2.3.4. Data main sectors TOR

See annex 1-10.

2.4. Specific analysis

2.4.1. Specific facts TOR

In 2007 there were 182 cases registered of seized and confiscated cigarettes (CN code 24 02 20 90) involving estimated³⁴ TOR of over EUR 15 million. The twelve new Member States were responsible for registering in OWNRES 73 cases totalling EUR 5.5 million with newcomer Romania detecting 19 cases. In 2006 the number of registered cases concerning seized and confiscated goods was 147 totalling EUR

³² These 81 cases with a reference to an MA communication, involving €14 million, do not coincide with the 98 open cases involving €14 million as well.

³³ MA 2005/009 was the most important involving 20 cases and €7.5 million.

³⁴ See annex 8. The numbers for this year differ significantly from last year's report in an effort to correct for variations between Member States' methods of registering these cases.

10.5 million of which the then ten new Member States had detected 59 cases involving EUR 3.5 million.

2.4.2. *Classification of irregularities and fraud by Member States*

OWNRES cases concern custom operations involving irregularity or fraud. Of all the cases registered in 2007 23% (1215 of 5321 registered cases) are categorised as frauds, that is the same proportion as in 2006 (1327 of 5705 registered cases)³⁵. However, differences between Member States in the proportion so categorised are relatively large. For instance in 2007, the United Kingdom categorised only 103 out of 1,069 cases as fraud (equivalent to 9.6%) whereas Greece so categorised 100% (53 out of 53 cases communicated) and France 46.4% (149 out of 321 cases notified). For 2006 the figures were for the UK 0.11% (1 out of 882), for Greece 100% (46 out of 46) and for France 10.2% (32 out of 314). These figures demonstrate that the categorisation of irregularity and fraud in OWNRES is not yet fully reliable.

2.5. **Recovery**

2.5.1. *Recovery rate*

Member States have to recover established amounts including those they register in OWNRES. However, for a variety of reasons an established amount may not be completely recovered, despite Member States' efforts. The proportion varies from Member State to Member State. Differences arise from things such as the type of fraud or irregularity, and the type of debtor or judicial procedures involved. Amounts established may change because of additional information or judicial procedures, or the debt may be deemed irrecoverable because of the debtors' financial problems.

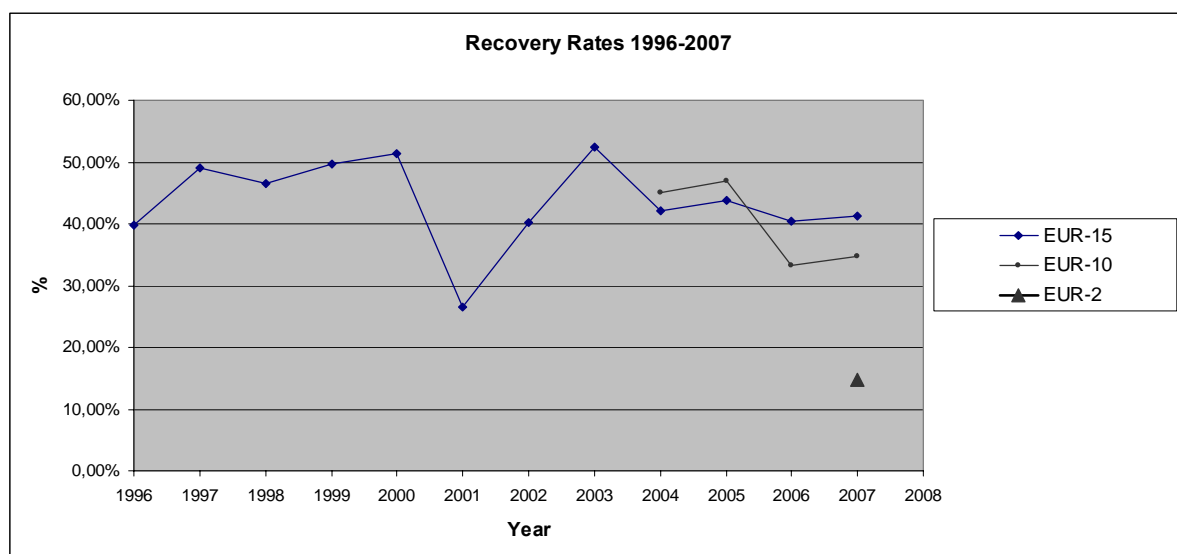
The Recovery Rate ('RR') expresses the percentage of the established debt that is actually recovered. It is constantly changing because of the ongoing processes of recovery in Member States. The overall RR for 2006 recorded in last year's report was 32% although it has since climbed to 40%. At present the RR for 2007 is 40%³⁶ which is a good starting position, because over the last decade the RR has varied between 40% and 55% (see OR: Chart 3)

The RR of the 10 Member States which acceded in 2004 is, at the moment, slightly below the relatively good start they had displayed. They will now be facing a growing number of post-clearance controls covering periods after their accession. The RR for Romania and Bulgaria is relatively low, however excluding cases of smuggled and seized cigarettes it is above the average rate of the EUR-27.

³⁵ See annex 9.

³⁶ See annex 7.

Chart OR 3: Recovery rates 1996-2007



* For 2001 the average RR is only 26%, because of the impact of Italy's RR, which is 2.14 % on an established amount of EUR 94 million.

Recovery in case of fraud

OWNRES shows that the amount of TOR due in fraud cases decreased in 2007. As part of the overall amount of irregularities and fraud cases registered the share of fraud was EUR 106 million compared to EUR 158 million in 2006³⁷.

The amount recovered in cases of fraud was EUR 18 million in 2007, which gives a fraud recovery rate of 17.3%. For 2006 the total has reached EUR 32 million which gives a rate of 20.2%. However, one can not say yet that 2006 was better, because the recovery rates, as mentioned before, change with elapsed time. The recovery rate in cases of fraud is clearly much lower than that for irregularities since the overall recovery rate in 2007 is 40%. This can be explained by the length and complexity of procedures.

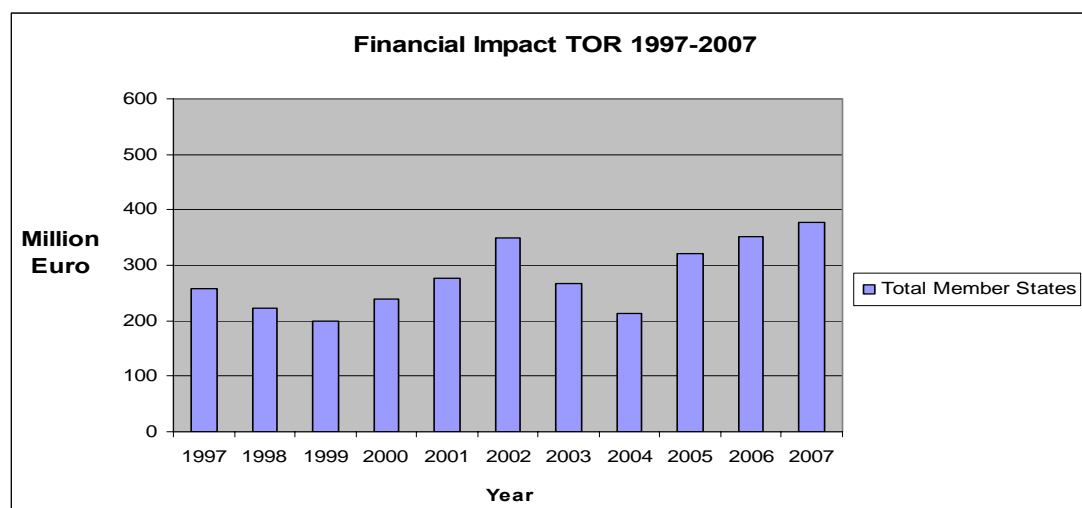
2.5.2. Impact on the budget

The amounts that were registered in OWNRES for 2007 have a financial impact of EUR 377 million. Over the last decade the value of amounts has ranged from EUR 200 million (year 1997) up to EUR 377 million (year 2007). The amounts change continuously, as the figure is based on established amounts registered in OWNRES which are updated with corrections that can be significant³⁸.

³⁷ See annex 10. For the delay in registration see the paragraph on reporting discipline.

³⁸ E.g. for the year 2000 the maximum impact was initially € 516 million. Corrections of over €250 million because of remissions changed it to €244 million at present.

Chart OR 4: Financial Impact TOR 1997-2007



2.6. Conclusions

In its capacity as Authorizing Officer, the Commission (DG Budget is the delegated Authorizing Officer) monitors the establishment and recovery of TOR by Member States in various ways. The monitoring is carried out in partnership with different Commission services, including OLAF.

Once a debt is established a Member State can only be discharged from the obligation to make the TOR available to the Commission because of *force majeure* or for reasons which can not be attributed to the Member State concerned. As Member States are responsible for making TOR available to the EU Budget, should they wish to be released from their obligation in a particular instance they need to prove that one of these circumstances exists. Where debts are not established although they should have been, Member States are held liable for the TOR foregone (these cases are not registered in OWNRES). As a result Member States made available over EUR 36 million in 2007. Some actions are still ongoing and new cases are being given appropriate follow up.

Because of the particular interest the Budgetary Authority has in recovery, reliable information regarding the number of cases of irregularity and fraud and their development must be entered in OWNRES. Member States have a special responsibility to ensure that appropriate statistical information on irregularity and fraud is provided to the Commission. Therefore in 2007 Member States were requested to address the shortcomings in registration in OWNRES of cases where no debt needed to be established (usually smuggled cigarettes).

Regarding the reliability of information in OWNRES, making a distinction between irregularity and fraud or analysing fraud separately is risky and the output is not very useful. Only Court decisions make it certain whether a case is one of irregularity or fraud, whereas within OWNRES this distinction is usually based on a prognostication made by Member States' administrations. The figures in OWNRES showing marked differences in the proportions of cases denoted as frauds or irregularities between Member States point that out clearly. OWNRES can only be

used for global analysis and monitoring. For cases where there is no debt (seized and confiscated smuggled goods) reporting is improving but still not reliable.

The amounts of TOR at stake in irregularity and fraud are, according to OWNRES, up to EUR 377 million in 2007. Recovery rates over the last decade have rarely exceeded 50% and in cases of fraud have been even lower. The opening figure for 2007 is respectable, but past experience suggests that the improving the overall outcome will remain challenging.

The goods involved in irregularities and frauds demanding Member States' attention are very diverse, notably TVs and monitors, clothing, foods, vegetables and of course tobacco. TVs and monitors keep their relevance in 2007, being once again (one of the most) important goods involved in registered cases of irregularity (or fraud), just like previous years. The origin of the goods concerned is equally varied, although some countries remain continuously at the top of the rankings (like China, USA, Japan). When irregularity or fraud is discovered by a Member State it is mostly in the customs procedure of *free circulation (misdescription, undervaluation or simply smuggling)* as in previous years.

The Commission encourages Member States to continue their activities in the field of recovery and providing statistical information. In particular concerning statistical information Member States need to step up their involvement to make OWNRES a fully reliable source, including also those cases, smuggling in the main, where no establishment was required. The Budgetary Authority is entitled to have available the best possible information when monitoring TOR and recovery issues.

PART II - EXPENDITURE

3. AGRICULTURAL EXPENDITURE (ANNEXES 11-12)

The analysis is a descriptive analysis based on the communications forwarded by Member States under Commission Regulation (EC) No. 1848/2006 in the budget year 2007 (16 October 2006 – 15 October 2007).

It should be noted that not all irregularities are reported. Under Reg. 1848/2006, Member States must only inform the Commission of irregularities involving more than EUR 10,000. Reg. 1848/2006 repealed Reg. 595/1991 and came into force on 1 January 2007. Under Reg. 595/1991 Member States were obliged to inform the Commission of irregularities involving more than EUR 4,000.

In 2007, OLAF processed 7,155 communications under Reg. 1848/2006. A high percentage of these communications, (6,406), were updates of cases that had been reported prior to 2007.

Member States reported 1,577 new irregularities (under Reg. 1848/2006) compared with 3,249 irregularities in 2006. During 2007, Member States reclassified 29 of these irregularities as non-irregularities. The total number of new irregularities is therefore 1,548. The total amount affected in 2007 was about EUR 155 million, as against approximately EUR 87 million in 2006.

Irregularities notified in this sector represent only 0.33% of the agricultural budget.

Annex 12 gives an overview per Member State, indicating the number of irregularities, the amounts involved and the percentage of agricultural expenditure.

Since the information system of irregularities was established, Member States reported 43,712 irregularities, involving some EUR 3,508 million. The total amount affected by irregularities detected before payment was approximately EUR 282 million and after payment approximately EUR 3,226 million.

Under Reg. 595/91, Member States were required to indicate the amounts recovered. There is no such requirement under Reg. 1848/2006. This means that from 2007 onwards, the statistical annex of the annual report will no longer contain figures on the recovery of unduly paid amounts based on information reported under Reg. 1848/2006.

3.1. Reporting discipline

Reg. 1848/2006 came into force on 1 January 2007. The year 2007 was announced as the "zero tolerance year": communications that did not fulfil the requirements of Reg. 1848/2006 would be "refused" and Member States would be asked to forward a new communication to fulfil their obligations.

Article 3 and article 5 of Reg. 1848/2006 lay down the reporting obligations of Member States. The reporting obligations as stipulated in article 3, paragraph 1,

letters a – p of Reg. 1848/2006 are used to determine the reporting discipline and the level of compliance of the Member States. The focus however, will be on those obligations that are crucial for (strategic) analysis. Per topic, a compliance rate will be indicated. The compliance rate is based on a quantitative analysis, which implies that the data quality was not yet an important factor to determine the compliance rate.

Member States should not forget the main purpose of forwarding information: to enable the Commission to perform risk analyses (see art. 10 Reg. 1848/2006). For that purpose, OLAF needs to receive reliable, consistent and complete data and as early as possible.

3.1.1. *Timely reporting*

Under Reg. 1848/2006 Member States are required to report at the latest within 2 months after the end of the quarter in which an irregularity was the subject of a primary administrative or judicial finding and/or new information about an irregularity that has already been reported becomes known. Member States indicate the reporting quarter and the date of communication. These 2 (two) indicators can be used to determine if a Member State complied with the rules. 6 Member States failed to comply to forward all communications within the period of 2 months after the "reporting quarter". Table AG1 on the right hand side gives an overview.

MS	reported in total	reported timely (< 01/12/2007)	reported too late (≥ 01/12/2007)	reported too late in %
AT	28	27	1	4%
DE	94	1	93	99%
FR	147	111	36	24%
LV	11	3	8	73%
SE	15	13	2	13%
SK	25	19	6	24%
total	1.577	1.431	146	9%

Art. 3 (1) Reg. 1848/2006
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It is however, more interesting to examine the time gap between the detection and the reporting of the irregularity.

Member States are obliged to indicate the date on which the primary administrative or judicial finding on the irregularity was established on the basis of art. 3(1) k Reg. 1848/2006.

The time gap should be maximum 5 month (3 months (quarter) + 2 months). Table AG2 gives per Member State an overview of the time gap between the discovery of the irregularity and the reporting.

For convenience sake, a time lap of 6 (six) months is taken to indicate the level of compliance of Member States. Member States reported in total 510 out 1,548 of cases timely.

The average time gap is 1.2 years. For Austria and Sweden this gap is far above the average, 3.4 years and 2.3 years respectively. Irregularities should be reported as soon as possible, which means immediately after discovery. An average gap of more than 1 year is therefore too high.

Late reporting of an irregularity could imply that a Member State failed to take all necessary actions to limit or to reduce its financial impact. Audits have revealed that

some Member States wait until recovery procedures are underway before reporting. Recovery becomes even more difficult when the authorities have informed the beneficiary of the control results and no immediate recovery action has been undertaken.

For 37 cases Member States needed between 4 and 8 years to report an irregularity after its discovery. In 29 cases, Member States even needed more than 8 years to report the irregularity after its discovery.

Table AG2: Time gap between discovery and reporting

Table AG2 TIME GAP BETWEEN DISCOVERY AND REPORTING OF IRREGULARITY budget year 2007											
MS	total	≤ ½ year	> ½ year and ≤ 1 year	> 1 year and ≤ 2 year	> 2 year and ≤ 3 year	> 3 year and ≤ 4 year	> 4 year and ≤ 8 year	> 8 year	average in years	compliance	MS
BG											BG
LU				0							LU
MT				0							MT
RO											RO
FI	20	18	1	1					0.4	90%	FI
CY	6	5	1						0.4	83%	CY
SI	9	7	1	1					0.4	78%	SI
IE	26	17	5	2	1		1		0.8	65%	IE
IT	237	152	28	16	9	4	1	27	1.6	64%	IT
BE	34	21	8	4				1	0.9	62%	BE
FR	147	80	38	13	7	4	5		1.0	54%	FR
EL	86	45	21	7	3	10			1.0	52%	EL
UK	95	44	25	18	6	1	1		0.9	46%	UK
CZ	10	4	2	4					0.7	40%	CZ
NL	64	19	7	18	18	2			1.4	30%	NL
PT	190	53	66	71					0.8	28%	PT
HU	12	3	4	5					1.1	25%	HU
DE	94	15	49	29			1		0.9	16%	DE
SK	23	3		6	14				1.9	13%	SK
EE	16	2	4	7	3				1.3	13%	EE
AT	27	3	3	4	1	3	12	1	3.4	11%	AT
DK	20	2	5	9	3	1			1.4	10%	DK
LT	10	1	6	3					0.9	10%	LT
LV	11	1	10	0					0.6	9%	LV
SE	14	1	4	3	2	1	3		2.3	7%	SE
PL	62	3	27	32					1.0	5%	PL
ES	335	11	125	140	27	19	13		1.5	3%	ES
total	1,548	510	440	393	94	45	37	29	1.2	33%	total

Art. 3 (1) k Reg. 1848/2006
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Prescription has also to be taken into account. A late acting of authorities could lead to no follow up, neither administrative nor judicial.

Last but not least: risk analyses with added value can only be provided if information is forwarded immediately after the discovery of an irregularity.

The EU-27 compliance rate is 33%.

3.1.2. Electronic format (AFIS/ECR-module 595)

The system of electronic reporting of irregularities, AFIS/ECR-module 595, introduced in 2001 for agriculture, has led to an improvement in data quality and in the timeliness of reporting. It has also reduced misunderstandings and misinterpretations and has consequently improved compliance with the regulations.

AFIS/ECR-module 595 is, however, not used by all Member States. At the end of 2007, three Member States (Germany³⁹, Spain and Latvia) were still not using this module.

3.1.3. Budget year, budget line and product affected

The obligation to indicate the common market organisations affected, the sectors and products concerned can be found in Art. 3(1) (a) Reg. 1848/2006.

Expenditure is based on the appropriations for a given year. As far as the EAGF and EAFRD are concerned, the budget year does not coincide with the calendar year. Therefore, Member States should indicate the budget year as well as the appropriation in their communications so that the support measure (budget line) affected by the irregularity can be identified.

Table AG3 gives an overview per Member State of the number of cases in which the budget year, the budget line and the product has been indicated.

Table AG3: budget year, budget line and product affected by the irregularities

TABLE AG3 MEASURE BUDGET YEAR, PRODUCT AND MEASURE BUDGET YEAR 2007									
MS	total	year	compliance	measure	compliance	product	compliance	total	MS
BG									BG
LU									LU
MT									MT
RO									RO
AT	27	27	100%	27	100%	27	100%	100%	AT
CY	6	6	100%	6	100%	6	100%	100%	CY
CZ	10	10	100%	10	100%	10	100%	100%	CZ
DK	20	20	100%	20	100%	20	100%	100%	DK
EE	16	16	100%	16	100%	16	100%	100%	EE
HU	12	12	100%	12	100%	12	100%	100%	HU
LT	10	10	100%	10	100%	10	100%	100%	LT
LV	11	11	100%	11	100%	11	100%	100%	LV
PL	62	62	100%	62	100%	62	100%	100%	PL
SE	14	14	100%	14	100%	14	100%	100%	SE
SI	9	9	100%	9	100%	9	100%	100%	SI
IT	237	229	97%	237	100%	237	100%	99%	IT
SK	23	22	96%	23	100%	23	100%	99%	SK
FR	147	128	87%	147	100%	147	100%	96%	FR
IE	26	20	77%	26	100%	26	100%	92%	IE
EL	86	65	76%	86	100%	86	100%	92%	EL
PT	190	130	68%	190	100%	190	100%	89%	PT
UK	95	64	67%	95	100%	95	100%	89%	UK
NL	64	28	44%	64	100%	64	100%	81%	NL
FI	20	7	35%	20	100%	20	100%	78%	FI
BE	34	6	18%	34	100%	34	100%	73%	BE
ES	335	0	0%	335	100%	335	100%	67%	ES
DE	94	0	0%	11	12%	34	36%	16%	DE
total	1.548	896	58%	1.548	100%	1.548	100%	86%	total
Art. 3(1) a Reg. 1848/2006									
download 5 February 2008									

A large number (11) of Member States comply fully with this obligation. For all other Member States, attention needs to be paid to indicating the budget year and the measure affected.

³⁹

On 7 April 2008, Germany and OLAF agreed during a high level meeting on an IMS-pilot (IMS = Irregularity Management System). IMS is a web based application to report irregularities which will replace the current electronic reporting module. The pilot will start in summer 2008. This will allow a considerable improvement of the reporting of irregularities.

Member States with a low compliance rate are Germany (16%) and Spain (67%). These are also the 2 Member States that are not using AFIS/ECR-module 595 to report irregularities⁴⁰.

The EU-27 compliance rate is 86%.

3.1.4. Year of detection vs year reported

Member States are obliged to report the date, or dates, on which the irregularity was committed and the date of discovery of the irregularity. Art. 3 (1) i Reg. 1848/20016 obliges Member States to indicate the period during which, or the moment at which, the irregularity took place. Member States are obliged to indicate the date of discovery on the basis of art. 3 (1) k Reg. 1848/2006. Table AG4 shows the time gap between the date on which the irregularity took place, the discovery and the reporting of the irregularity.

Table AG 4: Time gap between irregularity, discovery and reporting

TABLE AG4 TIME GAP BETWEEN IRREGULARITY, DISCOVERY AND REPORTING BUDGET YEAR 2007											
MS	Total	CASES indication of date on which the irregularity took place			compliance	average time gap between irregularity and discovery		average time gap between discovery and reporting		average time gap	MS
		date indicated	no date indicated	error date		days	years	days	years		
BG											BG
LU											LU
MT											MT
RO											RO
CY	6	6			100%	166	0,5	130	0,4	0,8	CY
IE	26	12	14	2	46%	373	1,0	274	0,8	1,8	IE
SI	9	9			100%	559	1,5	151	0,4	1,9	SI
LT	10	10			100%	454	1,2	338	0,9	2,2	LT
PL	62	61	1		98%	479	1,3	365	1,0	2,3	PL
CZ	10	10			100%	592	1,6	260	0,7	2,3	CZ
FI	20	15	5		75%	719	2,0	139	0,4	2,3	FI
HU	12	11	1		92%	579	1,6	414	1,1	2,7	HU
SK	23	23			100%	326	0,9	679	1,9	2,8	SK
UK	95	94	1	1	99%	712	2,0	314	0,9	2,8	UK
EE	16	16			100%	633	1,7	487	1,3	3,1	EE
NL	64	64		2	100%	764	2,1	497	1,4	3,5	NL
FR	147	147			100%	915	2,5	350	1,0	3,5	FR
DK	20	20			100%	767	2,1	524	1,4	3,5	DK
LV	11	11		1	100%	1.108	3,0	218	0,6	3,6	LV
PT	190	73	117		38%	1.108	3,0	304	0,8	3,9	PT
BE	34	34			100%	1.218	3,3	340	0,9	4,3	BE
DE	94	94			100%	1.229	3,4	338	0,9	4,3	DE
ES	335	335			100%	1.206	3,3	548	1,5	4,8	ES
SE	14	14			100%	1.377	3,8	835	2,3	6,1	SE
EL	86	30	56		35%	1.929	5,3	369	1,0	6,3	EL
AT	27	27			100%	1.158	3,2	1.230	3,4	6,5	AT
IT	237	237			100%	1.974	5,4	592	1,6	7,0	IT
total	1.548	1.353	195	6	87%	1.171	3,2	450	1,2	4,4	total

art. 3 (1) i, k Reg. 1848/2006
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The table shows that although the reporting discipline of Member States has improved, it still needs attention. In 195 cases, Member States did not indicate the date on which the irregularity took place. Especially Greece, Finland, Ireland and Portugal should pay particular attention to this obligation. In 6 cases Member States indicated an error value.

The average time gap between an irregularity being committed and its discovery is 3.2 years; the average time gap between the discovery of an irregularity and reporting it to the Commission is 1.2 year. As already mentioned, irregularities

⁴⁰ See footnote 39.

should be reported as soon as possible, which means immediately after discovery. An average time gap of more than 1 year is therefore, too high. The system of electronic reporting offers the possibility to report an irregularity as soon as it is discovered.

The average time gap between an irregularity being committed and it being reported to the Commission is 4.4 years. For Austria, Greece, Italy and Sweden counts that the average gap is more than 6 years.

One cause for concern is that Member States are reporting a relatively high proportion of cases (approximately 30%) in which the irregularity or fraud took place more than four (4) years ago, i.e. before 2003. This is of particular concern as the chances of recovery decreases with time.

Member States were unable to indicate the year(s) in which the irregularity took place in 201 cases (195 (blank) + 6 (error)).

In 91 cases Member States reported that the irregularity started or took place before 1998. Spain and Italy were responsible for 37 and 41 of these cases respectively.

3.1.5. *Practices employed (Art. 3 (1) (e) Reg. 1848/2006)*

Art. 3(1) (e) Reg. 1848/2006 contains the obligation to report the practices employed in committing the irregularity (*modus operandi*). The practices employed can be indicated by code as well as with text. The codes are in a pick list that contains a collection of different types of irregularity. The reporting module also offers the possibility to use written text to describe more precisely the practices employed.

Only Germany did not use codes to indicate the type of irregularity. All other Member States indicated the type of irregularity by code. The latter indicates a EU-27 compliance level of 94%. Finland however, reports code 999 (“other irregularities”) in a rather high percentage (60%) of cases.

Member States also described in more detail the practises employed in committing the irregularity. A more precise description of the irregularity helps to improve the quality of the analysis therefore Member States are requested to forward more detailed information on the *modus operandi*. Copying the findings of the audit report directly into the reporting module would already improve the quality of the reporting.

The compliance rates of Italy (26%), Ireland (35%) and the Netherlands (50%) are rather low.

The EU-27 compliance rate is 81%.

3.1.6. *Suspected fraud (Art. 3 (1) (f) Reg. 1848/2006)*

Art. 3 (1) (f) Reg. 1848/2006 obliges Member States to indicate if the practice amounts to a suspected fraud or not. Member States classified approximately 71% of the reported cases. Table AG5 gives an overview of the classification per Member State and by Member State. Member States that did not classify all or part of their reported cases are:

Spain compliance level 0%
 Germany⁴¹ compliance level 0%
 Belgium compliance level 18%
 The Netherlands compliance level 42%
 Finland compliance level 65%

Germany and Spain together reported 429 cases which is approximately 28% of the total number of cases.

Table AG5: Classification per Member State and by Member State

TABLE AG5 CLASSIFICATION OF THE IRREGULARITY BUDGET YEAR 2007								suspected or established fraud in %
MS	total	IRQ2	IRQ3	IRQ5	no classification	compliance	MS	
BG							BG	
LU							LU	
MT							MT	
RO							RO	
AT	27	27				100%	AT	0%
CY	6	6				100%	CY	0%
CZ	10	10				100%	CZ	0%
DK	20	20				100%	DK	0%
EE	16	16				100%	EE	0%
EL	86	82	4			100%	EL	5%
FR	147	142	1	4		100%	FR	3%
HU	12	11	1			100%	HU	8%
IT	237	222	15			100%	IT	6%
LT	10	10				100%	LT	0%
LV	11	4	7			100%	LV	64%
PL	62	6	56			100%	PL	90%
PT	190	186	4			100%	PT	2%
SE	14	14				100%	SE	0%
SI	9	9				100%	SI	0%
SK	23	23				100%	SK	0%
UK	95	83	11		1	99%	UK	12%
IE	26	25			1	96%	IE	0%
FI	20	13			7	65%	FI	0%
NL	64	21	6		37	42%	NL	22%
BE	34	6			28	18%	BE	0%
DE	94				94	0%	DE	
ES	335				335	0%	ES	
total	1.548	936	105	4	503	68%	total	10%
IRQ2 = irregularity IRQ3 = suspicion of fraud IRQ5 = established fraud blank = not classified by Member State Art. 3 (1) f Reg. 1848/2006 download 5 February 2008								

Reg. 1848/2006 introduced the obligation to identify the suspected fraud cases. The average level of suspected fraud cases is 10%, calculated on the basis of the number of classified cases. In the right-hand column of table AG5 an overview is given per Member State.

To avoid misunderstandings: the rate of 10% is based solely on the classification by Member States. Cases that have not been classified have not been taken into account.

The EU-27 compliance rate is 68%.

⁴¹ Germany will classify its cases when it starts to use IMS (summer 2008). See footnote 39.

3.1.7. *Legal/natural persons identification*

Member States are also required to give detailed information on the identity of the natural and legal persons involved. Art. 3(1) 1 Reg. 1848/2006 states that the identities of the natural and/or legal persons involved, or of other entities which have taken part in the commission of the irregularity, should be indicated.

The reporting of personal data, including addresses, still needs the attention of some Member States. In particular Finland, Spain and Ireland need to pay attention to this obligation.

Germany⁴² informed the Commission about restrictions in its national legislation with respect to the reporting of personal data. Germany is the only Member State that does not report any personal data. Nevertheless, in 3 cases Germany did forward the names of the natural persons involved. Table AG6 provides an overview of the reporting of personal data.

Table AG6: personal data reported

TABLE AG6 PERSONAL DATA budget year 2007												
MS	CASES total	NAME		STREET		POST CODE		CITY		overall compliance	MS	
		indicated	compliance	indicated	compliance	indicated	compliance	indicated	compliance			
BG											BG	
LU											LU	
MT											MT	
RO											RO	
AT	27	27	100%	27	100%	27	100%	27	100%	100%	AT	
BE	34	34	100%	34	100%	34	100%	34	100%	100%	BE	
CY	6	6	100%	6	100%	6	100%	6	100%	100%	CY	
CZ	10	10	100%	10	100%	10	100%	10	100%	100%	CZ	
DK	20	20	100%	20	100%	20	100%	20	100%	100%	DK	
SI	9	9	100%	9	100%	9	100%	9	100%	100%	SI	
LV	11	11	100%	11	100%	11	100%	11	100%	100%	LV	
FR	147	147	100%	136	93%	147	100%	147	100%	98%	FR	
UK	95	95	100%	95	100%	84	88%	95	100%	97%	UK	
SE	14	14	100%	12	86%	14	100%	14	100%	96%	SE	
HU	12	12	100%	11	92%	11	92%	12	100%	96%	HU	
PT	190	190	100%	170	89%	170	89%	170	89%	92%	PT	
PL	62	57	92%	57	92%	57	92%	57	92%	92%	PL	
SK	23	23	100%	11	48%	23	100%	22	96%	86%	SK	
EL	86	86	100%	77	90%	31	36%	86	100%	81%	EL	
LT	10	10	100%	9	90%	2	20%	10	100%	78%	LT	
NL	64	57	89%	42	66%	42	66%	57	89%	77%	NL	
EE	16	16	100%	16	100%	15	94%	1	6%	75%	EE	
IT	237	237	100%	236	100%	3	1%	234	99%	75%	IT	
IE	26	26	100%	11	42%	3	12%	12	46%	50%	IE	
ES	335	335	100%	0	0%	0	0%	0	0%	25%	ES	
FI	20	5	25%	0	0%	0	0%	0	0%	6%	FI	
DE	94	3	3%	0	0%	0	0%	0	0%	1%	DE	
TOTAL	1,548	1,430	92%	1,000	65%	719	46%	1,032	67%	68%	TOTAL	

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Germany, Finland and the Netherlands only reported personal data in a limited number of cases. This does not mean however, that all other Member States fully comply with Reg. 1848/2006. Member States should also remember to indicate the complete address of the persons involved. The post code is particularly useful in helping to identify the regions and areas that are more affected by irregularities.

The EU-compliance rate is 68%.

⁴² For this issue possible solutions were also discussed in the meeting on 8 April 2008. See footnote 39.

3.1.8. Summary

Table AG7 contains an overview of the compliance rate per reporting obligation. Member States are ranked in order of compliance. The table focuses on reporting obligations that have a high added value for analysis purposes. The letters above the columns refer to the reporting obligations that are contained in Art. 3 (1) of Reg. 1848/2006.

Table AG7: compliance per Member State year 2007

table AG7 COMPLIANCE budget year 2007								
MS	timely reporting 1	measure affected a	practices employed e	classification f	date committed i	personal data l	compliance	MS
BG								BG
LU								LU
MT								MT
RO								RO
CY	83%	100%	100%	100%	100%	100%	97%	CY
SI	78%	100%	100%	100%	100%	100%	96%	SI
CZ	40%	100%	100%	100%	100%	100%	90%	CZ
FR	54%	96%	90%	100%	100%	98%	90%	FR
UK	46%	89%	99%	99%	95%	97%	88%	UK
HU	25%	100%	100%	100%	92%	96%	85%	HU
DK	10%	100%	100%	100%	100%	100%	85%	DK
LV	9%	100%	100%	100%	100%	100%	85%	LV
AT	11%	100%	96%	100%	100%	100%	85%	AT
SK	13%	99%	100%	100%	100%	86%	83%	SK
SE	7%	100%	93%	100%	100%	96%	83%	SE
PL	5%	100%	100%	100%	98%	92%	83%	PL
LT	10%	100%	100%	100%	100%	78%	81%	LT
EE	13%	100%	100%	100%	100%	75%	81%	EE
IT	64%	99%	26%	100%	100%	75%	77%	IT
BE	62%	73%	91%	18%	100%	100%	74%	BE
EL	52%	92%	79%	100%	35%	81%	73%	EL
PT	28%	89%	86%	100%	38%	92%	72%	PT
FI	90%	78%	90%	65%	75%	6%	67%	FI
IE	65%	92%	35%	96%	46%	50%	64%	IE
NL	30%	81%	50%	42%	100%	77%	63%	NL
ES	3%	67%	99%	0%	100%	25%	49%	ES
DE	16%	16%	100%	0%	100%	1%	39%	DE
total	33%	86%	81%	68%	87%	68%	70%	total

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Bulgaria, Luxembourg, Malta, and Romania had no irregularities to report and are therefore considered to be 100% compliant. The rates of Bulgaria, Luxembourg, Malta and Romania have not been taken into account to calculate the EU-27 compliance rate.

In general, Member States do try to comply with Reg. 1848/2006 but there is still room for improvement. Timely reporting will lead to a higher compliance rate by a large number of Member States.

Germany is the Member State with the lowest compliance rate, partly due to the fact that no personal data was forwarded and due to the lack of other basic information such as budget lines or measures affected and the classification of the irregularities.

Member States with low compliance rates are Germany (39%) and Spain (49%). Both of them do not use the system of electronic reporting as provided by OLAF.

The EU-27 compliance rate is 70%.

3.2. General Trends

This analysis is a descriptive analysis, the aim of which is to provide feedback to the Member States on the communications that were received by the Commission in the budget year 2007 and to give an overall view for the period 1971 - 2007.

One should bear in mind that Member States must only inform the Commission of irregularities involving more than EUR 10,000.

The threshold of EUR 10,000 was introduced by Reg. 1848/2006 that came into force on 1 January 2007. Under Reg. 595/91, the threshold was EUR 4,000. The increase of the threshold from EUR 4,000 to EUR 10,000 has to be taken into account when this report is compared with report of the previous years. The descriptive analysis of this report therefore, cannot be right away compared with the results of previous years.

Bulgaria, Luxembourg, Malta and Romania did not report any irregularity in 2007.

The budget year 2007 runs from 16 October 2006 – 15 October 2007.

3.2.1. Amounts involved

The total number of irregularities reported in the budget year 2007 was 1,548. These 1,548 cases amount to approximately EUR 155 million. Table AG8 provides an overview per Member State of the irregularities reported and the amounts affected by these irregularities in the budget year 2007.

Table AG8: Irregularities reported in the budget year 2007

Table AG 8 irregularities reported and amounts affected budget year 2007								
MS	reported	cases		total expenditure	amounts in €			MS
		no irregularity (IRQ 0)	irregularity		amount affected by irregularity	detected before payment	detected after payment	
AT	28	1	27	430,748	401,511	31,771	369,741	AT
BE	35	1	34	14,044,367	13,866,333	64,102	13,802,231	BE
BG								BG
CY	6	0	6	232,013	83,362	67,932	15,430	CY
CZ	10	0	10	103,168	103,168	28,038	75,130	CZ
DE	94	0	94	12,176,901	2,854,876	193,951	2,660,925	DE
DK	20	0	20	16,195,943	15,257,984	4,693,325	10,564,659	DK
EE	17	1	16	201,670	83,985	0	83,985	EE
EL	90	4	86	4,845,037	4,185,084	601,483	3,583,601	EL
ES	335	0	335	88,843,891	23,609,346	48,542	23,560,804	ES
FI	20	0	20	412,855	338,508	0	338,508	FI
FR	147	0	147	6,589,053	32,637,233	34,324	32,602,909	FR
HU	13	1	12	601,932	233,052	0	233,052	HU
IE	28	2	26	490,043	490,043	119,233	370,810	IE
IT	237	0	237	43,601,904	43,063,210	256,927	42,806,283	IT
LT	10	0	10	321,847	232,242	102,322	129,920	LT
LU								LU
LV	11	0	11	141,835	141,835	0	141,835	LV
MT								MT
NL	64	0	64	26,748,104	4,349,283	696,042	3,653,241	NL
PL	64	2	62	2,335,930	1,099,347	911,944	187,403	PL
PT	199	9	190	33,740,566	5,570,368	15,881	5,554,487	PT
RO								RO
SE	15	1	14	839,098	284,714	3,103	281,611	SE
SI	9	0	9	232,894	232,894	0	232,894	SI
SK	25	2	23	2,206,415	1,707,309	0	1,707,309	SK
UK	100	5	95	15,740,236	4,167,640	45,782	4,121,858	UK
total	1,577	29	1,548	271,076,449	154,993,326	7,914,703	147,078,624	total

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Member States reported initially 1,577 cases. During 2007, 29 cases were reclassified as “non-irregularity” (IRQ 0).

The number of reported cases decreased in 2007 by more than 50% compared with 2006. The decrease can be explained for a large part by the introduction of the new threshold of EUR 10,000.

There is however a remarkable increase of the amounts affected by the irregularities. It is the highest amount affected since 2004 (see annex 11).

Chart AG1: Irregularities communicated by Member States (1971-2007)

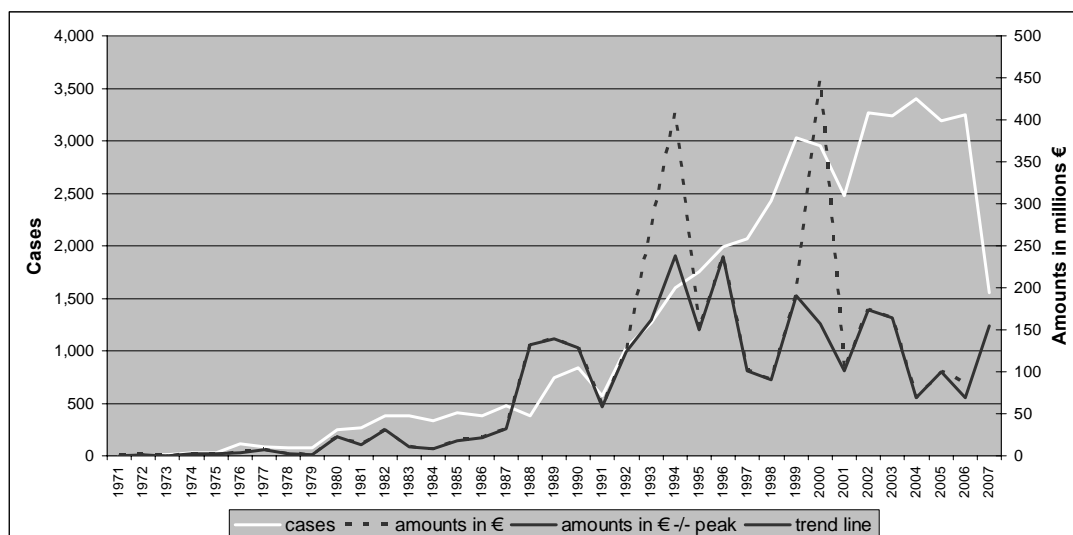


Chart AG1 reflects these trends. The “amounts in EUR” line shows two peaks, one in 1994, the other in 2000. These peaks are the result of three Italian cases in 1994 and two Italian cases in 2000. Leaving aside these exceptional cases, since 1994 there has been a clear steady downward trend in the total amounts affected by irregularities. This can be explained by the introduction of the direct aid/payment section, the introduction of the integrated administration and control system (IACS) and the move towards direct aid and payments decoupled from production.

The amounts affected by irregularities increased in 2007 with almost 80%. The total amount affected by irregularities was about EUR 155 million, as against approximately EUR 87 million in 2006. However, it should be noted that two (2) cases notified by France represent 31% of this increase.

In 2007, the countries which reported the highest number of cases were Spain, Italy, Portugal and France with 335, 237, 190 and 147 cases respectively.

In monetary terms, Italy reported the highest amounts affected by irregularities, more than EUR 43 million, followed by France which reported a total amount of approximately EUR 32.6 million. France however, reported 2 cases in which the total amount affected was approximately EUR 27 million.

Annex 12 gives an overview for each Member State.

3.2.2. Impact on the budget

Table AG9 provides an overview of the total expenditure in 2007 per budget chapter. The total expenditure is approximately EUR 47.3 billion.

Table AG9: Expenditure and irregularities per budget chapter⁴³

Table AG9 EXPENDITURE AND IRREGULARITIES PER BUDGET CHAPTER budget year 2007				
budget chapter	description	total amount expenditure in €	total amount irregularity in €	irregularity in % of expenditure
050201	Cereals	-140,940,536	1,497,405	-1.1%
050202	Rice	-701,984	253,038	-36.0%
050203	non-Annex 1 products	185,480,304	1,883,729	1.0%
050204	Food programmes	250,688,751	306,371	0.1%
050205	Sugar	456,103,298	27,244,937	6.0%
050206	Olive oil	64,378,045	4,154,116	6.5%
050207	Textile plants	20,028,255	335,953	1.7%
050208	Fruit and vegetables	1,250,913,067	32,139,133	2.6%
050209	Products of the wine-growing sector	1,452,857,308	3,785,331	0.3%
050210	Promotion	47,790,781	499,961	1.0%
050211	Other plant products/measures	363,594,426	4,312,504	1.2%
050212	Milk and milk products	638,469,656	38,731,014	6.1%
050213	Beef and veal	98,405,333	11,720,317	11.9%
050214	Sheepmeat and goatmeat	0	910,893	
050215	Pigmeat, eggs and poultry, bee-keeping and other animal products	174,659,430	1,478,295	0.8%
050216	Sugar Restructuring Fund	551,426,309	0	0.0%
050301	Decoupled direct aids	30,373,161,575	1,060,474	0.0%
050302	Other direct aids	6,263,815,742	1,118,007	0.0%
050303	Additional amounts of aid	434,037,089	0	0.0%
050304	Ancillary direct aids (reliquats, small producers, agrimonetary aids, etc.)	-371,366	11,031	-3.0%
050401	Rural development financed by the EAGGF Guarantee Section - Completion of earlier programme (2000 to 2006)	-29,957,929	21,502,442	-71.8%
050404	Transitional Instrument for the financing of rural development by the EAGGF Guarantee Section for the new Member States	2,016,076,720	0	0.0%
050405	Rural development financed by the European Agricultural Fund for Rural Development (EAFRD) (2007 to 2013)	2,451,057,379	0	0.0%
	Combination of several support measures affected by irregularities was indicated by MS	0	2,048,375	
total		46,920,971,655	154,993,326	0.3%

download 4 April 2008
total amount of expenditure updated on 16 May 2008

The highest expenditure concerned “decoupled direct aids” and was about EUR 30.4 billion which is 65% of the total expenditure in the agricultural sector. “Decoupled direct aids” (chapter 05 03 01) was introduced in 2006. Member States reported for a total amount affected by irregularities of approximately EUR 1.1 million. France received the highest sum of approximately EUR 5.7 billion, followed by Germany that received approximately EUR 5.4 billion. France reported in 2007 no irregularities concerning “decoupled direct aids”. Germany reported 30 cases with a total amount affected of approximately EUR 0.5 million. The low number of irregularities can be explained by the fact that the expenditure per beneficiary does not exceed the threshold of EUR 10,000 in a large number of cases.

The highest amount affected by irregularities were reported for the budget chapters concerning “milk and milk products” (05 02 12), “fruit and vegetables” (05 02 08), “sugar” (05 02 05) and “rural development – guarantee section (05 04 01, 05 04 04 and 05 04 05) with a total amount affected of EUR 38.7 million, EUR 32.1 million, EUR 27.2 million respectively EUR 21.5 million.

In percentage of the total expenditure, the highest amounts were reported for the budget chapter concerning “beef and veal” (05 02 13) with 11.9%.

Also of interest is the level of irregularities as a percentage of agricultural-expenditure per Member State. Belgium has the highest percentage with 1.62%, followed by Denmark, Italy and Portugal with 1.40%, 0.82% and 0.68% respectively. Annex 12 gives an overview of these percentages.

Some Member States report more irregularities than others. It is possible that some Member States are underreporting. Table AG10 shows the relationship, in percentages, between the total amount allocated per Member State, the total amount affected by irregularities per Member States and the total number of irregularities per Member State.

⁴³

Information provided by DG AGRI. Negative amounts are caused by corrections made in 2007.

Member States are ranked in order of their budget allocation, starting with the Member State receiving the highest amount. France received the highest amount (EUR 9.7 billion) whilst Bulgaria received the lowest amount (EUR 0.2 million).

Table AG10: total agricultural expenditure and irregularities

Table AG10 EXPENDITURE AND IRREGULARITIES PER MS budget year 2007							
MS	expenditure		irregularities		irregularities		MS
	total	in % of total expenditure	total amount affected	in % of total amount affected	total cases	in % of total cases reported	
FR	9,735,649,588	20.7%	32,637,233	21.1%	147	9.5%	FR
DE	5,974,923,975	12.7%	2,854,876	1.8%	94	6.1%	DE
ES	5,918,501,718	12.6%	23,609,346	15.2%	335	21.6%	ES
IT	5,222,263,584	11.1%	43,063,210	27.8%	237	15.3%	IT
UK	4,341,392,612	9.3%	4,167,640	2.7%	95	6.1%	UK
EL	2,879,299,650	6.1%	4,185,084	2.7%	86	5.6%	EL
PL	2,297,395,215	4.9%	490,043	0.3%	26	1.7%	PL
IE	1,723,322,002	3.7%	103,168	0.1%	10	0.6%	IE
NL	1,144,013,906	2.4%	1,099,347	0.7%	62	4.0%	NL
DK	1,086,244,832	2.3%	4,349,283	2.8%	64	4.1%	DK
SE	950,822,180	2.0%	15,257,984	9.8%	20	1.3%	SE
BE	853,634,814	1.8%	284,714	0.2%	14	0.9%	BE
AT	826,654,840	1.8%	13,866,333	8.9%	34	2.2%	AT
PT	821,932,364	1.8%	5,570,368	3.6%	190	12.3%	PT
FI	808,532,115	1.7%	401,511	0.3%	27	1.7%	FI
HU	651,132,609	1.4%	338,508	0.2%	20	1.3%	HU
CZ	539,853,347	1.2%	233,052	0.2%	12	0.8%	CZ
LT	324,411,585	0.7%	1,707,309	1.1%	23	1.5%	LT
SK	302,271,528	0.6%	232,242	0.1%	10	0.6%	SK
SI	168,520,479	0.4%	232,894	0.2%	9	0.6%	SI
LV	165,727,510	0.4%	141,835	0.1%	11	0.7%	LV
EE	79,073,910	0.2%	0	0.0%	0	0.0%	EE
LU	46,742,889	0.1%	83,985	0.1%	16	1.0%	LU
CY	45,447,412	0.1%	83,362	0.1%	6	0.4%	CY
RO	6,893,688	0.0%	0	0.0%	0	0.0%	RO
MT	6,136,125	0.0%	0	0.0%	0	0.0%	MT
BG	177,176	0.0%	0	0.0%	0	0.0%	BG
total	46,920,971,655	100.0%	154,993,326	100.0%	1,548	100.0%	total

Together France, Germany, Spain, Italy and the United Kingdom receive more than 66% of the total agricultural budget, i.e. approximately EUR 31.2 billion. In 2007, France received more than EUR 9.7 billion. Germany and Spain received both almost EUR 6.0 billion. Italy received more than EUR 5.2 billion and the United Kingdom more than EUR 4.3 billion.

In 2007, France received approximately EUR 9.7 billion, which is approximately 20.7% of the total agricultural budget. The reported French cases were responsible for 21.1% of the amounts affected by irregularities. In the period 2004-2006, France reported a relatively low amount affected by irregularities. The relatively high percentage of 2007 can be explained by 2 cases in which the total amount affected was approximately EUR 27.5 million. It concerned in both cases the product butter (CN-code 0405) and cases for which France went to court (penal procedure) in the period 1999 – 2000. These cases should have been reported in 2000. If these cases would not be taken into account, the French cases would only be responsible for 4% of the amounts affected by irregularities. The number of reported irregularities by France is also rather low: 9.5%. This rather low rate could indicate underreporting. The latter counts also for Member States as Germany and Ireland. The rather low percentage of cases reported could indicate underreporting.

A relatively high number of cases and high total amount is reported by Portugal, Spain and Italy. Portugal received 1.8% of the total agricultural-budget and is

responsible for 3.6% of the total amounts affected by irregularities and 12.3% of the total number of reported irregularities. Spain received 12.6% of the total agricultural-budget and reported 15.2% of the total amounts affected by irregularities and 21.6% of the total number of reported irregularities. Italy received approximately 11.1% of the total agricultural budget and reported 27.8% of the total amounts affected by irregularities and 15.3% of the total number of reported irregularities.

Spain and Portugal reported also in the period 2004-2007 a relatively high number of irregularities as well as a relatively high amount affected by irregularities.

3.2.3. *Method of detection*

Member States are obliged to indicate the manner in which the irregularity was discovered (see art. 3(1)g Reg. 1848/2006). To indicate the manner, Member States have the possibility to indicate the reason why an audit, check or scrutiny was performed and how it was performed.

The common agricultural policy (CAP) was reformed in 1992 based on a system of direct aid for farmers, which significantly increased the number of beneficiaries but also the risk of irregularity and fraud. The integrated administration and control system (IACS) was therefore introduced by Council Regulation (EEC) No 3508/92 to meet those risks. The system consists of five elements:

1. a computerised database
2. an identification system for agricultural land parcels,
3. a system of identification and registration of animals,
4. aid applications,
5. an integrated system for administrative controls and field inspections.

In the EU, all IACS aid applications are processed and checked administratively. These checks are complemented by on-the-spot controls, selected on the basis of risk analysis. In the budget year 2007, almost 85% of agricultural expenditure under EAGF was processed through IACS.

Member States indicated that in 54 cases the irregularity was discovered thanks to a check or audit performed on basis of IACS. This is approximately 3% of the total number of reported irregularities. In 413 cases, Member States did not indicate the reason why an audit, check or scrutiny was performed, which is approximately 27% of the total amount of reported irregularities. It concerned mainly cases reported by Germany, Spain and The Netherlands. Table AG11 gives an overview.

Table AG11: Reasons for performing an audit, control, scrutiny

Table AG11 DETECTION OF THE IRREGULARITY budget year 2007				
reason for performing a control, audit, scrutiny etc.	alone *)	shared **)	total	in %
blank (no information given by MS)			413	27%
administrative enquiry	173	48	221	14%
other other	206	8	214	14%
judicial enquiry	153	22	175	11%
scrutiny on basis of Reg. 4045/1989	129	18	147	9%
routine	104	30	134	9%
random check	81	18	99	6%
comparison of data	58	9	67	4%
risk analysis	45	16	61	4%
scrutiny on basis of Reg. 3508/1992 & 1782/2003 (IACS)	39	15	54	3%
tip from informant, whistleblower, etc.	22	9	31	2%
spontaneous confession	13	4	17	1%
control on basis of Reg. 386/1990	8	1	9	1%
information and/or request from EU-body	3	5	8	1%
other described occasions	3	13	16	1%
total	1037	216	1666	
*) alone = only 1 reason for performing a control etc. was indicated				
**) shared = more than 1 reason for performing a control etc. was indicated				
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Member States are also under an obligation to perform certain controls on the basis of Council Regulation (EEC) No 4045/89 and Council Regulation (EEC) No 386/90.

Council Regulation (EEC) No 4045/89 relates to the scrutiny of the commercial documents of entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

Member States indicated that in 147 cases the irregularity was discovered thanks to an audit performed on basis of Reg. 4045/1989. This is approximately 9% of the total number of reported irregularities.

Council Regulation (EEC) No 386/90 lays down certain procedures for monitoring whether operations conferring entitlement to the payment of refunds on, and all other amounts in respect of, export transactions have been actually carried out and executed correctly.

Member States indicated that in 9 cases the irregularity was discovered thanks to a check performed on basis of Reg. 386/1990. This is approximately 1% of the total number of reported irregularities.

In 175 cases, the reason to perform a control was based on a judicial enquiry. This is approximately 10% of the total amount of reported irregularities. Member States classified 15 of these cases as suspected fraud or established fraud.

In table AG11 an overview was given of the reason why a control was performed. Table AG12 provides an overview how an audit, check or scrutiny was performed.

Table AG12: type/method of control

Table AG12 DETECTION OF THE IRREGULARITY budget year 2007				
type of control, audit, scrutiny etc.	alone	shared *)	total	in %
other other	444	83	527	34%
control of accounts	256	188	444	29%
control on the premises of the company	273	39	312	20%
control of documents	118	127	245	16%
ex post control	14	165	179	12%
face vet / documentary check	53	11	64	4%
initial enquiry	46	5	51	3%
on the spot control of achievement of project or action	35	6	41	3%
other Customs controls, checks, audits, scrutinies etc.	29	9	38	2%
analysis of samples	20	11	31	2%
control of production	11	1	12	1%
physical check of goods	3	8	11	1%
preventive check	6	2	8	1%
control of movement	1	3	4	0%
control of products	1	0	1	0%
teledetection	0	0	0	0%
total	1310	658	1968	
*) alone = only 1 type of control etc. was indicated				
**) shared = more than 1 type of control etc. was indicated				
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Member States indicated in 527 cases “other other”, which is 34% of the total amount of reported irregularities.

In 29% of the cases, the control was performed via a control of the accounts of the persons involved.

According to the notifications of the Member States, teledetection did not lead to the discovery of any irregularities.

3.2.4. Types of irregularity

Member States are also obliged to report and to describe the practices employed (modus operandi) of the detected irregularity (see art. 3(1)e Reg. 1848/2006). A clear overview of the (most recently used) modus operandi in committing irregularities will support the Member States and the Commission in their fight against fraud and help to reduce the number of irregularities.

The Annual Report 2005 and the Annual Report 2006 noted that “almost all Member States seem to have developed a preference for one or two codes which permit no detailed breakdown”. The latter was a reaction from the Member States to a first attempt by OLAF to estimate the level of (suspected) fraud in the agricultural sector on the basis of the types of irregularity and modus operandi reported. By indicating only one or two (general) codes, it became more difficult to estimate the level of (suspected) fraud. Member States were requested to pay some attention to this point especially where codes such as 499, 699 and 999 were reported. These codes indicate “other irregularities” and do not help to identify the modus operandi.

Member States have improved their reporting of the type of irregularity and the modus operandi. The EU-27 compliance rate on type of irregularity is 94%.

In 6% of the cases, no code was indicated. It concerns cases reported by Germany. OLAF has tried to “translate” the sometimes basic descriptions in the German communications into codes. Finland used the code 999 (= other irregularities) in 60% of its cases.

Table AG13 gives an overview of the types of irregularity most frequently reported by Member States. The types of irregularity are clustered by main group.

Table AG13: Irregularities and frequency of used types of irregularities

Table AG13 TYPE OF IRREGULARITY PER GROUP budget year 2007					
group	description	number	cases		in %
			in %	amount in €	
1600	(non-)action	627	41%	50,579,560	33%
1500	product, species and/or land	301	19%	65,892,038	43%
1400	documentary proof	192	12%	9,763,043	6%
1100	request for aid	144	9%	8,159,166	5%
1700	customs - movement of goods	53	3%	11,473,190	7%
1300	accounts and records	41	3%	1,264,547	1%
1200	beneficiary	38	2%	935,218	1%
1900	other	35	2%	1,223,232	1%
	combinations	117	8%	5,703,332	4%
	total	1,548	100%	154,993,326	100%

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Group 1100 request for aid

In 9% of the reported irregularities it concerned cases in which the irregularity was directly linked to the request for a support measure. As example, can be mentioned an “incorrect or incomplete request for aid”. These cases should normally be discovered before payment.

The overall rate of irregularities detected before payment is approximately 5%, e.g. 78 cases out of 1,548. Table AG14 provides an overview per Member State. The obligation to indicate if an irregularity is discovered before or after a payment can be found in art. 3(1)n Reg. 1848/2006. In 56 cases Member States did not indicate if the detection of the irregularity took place before or after payment. Also no information was given on the amounts affected by these irregularities. The latter is even more surprising now a large amount of these cases were already closed by the Member States which implies that no information about the amounts affected will be forwarded.

Table AG 14 IRREGULARITIES DISCOVERED BEFORE / AFTER PAYMENT budget year 2007					
MS	discovery of irregularity				total
	before payment	before & after payment	after payment	no information	
AT	3	1	23		27
BE	3		27	4	34
BG					
CY	5		1		6
CZ	1		9		10
DE	8	5	81		94
DK		1	19		20
EE			9	7	16
EL	1		80	5	86
ES	1		321	13	335
FI			20		20
FR	2		137	8	147
HU			12		12
IE	4		22		26
IT	2	6	224	5	237
LT	6		4		10
LU					
LV			11		11
MT					
NL	3	8	53		64
PL	36	20	4	2	62
PT	1		189		190
RO					
SE		2	12		14
SI			9		9
SK			18	5	23
UK	3		85	7	95
total	79	43	1,370	56	1,548

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Table AG13 shows that in 9% of the amount of reported irregularities, the irregularity was already committed during the request phase. Table AG15 provides an overview of the types of irregularities which were applied during the request phase. The most frequent irregularity was “incorrect or incomplete request”. Rather high is also the amount of irregularities in which the modus operandi is described as “not eligible for aid”. United Kingdom, Denmark and Lithuania indicated in respectively 7, 3 and 1 cases that the applied modus operandi was “false or falsified request for aid”. All 11 cases were classified as irregularity (IRQ2) and not as suspected fraud (IRQ3).

description	cases	amounts in €
product, species, land or measure not eligible for aid	29	3,766,520
incorrect or incomplete request	64	3,233,031
other irregularities concerning the right to aid	30	580,115
false or falsified request	11	356,269
overfinancing	5	140,507
incompatible cumulation of aid	4	82,724
several requests for the same object	1	0
total	144	8,159,166
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Group 1200 beneficiary

Table AG12 shows also that in 38 cases the irregularity was linked to the beneficiary itself. It concerned in 16 cases an incorrect identity.

Group 1600 (non-) action

In 39% of the reported irregularities it concerned cases in which the irregularity was directly linked to an action performed or not performed by the involved persons. In those cases, the support measure demands that a certain action is undertaken. The beneficiary however, did not perform this action or did not implement, complete or finalise the action.

Group 1500 product, species and/or land

In 19% of the cases, representing 43% of the total amount affected by irregularities, the irregularity concerned the product, species (animals) or land for which the subsidy was granted. As example, can be mentioned the over-declaration of land and the declaration of fictitious land. Especially in the sector “rural development”, irregularities were committed by an over-declaration of land. In some cases it even concerned the declaration of fictitious land. Over-declaration can be considered as an error or mistake as declaration of fictitious land needs to be considered as (suspected) fraud.

Table AG13 shows that in 19% of the cases, representing 43% of the total amount affected by irregularities, the irregularity concerned the product, species (animals) or land for which the subsidy was granted. Table AG16 provides an overview of the practises employed for these types of irregularities. In 5 cases, Member

description	cases	amounts in €
falsification of the product	5	29,711,934
incorrect classification or tariff heading	12	14,465,380
fictitious use or processing	9	12,528,552
inexact quantity	102	3,542,047
inaccurate product declaration	46	1,237,829
inexact composition	13	1,174,386
declaration of fictitious land	59	983,596
variation in quality or content	12	523,977
other	43	1,724,336
total	301	65,892,038
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States reported that it concerned a falsification of the product. The total amount affected was rather high, e.g. almost EUR 30 million. 1 Case was classified as suspected fraud (IRQ3) and concerned the export of beef and veal. 4 cases were classified as established fraud (IRQ5) and concerned butter.

The 9 cases in which the practises employed was described as “fictitious use or processing” were also all classified by Member States as “suspected fraud” (IRQ3). It concerned in all cases the fruit and vegetables sector. The total amount affected was also here rather high, approximately EUR 12.5 million.

In 12 cases the Member States described the practises employed as “incorrect classification or tariff heading”. It concerned in all cases export refunds concerning especially pig meat. All cases were classified as “irregularity” (IRQ2).

The practises employed “declaration of fictitious land” occurred mainly in the sector “rural development” and “decoupled direct aids” (Single Payment Scheme and Single Area Payment Scheme). Germany, Hungary and Poland reported these cases. Poland classified all its cases as “suspected fraud” (IRQ3), Hungary classified all their cases as “irregularity” (IRQ2) and Germany did not classify any of its cases.

3.3. Specific Analysis

In 2007 Member States reported 1,548 cases of irregularities involving a total amount affected of approximately EUR 155 million. Member States must only inform the Commission of irregularities involving more than EUR 10,000.

Member States must inform the Commission of the common market organisations affected, the sectors and products concerned by irregularities. Unfortunately, some Member States do not comply fully with this rule. Some Member States do not report any budget lines or indicate only a part of the budget line. The incomplete reporting makes it difficult to perform detailed analysis.

3.3.1. Analysis of support measures

Table AG17 gives an overview of the irregularities reported per main category of support measure. The division into the different types of measures is based on the indications given by Member States of the:

- measures affected,
- regulations infringed,
- modus operandi.

Table AG 17: Irregularities per main category of support measure

Table AG17 IRREGULARITIES PER BUDGET CHAPTER BUDGET YEAR 2007					
group	description	cases	amounts in €	average amounts in €	in % of total
20	Milk and milk products	76	38,731,014	509,619	25%
15	Fruits and vegetables	118	32,139,133	272,366	21%
11	Sugar	10	27,244,937	2,724,494	18%
40	Rural development	589	19,453,831	33,029	13%
21	Beef and veal	78	11,720,317	150,260	8%
12	Olive oil	85	4,154,116	48,872	3%
16	Wine	154	3,785,331	24,580	2%
50	Other measures - environment & forestry	38	2,048,611	53,911	1%
32	POSEI	15	2,041,619	136,108	1%
30	non-annex-1 products	27	1,883,729	69,768	1%
13	Other plant products - dried fodder	24	1,673,816	69,742	1%
10	Cereals	47	1,497,405	31,860	1%
23	Pigmeat, eggs, poultrymeat, bee-keeping	30	1,478,295	49,276	1%
17	Tobacco	26	1,112,297	42,781	1%
70	Decoupled direct aids (SPS)	61	993,355	16,285	1%
22	Sheep and goats	53	910,893	17,187	1%
36	Other measures - other	29	597,069	20,589	0%
38	Promotion measures	2	499,961	249,981	0%
40 / 75	rural development & decoupled direct aids (reproted by PL)	32	469,898	14,684	0%
99	other \ other	11	451,555	41,050	0%
18 / 31	Seeds & food programmes (reported by EL)	1	380,423	380,423	0%
14	Textile plants	2	335,953	167,977	0%
31	Food programmes	2	306,371	153,186	0%
21 / 22	Beef and veal & sheep and goats (reported by IT)	7	266,637	38,091	0%
18	Seeds, hops and rice	8	253,038	31,630	0%
10 / 21 / 22	Cereals & beef and veal & sheep and goats (reported by IT)	1	143,351	143,351	0%
12 / 18 / 20 / 21 / 22	Olive oil & seeds & milk (reported by IT)	1	117,285	117,285	0%
18 / 22	Seeds & milk (reported by IT)	2	78,218	39,109	0%
75	Decoupled direct aids (SAPS)	12	67,119	5,593	0%
11 / 20 / 21 / 23	Sugar & milk & beef and veal (reported by NL)	1	50,000	50,000	0%
18 / 22 / 40	Seeds & milk & rural development (reported by IT)	1	36,526	36,526	0%
30 / 31	Non-annex 1 products & food programmes (reported by NL)	1	20,597	20,597	0%
10 / 20	Cereals & milk (reported by IT)	1	19,767	19,767	0%
10 / 18	Cereals & seeds (reported by IT)	1	14,118	14,118	0%
39	Agri-monetary aid	1	11,031	11,031	0%
80	COP-area payments	1	5,710	5,710	0%
total		1,548	154,993,326	100,125	100%

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The highest amounts affected by irregularities reported related to “milk and milk products”. Member States reported a total of 76 cases involving milk and milk product measures (group 20). These cases alone amount to almost EUR 38.8 million, which is approximately 25% of the total amount affected by irregularities.

The second most affected sector is “fruits and vegetables” (group 15), where Member States reported 118 cases involving approximately EUR 32.1 million. A rather high amount affected by irregularities is reported for the group “sugar”. Member States reported 10 cases involving more than EUR 27 million. This implies that the average amount per irregularity is relatively high for cases reported in this group. The high amount is caused by 2 irregularities reported by Belgium and Denmark. The amount affected by was EUR 12.6 respectively EUR 14.2 million.

The highest number of irregularities reported related to “rural development”. Member States reported a total of 589 cases involving rural development measures (group 40). These cases alone amount to almost EUR 19.5 million, which is approximately 13% of the total amount affected by irregularities.

The last group of particular concern is “beef and veal” (group 21). In this sector 78 cases were reported involving approximately EUR 11.7 million. These 4 groups together account for about 56% of the total number of reported irregularities and about 83% of the total amount affected by irregularities.

Some Member States reported for some cases a combination of different measures affected by the same irregularity. This is indicated in table AG16. The Netherlands for instance reported 1 case in which support measures concerning “sugar”, “milk and milk products” and “beef and veal” were affected by one and the same irregularity. Italy reported a case in which support measures concerning “cereals”, “beef and veal” and “sheep and goats” were affected by one and the same irregularity. These peculiar cases are not taking into account in the rest of the specific analysis.

Milk and milk products (group 20)

Member States reported a total of 76 cases affecting milk and milk products measures (group 20). These cases alone amount to approximately EUR 38.8 million, which is approximately 25% of the total amount affected by irregularities. This is relatively high.

Table AG18 shows the measures that were mostly affected by irregularities, indicating the number of cases, the total amounts and average amount per irregularity.

The largest number of irregularities and the highest total amounts affected related to “butter and butter oil – export refund” (code 2000 R). These irregularities were reported by 9 Member States (BE, CY, CZ, DE, ES, FR, IE, NL and UK). The practises employed (modus operandi) can be summarised as:

- non-arrival at final destination
- product non-eligible for export refund

Table AG18: Milk and milk products: measures affected by irregularities

Table AG18 MILK AND MILK PRODUCTS budget year 2007						
code	description	cases		amounts		
		number	in % of total	amount in €	in % of total	average amount in €
2000 R	butter and butter oil - export refund	17	22%	16,114,080	42%	947,887
2040 S	butter - concentrated butter, butter for making icecream and pastries etc.	11	14%	12,707,200	33%	1,269,699
2099 S	milk and milk products - other	2	3%	8,789,283	23%	2,933,163
2071 S	milk - additional levy	16	21%	252,628	1%	15,789
2002 R	cheese - export refund	7	9%	222,288	1%	31,755
2033 S	milk and milk products - intervention storage	1	1%	98,755	0%	98,755
2001 R	skimmed milk powder - export refund	4	5%	96,249	0%	24,062
	other	18	24%	450,531	1%	293,521
total		76	100%	38,731,014	100%	5,614,633
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France indicated in 1 case that it concerned (established) fraud. In 2 cases, Member States were not able to indicate the measure affected. It concerned cases reported by Italy and the Netherlands. These 2 Member States indicated code 2099 S, which stands for “other”. The Italian case however, concerns almost EUR 8.8 million. The irregularity started in 2002 and ended in 2004. Italy as well as the Netherlands did not describe the practises employed in these 2 cases.

Member States classified in 49 cases (64%) the irregularities as irregularity or as (suspected or established) fraud. The average level of (suspected or established) fraud cases is 22%, calculated on the basis of the number of classified irregularities. It concerned in almost all cases support measures concerning butter.

Fruit and vegetables (group 15)

Member States reported a total of 118 cases affecting measures to support the fruit and vegetables sector (group 15). These cases alone add up to approximately EUR 27.2 million, which is approximately 18% of the total amount affected by irregularities (see table AG17). This is also relatively high. Table AG19 shows the measures which were hit by irregularities, indicating the number of cases, the total amounts and the average amount per irregularity.

Italy, Greece, Spain and United Kingdom reported 8 cases in which the total amount affected by the irregularity was more than EUR 1 million per case. Italy reported 5 cases as the other 3 Member States reported each 1 case with an amount affected of more than EUR 1 million.

In recent years, Member States have consistently reported a relatively high number of irregularities relating to citrus fruits (code 1515 S). This trend was confirmed in 2007. Although Member States reported fewer irregularities, the amounts affected increased from EUR 4.3 million to EUR 14 million. These cases were reported by three (3) Member States. Italy reported 5 cases with a total amount affected of EUR 13.4 million. Spain and Portugal together reported the other 12 cases with a total amount affected of EUR 0.6 million.

For the measure “operational funds for producer organisations” (code 1502 S) Member States have also consistently reported a relatively high number of

irregularities. 7 Member States reported 68 cases with a total amount affected of almost EUR 13.2 million. Almost 98% of the total amount affected concerned cases reported by Italy, Spain and United Kingdom. Italy is responsible for approximately 53% of the amounts affected by irregularities as Spain and United Kingdom are responsible for 26% respectively 19%. Spain, Italy and United Kingdom reported each one (1) case involving a total of more than EUR 1.5 million.

Table AG 19: Fruit and vegetables: measures affected by irregularities

Table AG19 FRUIT AND VEGETABLES budget year 2007						
code	description	cases		amounts		
		number	in % of total	amount in €	in % of total	average amount in €
1515 S	citrus fruits	17	14%	14,029,282	44%	825,252
1502 S	operational funds for producer organisations	68	58%	13,243,930	41%	194,764
1511 S	processed tomato products - production aid	2	2%	1,207,148	4%	603,574
1513 A	dried grapes and figs	1	1%	1,108,875	3%	1,108,875
1512 S	fruit-based products - production aid	2	2%	1,093,285	3%	546,643
1507 S	nuts	4	3%	671,250	2%	167,813
1508 A	bananas - compensation aid	8	7%	247,971	1%	30,996
1590 V	other	7	6%	160,962	1%	22,995
other		9	8%	376,430	1%	41,826
total		118	100%	32,139,133	100%	272,366

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Member States classified in 68 cases (58%) the irregularities as irregularity or as (suspected) fraud. The average level of (suspected) fraud cases is 21%, calculated on the basis of the number of classified irregularities. Spain, as main supplier for irregularities in the fruit and vegetables sector, did not classify any irregularity.

Sugar (group 11)

Member States reported a total of 10 cases affecting measures to support the sugar sector (group 11). These cases alone add up to approximately EUR 32.1 million, which is approximately 21% of the total amount affected by irregularities (see table AG16). This is rather high. The rather high financial impact is mainly caused by 2 cases reported by Belgium and Denmark. Belgium and Denmark reported both 1 case in which the total amount affected was EUR 12.6 million respectively EUR 14.2 million.

The Danish case concerned the support measure “production refunds on sugar used in the chemical industry”. Belgium indicated “restructuring of the sugar industry”. Denmark classified the case as an irregularity (IRQ 2) as Belgium did not give any classification.

Rural development (group 40)

Member States reported a total of 589 cases affecting rural development measures financed by the EAGGF guarantee section (group 40). These cases alone amount to approximately EUR 19.5 million, which is approximately 13% of the total amount affected by irregularities (see table AG17). Table AG20 shows the measures that were mostly affected by irregularities, indicating the number of cases, the total amounts and average amount per irregularity. The largest number of irregularities related to “forestry – former system” (code 4072 A).

Table AG 20: Rural development: measures affected by irregularities

Table AG20 RURAL DEVELOPMENT budget year 2007						
code	description	cases		amounts		
		number	in % of total	amount in €	in % of total	average amount in €
4072 A	forestry - former system	113	19%	5,251,360	27%	46,472
4050 A	agri-environment - new system	132	22%	2,583,331	13%	19,571
4080 A a	improvement of land	12	2%	2,021,089	10%	168,424
4060 A	improving the processing and marketing of agricultural products	22	4%	1,973,631	10%	89,711
4051 A	agri-environment - old system	80	14%	1,348,921	7%	16,862
4081 A c	encouragement of tourist and craft-based activities	15	3%	1,120,804	6%	74,720
4081 A d	environmental protection & improvement of animal welfare	15	3%	560,118	3%	37,341
4070 A	forestry - new system (art. 31 - objective 1)	10	2%	513,337	3%	51,334
other		190	32%	4,081,240	21%	21,480
total		589	100%	19,453,831	100%	33,029

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Member States classified in 442 cases (75%) the irregularities as irregularity or as (suspected) fraud. The average level of (suspected) fraud cases is 7.2%, calculated on the basis of the number of classified irregularities. Spain, as main supplier for irregularities in the fruit and vegetables sector, did not classify any irregularity.

The highest amount affected by irregularities is reported for the support measure “forestry – former system” (code 4072 A) as the highest number of irregularities is reported for the support measure “agri-environment – new system” (code 4050 A).

The measures “forestry – former system” (code 4072 A), “agri-environment” (codes 4050 A and 4051 A) – together account for approximately 55% of the total amount of irregularities connected to rural development.

Member States reported in total 125 irregularities relating to forestry measures (codes 4070 A, 4071 A and 4072 A) and a total amount affected by forestry measures of almost EUR 5.8. It concerned in more than 90% of the cases the support measure “forestry – former system”. Table AG21 on the right hand side gives an overview of those irregularities. Spain and Portugal reported the highest number of cases with the highest amount affected. The average amount per case is fairly high in the cases reported by Italy and Spain, at about EUR 63,500 respectively EUR 55,000. The modus operandi in 47% of the cases can be described as “not respecting deadlines” or “irregular termination”. Poland classified 2 cases as suspected fraud (IRQ 3), in one of those cases the irregularity was committed by a declaration of fictitious land. Spain and the Netherlands did not classify any of their cases. All other Member States classified the cases as an irregularity (IRQ 2).

Table AG21 FORESTRY budget year 2007					
MS	cases		amounts		
	number	in % of total	amount in €	in % of total	average amount in €
ES	67	54%	3,652,159	63%	54,510
PT	43	34%	1,541,700	27%	35,853
IT	8	6%	508,551	9%	63,569
NL	1	1%	32,369	1%	32,369
FR	2	2%	30,035	1%	15,018
PL	2	2%	18,797	0%	9,399
UK	2	2%	11,121	0%	5,561
total	125	100%	5,794,732	100%	46,358

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Table AG22 on the right hand side gives an overview per Member State of the number of irregularities reported and the amounts affected for “agri-environment” measures (code 4050 A and 4051 A). It is surprising that Portugal reports the highest number of irregularities and the highest amounts affected by irregularities. Approximately 4% of the EU-budget concerning “agri-environment” measures is spent in Portugal. The total amount affected by irregularities however is approximately 26% of the total expenditure in 2007. Member States as France, Spain and Germany receive a far higher level of support but report a far lower percentage amount affected by irregularities: 1%, 1% and 6% respectively.

MS	expenditure		cases	irregularity	
	amount in €	in % of total		amount in €	in % of expenditure
FR	34,394,978	47%	25	337,519	1%
ES	15,140,304	21%	11	198,573	1%
DE	11,584,071	16%	31	717,474	6%
EL	5,776,803	8%	35	655,348	11%
PT	2,786,328	4%	36	736,332	26%
DK	2,409,777	3%	4	261,948	11%
IT	609,763	1%	16	304,099	50%
other	215,718		54	720,959	
total	72,917,742	100%	212	3,932,252	5%

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Most frequently occurring modus operandi can be summarised as “missing documents” and “action not completed”. Member States classified in 169 cases (80%) the irregularities as irregularity or as (suspected) fraud. None of these cases was classified as (suspected) fraud (IRQ 3). Germany and Spain did not classify any of their cases.

Member States reported a limited number of irregularities relating to the measures “improving the processing and marketing of agricultural products” (code 4060 A) and “improvement of land (code 4080 A a). The financial impact, however, is high: almost EUR 4 million (see table AG 20). The Netherlands reported 1 irregularity with an amount affected of almost EUR 1.1 million.

Poland reported 42 cases in which the support measures “transitional instrument for the financing of rural development” (code 4095 A) and “single area payment scheme (SAPS)” (code 7500 A) were involved. All these cases were classified as “suspected fraud” (IRQ 3). The financial impact of these cases was almost EUR 0.5 million. The modus operandi in more than 90% of the cases can be described as “declaration of fictitious land”.

Beef and veal (group 21)

Member States reported a total of 78 cases relating to beef and veal measures (group 21). These add up to approximately EUR 11.7 million, approximately 8% of the total amount affected by irregularities. The highest amounts affected by irregularities and the largest number of irregularities were reported for export refund (code 2100 R), followed by “extensification premiums” (code 2125 A). Table AG 23 on the right hand side provides an overview. Spain reported 25 “export refund cases” (code 2100 R) in which

code		cases		amounts	
		number	in % of total	amount in €	in % of total
2100 R	export refunds	35	45%	6,029,168	51%
2125 A	extensification premiums	17	22%	4,496,707	38%
other		26	33%	1,194,442	10%
total		78	100%	11,720,317	100%

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almost EUR 5.9 million was affected by irregularities. Italy reported sixteen (16) cases concerning the support measure “extensification premium”. The amount affected by these irregularities was approximately EUR 4.5 million.

Member States classified in 51 cases (65%) the irregularities as irregularity or as (suspected) fraud. Only 2 cases were classified as (suspected) fraud (IRQ 3). Spain, as main supplier of irregularities in the beef and veal sector, did not classify any irregularity.

Export refunds

Table AG24 gives an overview of the irregularities per Member State relating to export refunds. The number of irregularities and the amounts affected by irregularities in this area are decreasing, accounting for approximately 9% of the total number of irregularities reported in 2007. Only 14 Member States reported irregularities related to export refunds. As mentioned earlier, this is one of the consequences of the reforms in the Common Agricultural Policy.

Table AG 24: Irregularities in export refunds per Member State

Table AG24 EXPORT REFUNDS budget year 2007						
MS	total 2007	cases export refunds	in % of total	total 2007	amounts in € export refunds	in % of total
AT	27	19	70%	401,511	285,270	71%
BE	34	19	56%	13,866,333	551,631	4%
BG						
CY	6	1	17%	83,362	17,508	21%
CZ	10	1	10%	103,168	14,217	14%
DE	94	18	19%	2,854,876	1,135,541	40%
DK	20	5	25%	15,257,984	126,894	1%
EE	16			83,985		
EL	86	2	2%	4,185,084	681,015	16%
ES	335	37	11%	23,609,346	6,797,770	29%
FI	20			338,508		
FR	147	9	6%	32,637,233	16,018,290	49%
HU	12			233,052		
IE	26	3	12%	490,043	85,441	17%
IT	237			43,063,210		
LT	10			232,242		
LU						
LV	11			141,835		
MT						
NL	64	15	23%	4,349,283	626,643	14%
PL	62	3	5%	1,099,347	4,714	0%
PT	190	1	1%	5,570,368	22,245	0%
RO						
SE	14			284,714		
SI	9			232,894		
SK	23			1,707,309		
UK	95	13	14%	4,167,640	459,467	11%
total	1548	146	9%	154,993,326	26,826,647	17%

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Member States reported 146 cases relating to export refunds and a total amount affected of almost EUR 26.9 million, which is 17% of the total amount affected by irregularities.

France reported the highest total amount affected by irregularities. The total amount affected by irregularities was more than EUR 16 million: the number of cases was 9.

The rather high amount affected by the irregularities is mainly caused by 1 (one) irregularity reported by France. France reported in 1 case a total amount affected of almost EUR 15.4 million. It concerned export refund of butter. The case was classified as “established fraud”. This implies that a final court decision was achieved. It is also remarkable that a final court decision has been achieved in the year of (first) reporting. According to the French communication, the expenditure was based on a budget line of the year 2000 as the irregularity started in 1997 and ended in 2000.

In Austria irregularities in export refunds, account for approximately 71% of the total number of irregularities.

Spain reported 37 cases with a total amount affected of almost EUR 6.8 million.

2 (two) cases were qualified as “suspected fraud” of which one (1) case had a total amount affected of more than EUR 1 million.

Table AG25 on the right hand side shows the product groups most often involved in export refund irregularities. The highest amounts affected are for measure concerning butter and butter oil (code 2000 R). It concerns a case for which France went to court (penal procedure) in 2000. This case therefore, should have been reported in 2000 and not

code	description	cases	amounts in €
2000 R	butter and butter oil	17	16,114,080
2100 R	beef and veal (CN 0201, 0202, 1602)	35	6,029,168
30xx R *)	non-annex-1-products	28	1,904,326
2300 R	pigmeat	25	1,205,260
1100 R	sugar and isoglucose	7	417,400
2002 R	cheese	7	222,288
1600 R	wine	4	143,723
1000 R	wheat grain and flour	2	136,906
other		21	653,495
total		146	26,826,647

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*) Germany did not specify the specific non-annex-1 measure affected by irregularities

in 2007. The total amount affected of this case was approximately EUR 15.4 million. Excluding this French case of the analysis, the highest number of cases reported and the highest amounts affected are for the measures concerning beef and veal. Member States reported 35 cases with a total amount affected of more than EUR 6 million.

Spain reported the highest number of irregularities: 25 cases. Spain reported by far the highest amount affected by irregularities, almost EUR 5.9 million and in 2 cases the amounts affected were more than EUR 1 million. The most frequent modus operandi is “missing (supporting) documents”.

More than 40% of the irregularities relating to the export of non-annex-1-products (code 30xx R) were reported by Germany. Unfortunately, Germany was not able to indicate which products were exported and to precise the measure affected.

A small number of irregularities (2) are classified as “other” (code 9920 R), which means that the Member State did not specify the measure involved. These irregularities were reported by Denmark. These irregularities concern most likely the export of “non-annex-1-products”.

3.3.2. Irregularity versus Suspected fraud

With the introduction of the electronic reporting system in mid-2001, Member States were asked to classify the irregularities reported. To assist them, an extra field was added to the module offering four possibilities: mistake, irregularity, (suspected)

fraud and organised crime. The field was modified in 2004 and 2006 and now offers four possibilities:

- IRQ 0 = no irregularity
- IRQ 2 = irregularity
- IRQ 3 = suspected fraud
- IRQ 5 = established fraud

Reg. 1848/2006, which came into force on 1 January 2007, introduced the obligation to identify fraud cases. Unfortunately, not all Member States comply with this obligation. Germany and Spain did not classify any cases. Belgium, Finland and the Netherlands should pay extra attention to this obligation.

Classification of irregularities by Member States

Table AG26 gives an overview of the classification of irregularities by Member States. Fraud as a percentage of the total amount of cases involved in irregularities is about 10%. The term fraud includes “suspicion of fraud” (IRQ3) and “established fraud” (IRQ5). The non-irregularities (IRQ0) have not been taken into account for the analysis. As mentioned earlier, Member States still need to improve their reporting, therefore the figures shown in the table should be treated with caution.

Table AG 26: Classification of irregularities by Member States

Table AG26 CLASSIFICATION OF THE IRREGULARITY budget year 2007								
MS	total	IRQ2	IRQ3	IRQ5	blank	compliance	fraud in %	MS
AT	27	27				100%	0%	AT
BE	34	6			28	18%	0%	BE
BG								BG
CY	6	6				100%	0%	CY
CZ	10	10				100%	0%	CZ
DE	94				94	0%		DE
DK	20	20				100%	0%	DK
EE	16	16				100%	0%	EE
EL	86	82	4			100%	5%	EL
ES	335				335	0%		ES
FI	20	13			7	65%	0%	FI
FR	147	142	1	4		100%	3%	FR
HU	12	11	1			100%	8%	HU
IE	26	25			1	96%	0%	IE
IT	237	222	15			100%	6%	IT
LT	10	10				100%	0%	LT
LU								LU
LV	11	4	7			100%	64%	LV
MT								MT
NL	64	21	6		37	42%	22%	NL
PL	62	6	56			100%	90%	PL
PT	190	186	4			100%	2%	PT
RO								RO
SE	14	14				100%	0%	SE
SI	9	9				100%	0%	SI
SK	23	23				100%	0%	SK
UK	95	83	11		1	99%	12%	UK
total	1,548	936	105	4	503	68%	10%	total
IRQ2 = irregularity								
IRQ3 = suspicion of fraud								
IRQ5 = established fraud								
blank = not classified by Member State								
fraud = (IRQ3 + IRQ5) / total								
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Classification of irregularities by OLAF

In previous reports, OLAF classified all cases. In the period 2000 – 2006 the percentage of irregularities classified as “suspected frauds” varied between 10% and 13% of the total number of irregularities reported.

In case OLAF would classify the 2007-irregularities by applying the same method as used for the period 2000 - 2006, the irregularities to be classified as “suspected frauds” would be 14% of the total number of reported irregularities. The classification by OLAF is based on the classification by Member States, the types of irregularities (codes) as indicated by Member States, the modus operandi as described by the Member States and additional comments made by Member States.

The higher fraud rate can be explained by the classification of the German cases and the reclassification of some cases of other Member States.

A rather large number of French cases would be reclassified from “irregularity” (IRQ2) into “suspicion of fraud” (IRQ3) due to the modus operandi applied in these cases. The practices employed for a large number of these cases can be summarised as “false and/or falsified accounts or false and/or falsified documents”. OLAF would classify these cases as “suspicion of fraud” (IRQ3).

Germany did not classify any of its reported irregularities. The cases in which the modus operandi can be summarised as “declaration of fictitious land” were considered as “suspicion of fraud” cases.

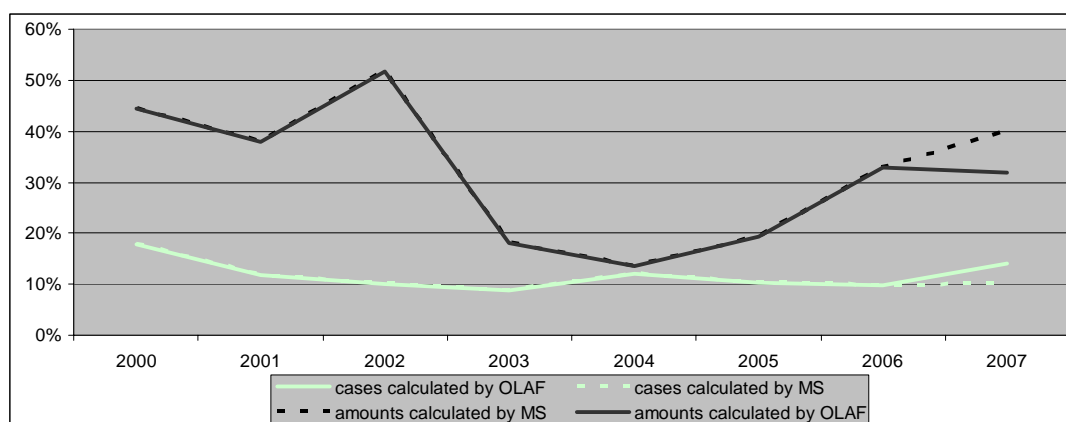
As said, table AG 26 and the OLAF-rate should be treated with caution. Member States still need to improve their reporting.

Estimated level of fraud

On the basis of the irregularities reported in the period 2000-2007 an attempt has been made to estimate the level of “suspected fraud” in the agricultural sector. Chart AG2 reflects the results of this analysis and shows the percentage of irregularities which can be classified as “suspected fraud” and/or “established fraud” cases, both in terms of the number of cases and the amounts affected by the irregularities.

Given that it is still an early attempt to estimate the level of fraud in the agricultural sector, the figures should be interpreted cautiously. Nevertheless, the results of the analysis are in line with the results of those Member States which classify the irregularities.

Chart AG 2: Irregularities and “suspected fraud”



One early conclusion is that, as a percentage of the total number of reported irregularities, “suspected fraud” varied between approximately 10% and 14% in the period 2000–2007. The chart shows that the level of “suspected fraud” cases, as a percentage of the total number of irregularities reported, is relatively stable.

“Suspected fraud” as a percentage of the total amounts affected by the irregularities reported varied between approximately 14% and 45% during the period 2000–2007. A greater difference between the percentage of “suspected fraud” cases based on the amounts and the percentage based on the number of “suspected fraud” cases was to be expected; amounts vary more and differ per irregularity reported.

It should be reiterated that the obligation to indicate “fraud” was introduced by Reg. 1848/2006, which came into force on 1 January 2007.

3.4. Recovery and sanctions⁴⁴

3.4.1. Recovery

Pursuant to Article 6 of Regulation (EC) No. 885/2006 Member States had to report to the Commission the amounts to be recovered at the end of financial year 2007. These amounts, which are certified by the Certification Bodies in each Member State, include all recovery cases (irregularities and administrative errors) irrespective of the amount concerned. Therefore, the information provided below is not limited to irregularity cases notified to OLAF under Regulation (EC) No. 1848/2006. On the basis of the tables submitted by the Member States to the Commission (DG AGRI), situation as of 11 April 2008, the amounts are the following:

- EUR 154.3 million was recovered by Member States and credited to the Community budget during financial year 2007;
- EUR 165.8 million was declared irrecoverable by Member States on the basis of Article 32(6) of Regulation (EC) No. 1290/2005 in financial year 2007;
- The total outstanding amount that remains to be recovered by the Member States was EUR 1,438.2 million at the end of financial year 2007.

Table AG27 gives a breakdown of these amounts on Member State level.

Table AG27: financial information on recovery

⁴⁴ The analysis, text and table concerning recovery are provided by DG AGRI. Under Reg. 1848/2006 Member States are not required to indicate the amounts to recover to OLAF.

MS	Recovered during FY 2007	Recovered in % of total	Declared irrecoverable during FY2007	Outstanding at the end of FY 2007	Outstanding in % of total
AT	2,691,366.29	1.70%	57,161.62	8,544,331.19	0.60%
BE	4,914,909.76	3.20%	26,068.27	49,614,092.40	3.40%
BG	0	0.00%	0	0	0.00%
CY	0	0.00%	0	0	0.00%
CZ	194,184.88	0.10%	0	2,876.96	0.00%
DE	24,272,453.07	15.70%	4,864,365.16	72,897,029.93	5.10%
DK	5,669,409.85	3.70%	1,132,705.24	12,040,203.82	0.80%
EE	937,624.16	0.60%	16,753.65	249,688.84	0.00%
ES	23,304,438.91	15.10%	20,551,894.75	172,392,029.75	12.00%
FI	2,631,183.66	1.70%	242.48	881,768.21	0.10%
FR	23,938,989.20	15.50%	5,854,248.07	334,092,963.72	23.20%
GB	15,320,082.16	9.90%	10,349,849.62	71,036,700.82	4.90%
GR	1,328,190.75	0.90%	10,841.64	44,669,181.50	3.10%
HU	3,046,296.02	2.00%	0	28,606,596.52	2.00%
IE	6,793,276.81	4.40%	214,788.14	11,040,538.62	0.80%
IT	12,466,435.97	8.10%	121,625,153.07	553,849,675.67	38.50%
LT	1,992,817.36	1.30%	76.86	611,936.91	0.00%
LU	70,910.00	0.00%	0	52,472.06	0.00%
LV	590,571.42	0.40%	54.09	331,396.28	0.00%
MT	5,573.33	0.00%	0	10,346.43	0.00%
NL	10,479,316.30	6.80%	666,852.42	23,442,819.05	1.60%
PL	2,650,224.33	1.70%	630.29	383,370.22	0.00%
PT	6,551,177.97	4.20%	302,961.28	49,929,716.70	3.50%
RO	0	0.00%	0	0	0.00%
SE	3,146,909.72	2.00%	36,503.54	1,110,496.42	0.10%
SI	1,285,270.12	0.80%	0	610,532.42	0.00%
SK	12,988.08	0.00%	78,107.13	1,772,496.44	0.10%
Total	154,294,600.11	100%	165,789,257.32	1,438,173,260.89	100%

3.4.2. Sanctions

The agricultural sector is renowned for its severe penalty system. Community legislation provides a mandatory system for imposing penalties. Reg. 1848/2006 obliges Member States to report details concerning the initiation or abandonment of any procedures for imposing administrative or criminal sanctions as well as the main results of such procedures.

Table AG28 gives an overview of penalties concerning the year 2007 reported under Reg. 1848/2006 to OLAF.

Table AG 28: Penalties and sanctions

MS	total number of cases	cases information on penalties	information in % of total cases	total amount affected	amounts penalties in €	penalties in % of total amount	MS
AT	27	19	70%	401,511	525,851	131%	AT
BE	34	18	53%	13,866,333	288,716	2%	BE
BG							BG
CY	6	3	50%	83,362	0	0%	CY
CZ	10	1	10%	103,168	0	0%	CZ
DE	94	0	0%	2,854,876	0	0%	DE
DK	20	8	40%	15,257,984	17,122	0%	DK
EE	16	1	6%	83,985	15,039	18%	EE
EL	86	3	3%	4,185,084	1,363,489	33%	EL
ES	335	4	1%	23,609,346	99,427	0%	ES
FI	20	0	0%	338,508	0	0%	FI
FR	147	13	9%	32,637,233	140,422	0%	FR
HU	12	0	0%	233,052	0	0%	HU
IE	26	3	12%	490,043	17,294	4%	IE
IT	237	6	3%	43,063,210	13,255	0%	IT
LT	10	0	0%	232,242	0	0%	LT
LU							LU
LV	11	7	64%	141,835	0	0%	LV
MT							MT
NL	64	6	9%	4,349,283	20,807	0%	NL
PL	62	39	63%	1,099,347	1,115	0%	PL
PT	190	1	1%	5,570,368	2,225	0%	PT
RO							RO
SE	14	0	0%	284,714	0	0%	SE
SI	9	0	0%	232,894	0	0%	SI
SK	23	6	26%	1,707,309	0	0%	SK
UK	95	14	15%	4,167,640	189,259	5%	UK
total	1,548	152	10%	154,993,326	2,694,021	2%	total

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In 2007, Member States reported 1,548 cases. In 152 cases, Member States indicated that a sanction had been imposed, still has to be imposed or will not be imposed. In all other 1,396 cases, no information was received from Member States.

The total amount of penalties imposed in 2007, according to the reports received from Member States, is 2% of the total amount affected by irregularities. The percentage is rather “high” thanks to the fact that Austria and Greece reported a relatively high percentage of penalties, 131% respectively 33%.

One of the reasons for this rather low percentage is the fact that only a limited number of Member States are reporting the penalties applied and, in addition, some of the Member States which do report the penalties imposed, only do so in a limited number of cases.

The penalties and sanctions in the agricultural sector are included in the working programme 2008 of the European Court of Auditors.

3.5. Conclusions

Introduction

- Member States reported 1,548 new irregularities in 2007;
- the total amount affected in 2007 was about EUR 155 million;
- Bulgaria, Luxembourg, Malta and Romania had no irregularities to report in 2007;

- *Reporting discipline:*
- the reporting discipline of Member States improved in 2007, but further improvements are still necessary;
- Germany, Spain and Latvia are not using the electronic reporting module as provided by OLAF to forward communications⁴⁵;
- the average time between committing an irregularity and reporting the irregularity to the Commission is 4.4 years;
- the average time between the discovery and the reporting of an irregularity is 1.2 year;
- Austria has an average time gap between discovery and reporting of 3.4 years;
- Austria, Greece, Italy and Sweden have an average time gap of more than 6 years between the moment that an irregularity was committed and its reporting;
- 33% of the irregularities were reported within 6 months after the discovery;
- Germany and Spain did not classify any of its irregularities as suspicion of fraud or established fraud;
- Germany is the only Member State that is not reporting any personal data⁴⁶;
- The EU-27 compliance rate is 70%.

General trends:

- EUR 30.4 billion of the total expenditure (EUR 46.9 billion) concerned “decoupled direct aids” (05 03 01).
- total amounts affected by irregularities concerning “decoupled direct aids” (05 03 01) was only EUR 1.1 million;
- the number and amounts of irregularities are not equally spread over all Member States;
- Spain, Italy and Portugal report a relatively high number of irregularities and a relatively high total amounts affected by irregularities;
- Belgium, Germany, France, Ireland and Poland report a relatively low number of irregularities;
- Most frequently occurring type of irregularity (41%) concerned the action or non-action of a beneficiary;

⁴⁵ See footnote 39.

⁴⁶ See footnote 42.

- 5% of the irregularities were detected before payment;

Specific analysis:

- the five main categories most affected by irregularities are:
 - Milk and milk products: 76 cases involving EUR 38.7 million
 - Fruit and vegetables : 118 cases involving EUR 32.1 million
 - Sugar : 10 cases involving EUR 27.2 million
 - Rural development : 589 cases involving EUR 19.5 million
 - Beef and veal : 78 cases involving EUR 11.7 million;
- the “suspicion of fraud” level for the category “milk and milk products” is 22%;
- France and Spain report a relatively low number of irregularities and a relatively low amount affected by irregularities for the category “agri-environment”;

Irregularity vs suspected fraud:

- “suspected fraud” and “established fraud” cases, as a percentage of the total number of irregularities reported, vary between 10% (classification by MS) and 14% (classification by OLAF).

Penalties and recovery:

- the total amount of penalties reported to OLAF is approximately 2% of the total amount affected by irregularities;
- Austria, Greece and Estonia reported to OLAF more penalties and sanctions than other Member States.

4. STRUCTURAL MEASURES (ANNEXES 13-17)

In 2007, Member States reported 3,740 irregularities under Regulation (EC) No 1681/94 which covers the four Structural Funds⁴⁷ and 92 under Regulation (EC) No 1831/94 (on the Cohesion Fund). The total amount affected by irregularities in 2007 was about EUR 827.6 million, EUR 717.4 million of which was from the Structural Funds and EUR 110.2 million from the Cohesion Fund. Irregularities reported in this sector were equivalent to 1.83% of the budget allocated to it in 2007.

Since the information system of irregularities was established, Member States have reported 25,757 irregularities, of which 24,875 related to the Structural Funds and 882 to the Cohesion Fund.

4.1. Reporting Discipline

In 2007, the Commission received 7,026 communications under Regulations (EC) Nos 1681/94⁴⁸ and 1831/94⁴⁹, of which 3,194 were updates of cases that had been previously reported (under Article 5 of the abovementioned regulations). For the first time, irregularities were received from all 25 Member States. Bulgaria and Romania benefit from the Structural funds since their accession and under the new programming period 2007-2013, but as these programmes are not yet in their operational phase, no irregularities have yet been reported.

4.1.1. Timely reporting

Under Reg. 1681/94 and Reg. 1831/94 Member States are required to report at the latest within 2 months after the end of the quarter in which an irregularity was detected and/or new information about an irregularity that has already been reported becomes known. Member States indicate the reporting quarter and the date of communication. These 2 (two) indicators can be used to determine if a Member State complied with the rules. 14 Member States failed to comply to forward all communications within the period of 2

MS	reported in total	reported timely	reported too late	reported too late in %
AT	28	12	16	57%
CZ	40	36	4	10%
DE	412	234	178	43%
EL	92	82	10	11%
ES	647	197	450	70%
FI	43	34	9	21%
FR	140	57	83	59%
HU	38	30	8	21%
IT	658	656	2	0%
LU	8	7	1	13%
NL	146	4	142	97%
PT	544	541	3	1%
SE	79	58	21	27%
SK	30	12	18	60%
total	3.832	2.887	945	25%

Art. 3(4) Reg. No. 1681/94 and 1831/94
download 15/4/2008

⁴⁷ The four Structural Funds are:
The European Regional Development Fund (ERDF), supporting primarily productive investment, infrastructure and development of SMEs;
The European Social Fund (ESF), supporting measures to promote employment (education systems, vocational training and recruitment aids);
The Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF-Guidance), supporting measures for the adjustment of agricultural structures and rural development;
The Financial Instrument for Fishery Guidance (FIFG), supporting measures for the adjustment of the fisheries sector and the 'accompanying measures' of the common fishery policy.

⁴⁸ As amended by Regulation (EC) No 2035/2005.

⁴⁹ As amended by Regulation (EC) No 2168/2005.

months after the "reporting quarter". However, in the case of 4 countries (Italy, Portugal, Luxembourg and the Czech Republic), only a very limited number of irregularities was reported too late. Table SF1 provides an overview.

The situation is improving. In 2006 63% of irregularities were reported on time, while in 2007 the share of irregularities reported on time grew to 75%. The increasing use of electronic means for reporting has positively influenced this result (see *infra*, par. 4.1.2). However still some countries send an important part of their communications well after the deadline indicated in the legislation and, therefore, need to put more attention on this aspect.

It is, however, more interesting to verify how long a Member State needs after the detection of an irregularity to report it to the Commission services. As a matter of fact, Member States are requested to indicate «the date on which the primary administrative or judicial finding on the irregularity was established»⁵⁰. They have failed to indicate a precise date in 142 cases on 3,832 (less than 4%. For more details see *infra* par. 4.1.4). For the remaining 3,690 cases, the gap between detection and reporting is indicated by Member State in the table SF2 below.

Table SF2: Years of delay between irregularity detection and reporting - 2007

Table SF2								
YEARS OF DELAY								
year 2007								
MS	< 12 months	> 12 months and < 24 months	> 2 years and < 4 years	> 4 years	TOTAL	average in years	compliance	MS
AT	11	9	7	1	28	1.0	71%	AT
BE	9	15	0	0	24	0.6	100%	BE
CY		1	0	0	1	1.0	100%	CY
CZ	18	11	0	0	29	0.4	100%	CZ
DE	208	145	48	10	411	0.7	86%	DE
DK	2	4	2	1	9	1.4	67%	DK
EE	9	23	2	0	34	0.8	94%	EE
EL	36	41	8	5	90	0.9	86%	EL
ES	202	374	57	3	636	0.8	91%	ES
FI	19	11	6	6	42	1.2	71%	FI
FR	4	59	64	10	137	1.9	46%	FR
HU	8	13	0	0	21	0.6	100%	HU
IE			31	2	33	3.0	0%	IE
IT	148	275	146	41	610	1.3	69%	IT
LT	11	1	0	0	12	0.1	100%	LT
LU	5	3	0	0	8	0.4	100%	LU
LV	7	2	0	0	9	0.2	100%	LV
MT		1	0	0	1	1.0	100%	MT
NL	127	17	1	0	145	0.1	99%	NL
PL	124	159	6	0	289	0.6	98%	PL
PT	132	258	123	29	542	1.2	72%	PT
SE	43	23	10	1	77	0.6	86%	SE
SI	2	1	0	0	3	0.3	100%	SI
SK	13	7	3	0	23	0.6	87%	SK
UK	329	118	25	4	476	0.4	94%	UK
TOTAL	1,467	1,571	539	113	3,690	0.9	82%	TOTAL
% Of total	39.8%	42.6%	14.6%	3.1%	100.0%			% Of total
Cumulative %	39.8%	82.3%	96.9%	100.0%				Cumulative %
Art. 3(1)(j) Reg. NN. 1681/94 and 1831/94								
download 15/04/2008								

⁵⁰

See art. 3(1) lett. (j) of Regulations NN. 1681/94 and 1831/94 as amended, respectively, by Regulations NN. 2035/2005 and 2168/2005.

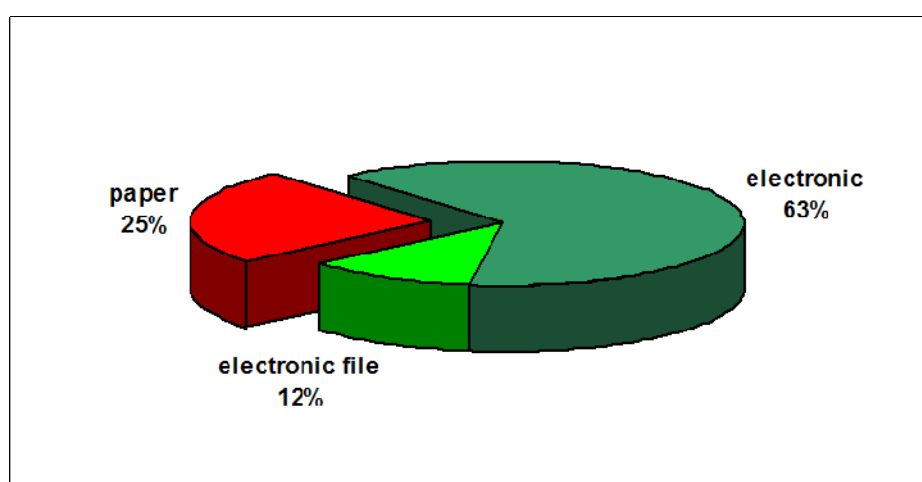
It is positive that more than 82% of the irregularities are reported with a maximum of one year of delay to the Commission. A certain delay is understandable in a management system quite complicated like that of the Structural funds. It is less easy to understand, however, delays that exceed the 2 years, which happens in almost 18% of the cases. This situation is particularly true for Member States like Ireland (for which the delay of more than 2 years concerns 94% of the irregularities reported in 2007), France (26%), Finland (19%), Italy (16%), Denmark (11%) and Greece and Portugal (10%). These countries should pay particularly attention in the future to this aspect.

Timeliness is of the utmost importance in order to allow the Commission to analyse correctly and in the right moment in time the changing trends and patterns related to irregularities across Europe.

4.1.2. *Electronic reporting*

The systematic use of the electronic reporting system from Member States is steadily increasing⁵¹. In 2006, 51% of all irregularities were reported electronically through the AFIS/ECR system, while in 2007 the proportion of irregularities reported through electronic means has reached 75% of the total, as detailed in chart SF1 below.

Chart SF 1: Reporting of irregularities – used formats



The number of irregularities reported on paper has decreased by 37.5% in relation to the previous year, while those reported through the electronic modules of the Commission has increased by 28%. Also the number of irregularities reported through other electronic means (electronic file) has increased by 11%.

The increased use of the AFIS/ECR modules 1681 and 1831 is leading to an improvement in data quality and in timeliness of reporting. Using these electronic modules reduces the risk of Member States interpreting the reporting requirements

⁵¹ It should be noted that electronic reporting is not compulsory for Member States, as article 6a of Regulations NN. 1681/94 and 1831/94, as amended, respectively, by Regulations NN. 2035/2005 and 2168/2005, indicates that information required «shall be sent, whenever it is possible to do so, using the module provided by the Commission».

and technical aspects in different ways and, therefore, improves the consistency of the information submitted to the Commission.

There are still 8 countries that do not use the AFIS/ECR modules 1681 and 1831: Estonia, France, Germany, Ireland, Luxembourg, Latvia, Spain and Sweden. Germany and Estonia send an electronic file via the AFIS-mail, which still needs some processing. Table SF3 indicates the reporting formats used by Member States and the relative number of irregularities forwarded to the Commission.

Table SF 3: Reporting formats used by the Member States

Table SF3 USED REPORTING FORMATS BY MEMBER STATE year 2007					
MS	electronic	electronic file	paper	total	MS
AT	20		8	28	AT
BE	27		1	28	BE
CY	1			1	CY
CZ	40			40	CZ
DE		412		412	DE
DK	2		9	11	DK
EE		34		34	EE
EL	92			92	EL
ES			647	647	ES
FI	43			43	FI
FR			140	140	FR
HU	38			38	HU
IE			33	33	IE
IT	649		9	658	IT
LT	12			12	LT
LU			8	8	LU
LV			9	9	LV
MT			2	2	MT
NL	146			146	NL
PL	291			291	PL
PT	544			544	PT
SE			79	79	SE
SI	2		2	4	SI
SK	24		6	30	SK
UK	501		1	502	UK
TOTAL	2,432	446	954	3,832	TOTAL

Art. 6a Reg. 1681/94 and 1831/94
download 15/04/08

4.1.3. Programme identification number (CCI code)

One of the most important information to be communicated is the Common Identification Code (CCI from the French acronym), which allows for the correct identification of the programme that was affected by the irregularity. This piece of information is absolutely essential for a correct financial follow-up and for a reliable analysis of the irregularities by the Commission services.

Member States have been particularly compliant from this point of view, because only for 14 irregularities on 3,832 the identification number was not provided.

4.1.4. Year of detection vs year of reporting

The analysis of the gap between detection and reporting has been already described under par. 4.1.1. The table below indicates in how many cases the Member States failed to provide «the date on which the primary administrative or judicial finding on the irregularity was established»⁵².

The table indicates only the Member States which have failed to indicate the appropriate information in some of the irregularities communicated to the Commission.

The non-compliance level is, in general, very low (3.7%). It is clear that in certain cases, like France, Finland, Greece, the Netherlands, Portugal, Poland and Sweden, the non compliance is very limited and it is due to just a few cases of irregularities (1, maximum 2) for which the Member States did not indicate the date of establishment of the irregularity. These are not serious failures to comply with the regulations.

MS	reported in total	date reported correctly	date reported not correctly*	date not reported correctly in %
BE	28	24	4	14.3%
CZ	40	29	11	27.5%
DE	412	411	1	0.2%
DK	11	9	2	18.2%
EL	92	90	2	2.2%
ES	647	636	11	1.7%
FI	43	42	1	2.3%
FR	140	137	3	2.1%
HU	38	21	17	44.7%
IT	658	610	48	7.3%
MT	2	1	1	50.0%
NL	146	145	1	0.7%
PL	291	289	2	0.7%
PT	544	542	2	0.4%
SE	79	77	2	2.5%
SI	4	3	1	25.0%
SK	30	23	7	23.3%
UK	502	476	26	5.2%
EU25 total	3,832	3,690	142	3.7%

* date not reported correctly includes missing or incorrect dates
Art. 3(1)(f) Reg. 1681/94 and 1831/94
download 15/4/2008

In some other cases, the percentage of irregularities where the required element was not indicated is still relatively low on the total: this is the case of countries like Spain, Italy and the United Kingdom. It should also be noted that these countries are among those which reported the highest number of irregularities.

More serious appears the situation of the Czech Republic, Hungary and Slovakia, where the missing information represents a higher share of the total.

4.1.5. Practices employed (art. 3(1)(d) of Reg. NN. 1681/94 and 1831/94)

Art. 3(1) (d) of Reg. NN. 1681/94 and 1831/94 contain the obligation to report the practices employed in committing the irregularity (*modus operandi*). The practices employed can be indicated by code as well as with text. The codes are in a pick list that contains a collection of different types of irregularity. The reporting module also offers the possibility to use written text to describe more precisely the practices employed.

⁵² See art. 3(1) lett. (j) of Regulations NN. 1681/94 and 1831/94 as amended, respectively, by Regulations NN. 2035/2005 and 2168/2005.

Only in 5.5% of the cases, Member States failed to describe the *modus operandi* in details. However, only in 2 cases they missed to provide a short description using the codes from the pick list. Compliance rate is therefore very high.

4.1.6. Suspected fraud (art. 3(1)(e) of Reg. NN. 1681/94 and 1831/94)

Art. 3(1)(e) of Reg. NN. 1681/94 and 1831/94 obliges Member States to indicate if the practice amounts to a suspected fraud or not. Member States classified approximately 67% of the reported cases. Table SF5 gives an overview of the classification by Member State. Member States that did not classify any of their reported cases are Spain, France, Ireland and Luxembourg. Denmark, Germany and Sweden qualified a very low percentage of the reported irregularities (between 18.2% and 34%). The compliance rate of the other Member States can be evaluate as satisfactory to very satisfactory.

Table SF5 Classification of reported irregularities by Member State

Table SF5 CLASSIFICATION OF THE IRREGULARITY year 2007								
MS	total	IRQ2	IRQ3	IRQ5	iru classification	compliance	MS	suspected or established fraud in %
AT	28	23	1		4	86%	AT	4%
BE	28	27	1			100%	BE	4%
CY	1		1			100%	CY	100%
CZ	40	23	6		11	73%	CZ	15%
DE	412	80	22	3	307	25%	DE	6%
DK	11	2			9	18%	DK	0%
FF	34	32	2			100%	FF	6%
EL	92	92				100%	EL	0%
ES	647				647	0%	ES	0%
FI	43	38	2		3	93%	FI	5%
FR	140				140	0%	FR	0%
HU	38	38				100%	HU	0%
IE	33				33	0%	IE	0%
IT	658	353	290	6	9	99%	IT	45%
LT	12	12				100%	LT	0%
LU	8				8	0%	LU	0%
LV	9	6	2		1	89%	LV	22%
MT	2	2				100%	MT	0%
NL	146	143			3	98%	NL	0%
PL	291	243	45	1	2	99%	PL	16%
PT	544	544				100%	PT	0%
SE	79	18			61	23%	SE	0%
SI	4	4				100%	SI	0%
SK	30	24			6	80%	SK	0%
UK	502	492	2	2	6	99%	UK	1%
total	3,832	2,196	374	12	1,250	67%	total	10%
IRQ2 = irregularity								
IRQ3 = suspicion of fraud								
IRQ5 = established fraud								
blank = not classified by Member State								
Art. 3(1)(e) of Reg. 1681/94 and 1831/94								
download 15/05/2008								

For a more detailed analysis of this information see *infra* section 4.3.3.

4.1.7. Legal/natural persons identification

Member States are also required to provide information on the identity of the natural and legal persons involved. Art. 3(1)(k) of Reg. NN. 1681/1994 and 1831/94 states that the identities of the natural and/or legal persons involved, or of other entities which have taken part in the commission of the irregularity, should be indicated.

MS	total reported	complying	non complying	% of compliance	MS
AT	28	28		100%	AT
BE	28	28		100%	BE
CY	1	1		100%	CY
CZ	40	35	5	88%	CZ
DE	412	3	409	1%	DE
DK	11	11		100%	DK
EE	34	34		100%	EE
EL	92	92		100%	EL
ES	647	647		100%	ES
FI	43	42	1	98%	FI
FR	140	140		100%	FR
HU	38	38		100%	HU
IE	33	33		100%	IE
IT	658	658		100%	IT
LT	12	12		100%	LT
LU	8	8		100%	LU
LV	9	9		100%	LV
MT	2	2		100%	MT
NL	146	146		100%	NL
PL	291	225	66	77%	PL
PT	544	544		100%	PT
SE	79	77	2	97%	SE
SI	4	4		100%	SI
SK	30	30		100%	SK
UK	502	502		100%	UK
total	3,832	3,348	484	87%	total

Art. 3(1)(k) Reg. 1681/94 and 1831/94
download 15/04/2008

Germany informed the Commission about restrictions in its national legislation with respect to the reporting of personal data. Nevertheless, in 3 cases Germany did forward the names of the natural persons involved⁵³.

Table SF6 provides an overview of the reporting of personal data.

The compliance rate of 87% is high.

4.1.8. Summary

Table SF7 contains an overview of the compliance rate per reporting obligation. The table summarises the findings of the previous paragraphs as the examined reporting obligations have a high added value for analysis purposes.

⁵³ Germany will classify its cases when it starts to use the IMS (summer 2008). See footnote 39.

Table SF7: compliance per Member State year 2007

Table SF7 COMPLIANCE year 2007								
MS	timely reporting	programme number	practises employed	classification	date established	personal data	compliance	MS
AT	43%	100%	86%	86%	71%	100%	81%	AT
BE	100%	100%	96%	100%	100%	100%	99%	BE
CY	100%	100%	100%	100%	100%	100%	100%	CY
CZ	90%	100%	98%	73%	100%	88%	91%	CZ
DE	57%	100%	98%	25%	86%	1%	61%	DE
DK	100%	100%	100%	18%	67%	100%	81%	DK
EE	100%	100%	100%	100%	94%	100%	99%	EE
EL	89%	85%	87%	100%	86%	100%	91%	EL
ES	30%	100%	87%	0%	91%	100%	68%	ES
FI	79%	100%	98%	93%	71%	98%	90%	FI
FR	41%	100%	94%	0%	46%	100%	63%	FR
HU	79%	100%	100%	100%	100%	100%	96%	HU
IE	100%	100%	100%	0%	0%	100%	67%	IE
IT	100%	100%	91%	99%	69%	100%	93%	IT
LT	100%	100%	100%	100%	100%	100%	100%	LT
LU	88%	100%	100%	0%	100%	100%	81%	LU
LV	100%	100%	100%	89%	100%	100%	98%	LV
MT	100%	100%	100%	100%	100%	100%	100%	MT
NL	3%	100%	99%	98%	99%	100%	83%	NL
PL	100%	100%	100%	99%	98%	77%	96%	PL
PT	99%	100%	98%	100%	72%	100%	95%	PT
SE	73%	100%	100%	23%	86%	97%	80%	SE
SI	100%	100%	75%	100%	100%	100%	96%	SI
SK	40%	100%	73%	80%	87%	100%	80%	SK
UK	100%	100%	99%	99%	94%	100%	99%	UK
total	75%	100%	95%	67%	82%	87%	84%	total

Art. 3(1) Reg. NN. 1681/94 and 1831/94
download 15/04/2008

In general, Member States do try to comply with the reporting obligations and important progresses have been found in relation to previous years starting from the timeliness of the reporting. There is still room for improvement, in particular from countries like Germany⁵⁴, France, Ireland and Spain which score far below the average.

The EU-25 compliance rate is 84%.

4.2. General Trends

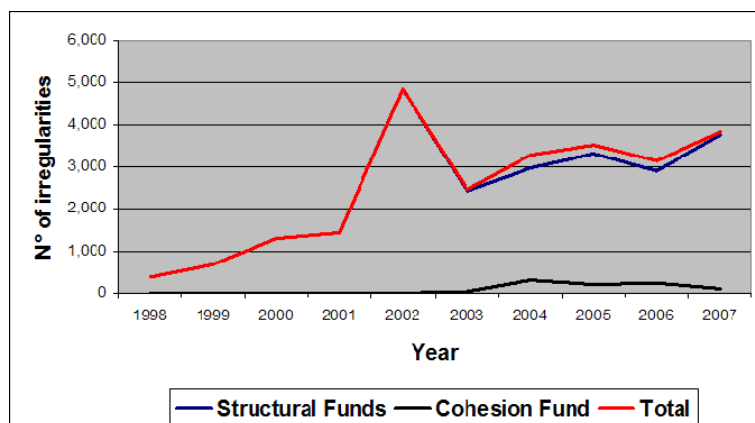
Overall trends

In 2007 the number of reported irregularities increased by around 19.2% as compared to the year before. Also the related irregular amounts increased of about 17.7%, the irregularities reaching EUR 827.6 million (including the Cohesion Fund). As far as the number of irregularities communicated is concerned, it has reached its peak in 2002 with more than 4,500 irregularities notified. This situation was due to the closure of the programming period 1994-1999. As shown in chart SF5, since then the number of irregularities has oscillated between 2,500 and 3,800. In 2006, the number of irregularities reported decreased in comparison to the situation in 2005. That was caused mostly by the change in the legislation. The Regulations Nos.

⁵⁴ See footnote 39.

2035/2005 and 2168/2005 amending, respectively, Regulations Nos. 1681/94 and 1831/94 raised the reporting threshold from EUR 4,000 to EUR 10,000.

Chart SF 2: 1998-2007 trend concerning number of reported irregularities for the Structural Funds, the Cohesion Fund and in total



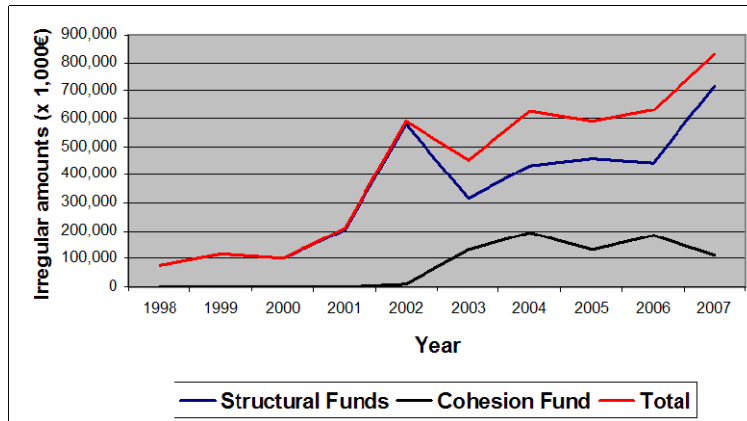
In 2007, however, the number of irregularities increased again, up to 3,832 (including the Cohesion Fund). The main explanations for this new increase seem to be mainly two.

In first place, a higher number of irregularities from the new Member States (EU10), as a result of full implementation of the programmes and a better understanding and implementation of the reporting obligation. The number of irregularities from the EU10 increased by 31.5% in relation to 2006.

In the second place, it should be stressed that the sector of the Cohesion policy has been subject to a particular “pressure” from the control authorities and this is reflected in a higher number of irregularities in relation to 2006 also from the old Member States (EU15). The increase from the EU15 was of 23.5%.

The irregular amounts grew as well, reaching a new maximum level after that of 2006. However, their relative impact on the overall Cohesion Policy budget remained stable (for a detailed analysis about the impact on budget see *infra* par. 4.2.3). The explanations for such a further increase are the same two explained above.

Chart SF 3: 1998-2007 trend concerning irregular financial amounts for the Structural Funds, the Cohesion Fund and in total



The variation in relation to the year 2006 has been again greater for the EU10 (+56.8%) than for the EU15 (+37.7%).

The difficulty in interpreting charts SF2 and SF3 consists in the fact that projects financed through the Cohesion policy budget are implemented through several years and the number of irregularities and related financial impact is only calculated on the reporting year. It can also happen that Member States still report irregularities referred to the Programming Period 1994-1999 and these are included in the chart too (for an analysis per programming period, see *infra* paragraph 4.2.5). Furthermore, as of 2007, the new programming period 2007-2013 comes into relevance. The budget allocated to the Cohesion policy 2007, in fact, refers to its first year, but no irregularities can be related to it, considering that the programmes under which the financed projects and operations will be implemented were under negotiation and no real financing occurred. As a matter of fact, the reported irregularities are referred exclusively to the programming periods 1994-1999 and 2000-2006 (for more details see *infra* par. 4.2.5).

Furthermore, only some of these irregularities have real financial consequences and constitute a specific potential loss to the European budget. In fact, some irregularities are detected before any payment is made and the question of recovery does not arise (for more details see *infra* paragraph 4.3.3).

Moreover, the majority of irregularities having a real financial impact are not fraudulent and, once an irregular situation has been identified, corrective measures are adopted and recovery procedures started. These may take some time. In cases of suspected fraud, however, penal or judicial procedures are activated and longer delays can be expected.

Trend related to Member States

Like in previous years, the irregularities are not distributed equally among Member States.

Taking into consideration how the irregularities are split among Member States, like in previous years the biggest countries and those with the highest overall funding from the Cohesion policy report the most irregularities. In 2007, the highest number of irregularities was reported by Italy (658, -12%), Spain (647, +51%) Portugal (544, +19%), the United Kingdom (502, +125%) and Germany (412, +28%). Apart from

Italy, all other countries having reported a high number of irregularities, presented a significant increase. Another Member State which registered a significant increase in terms of number of reported irregularities in 2007 is Poland (295, +88%).

In the analysis of the particular funds, the irregularities are split differently among the Member States than in the total number of cases.

For example, in the European Social Fund (ESF) irregularities, Portugal remains also in 2007 the Member State having reported the highest number of irregularities (224), followed by Italy (208), the United Kingdom (170) and Germany (143).

In the European Regional Development Fund (ERDF) the countries reporting the most irregularities are Spain (391), Italy (306), the United Kingdom (280) and Portugal (263).

In the European Agriculture Guarantee and Guidance Fund – Guidance section (EAGGF-Guidance), Italy reported the highest number of irregularities (134), followed by Poland (94), Spain (70) and Portugal (47). Concerning Poland, the EAGGF-Guidance irregularities stand up for almost one third of the total number of irregularities reported by this Member State.

In the Financial Instrument for Fishery Guidance (FIFG), irregularities from Spain (18), the United Kingdom (11) and Italy (10) account for 65% of the total number of reported irregularities affecting this Fund.

Finally, concerning the Cohesion Fund, Spain reported more than one third of the received irregularities (34) for this fund. Greece, which in the previous years had reported the greatest share of the irregularities affecting this Fund, comes in second place (28), followed by Poland (9). Concerning this Fund, the number of reported irregularities appears too low in relation to the other funds and the allocated resources.

In 2007, for the first time since the enlargement of 2004, all Member States reported irregularities to the Commission services. This is a very positive element, because it shows and improved understanding from the Member States of the reporting obligations.

4.2.1. Amounts involved

As far as amounts per country are concerned, they go more or less in line with the number of the reported cases, with the countries reporting the highest numbers, also reporting the highest irregular financial amounts.

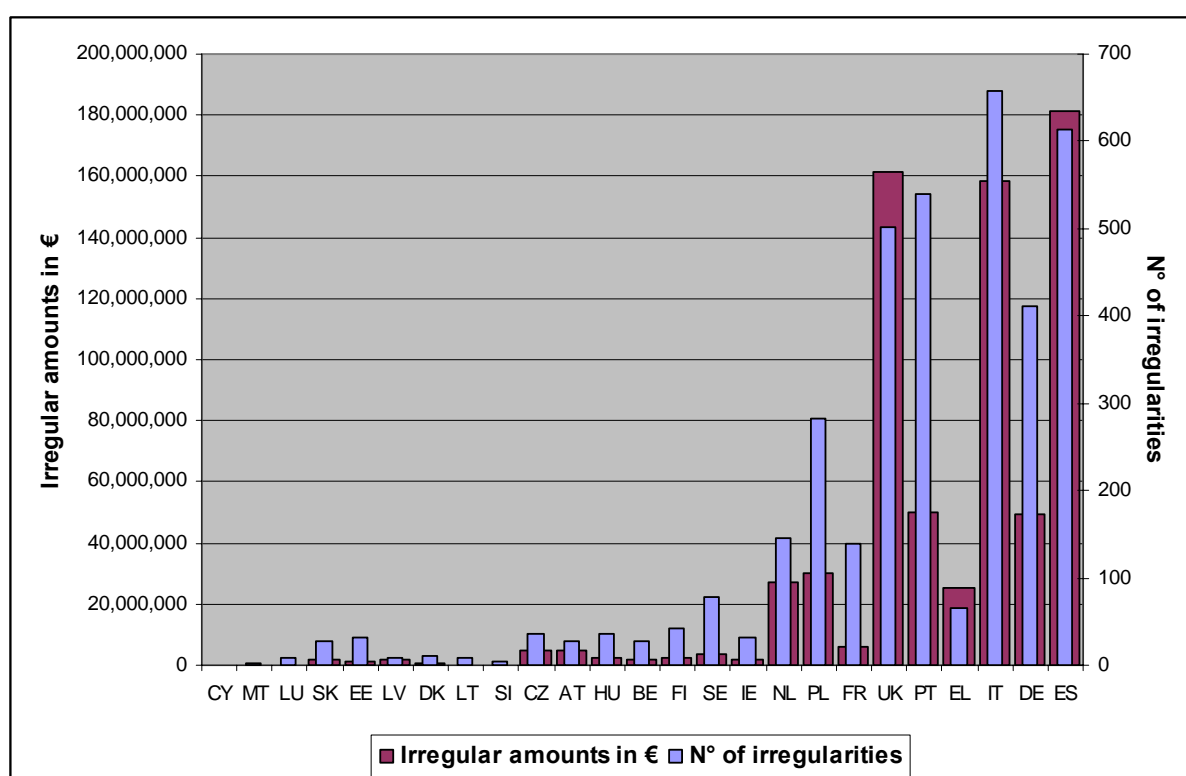
The number of reported irregularities and related amounts is clearly linked to the budget that is allocated to each Member State, as showed in chart SF4. This “rule” is in general confirmed, with some exceptions.

On one side, the United Kingdom appears over-represented in this chart. This is due to the fact that 2007 has been a special year for the number of irregularities and related irregular amounts reported by this country, as a result of extensive controls carried out. On the other, in relation to the budget allocated, the number of

irregularities and related amounts reported by France appear too low and this is a confirmation of what already highlighted in the previous years. Similar considerations can also be expressed for Belgium in relation to the other Member States which have a comparable level of resources allocated, such as Hungary and Finland, though, in this case, the difference is less evident than France and his “neighbours”.

Those significant differences between Member States in terms of number of irregularities and amounts affected do not necessarily mean that one country is more fraudulent than another. The reason for the high number of irregularities in the given country could be as well a higher number of controls carried out in the analysed year. This constitutes another reason why more efforts need to be undertaken in view of an improved harmonisation of reporting of irregularities.

Chart SF 4: Number of cases and amounts affected by irregularities per Member State (in the order of increasing SF budget)



However, as not all Member States benefit also from the Cohesion Fund, the analysis will first focus on the four structural funds and then a different subparagraph will present the situation concerning the Cohesion Fund⁵⁵.

The four Structural Funds

⁵⁵

The Cohesion Fund finances big infrastructure projects related to transports, energy and environment in those Member States whose average income pro capita is lower than 90% of the European average.

Spain reported the highest irregular financial amounts (181 MEUR, +112% in relation to the year 2006), followed by the United Kingdom (161 MEUR, +170%), Italy (158 MEUR, -31%) and Portugal (50 MEUR, +34%).

In the analysis of the particular funds, the situation varies slightly.

In the ERDF, Spain (163 MEUR) is followed by Italy (122 MEUR), the United Kingdom (114 MEUR) and Germany (41 MEUR). Poland is the first of the EU10 (26 MEUR).

In the ESF, the United Kingdom and the Netherlands (24 MEUR) are followed by Italy (21 MEUR) and Portugal (15 MEUR). The first of the EU10 is the Czech Republic (3 MEUR).

In the EAGGF section Guidance, the highest irregular financial amounts have been reported by the United Kingdom (21 MEUR), Italy (14 MEUR), Greece (7 MEUR) and Spain (6 MEUR). Poland is the Member State of the EU10 group with the highest reported irregular amounts (3 MEUR).

In the FIFG, Portugal (1.7 MEUR) is followed by Italy (1.4 MEUR), the United Kingdom (0.99 MEUR) and Spain (0.8 MEUR).

The Cohesion Fund

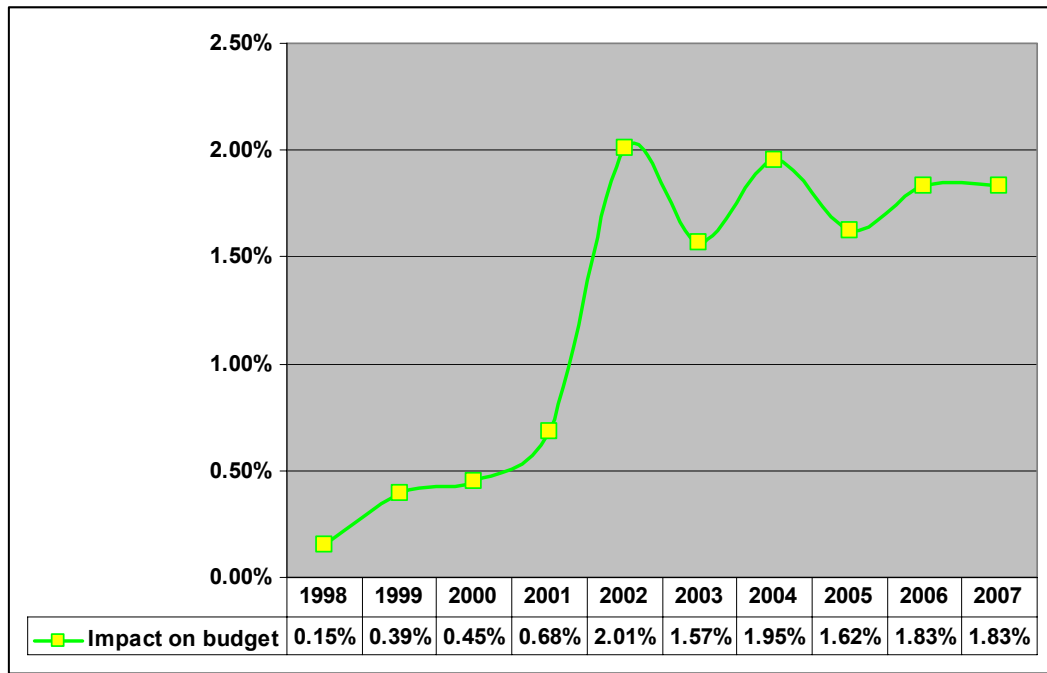
For the Cohesion Fund, once more Greece is the Member State having reported the highest irregular amounts (67 MEUR), though with a significant decrease in relation to 2006 (-43%); it is followed by Spain (32.6 MEUR, -26.6%) and Ireland (6.6 MEUR, no irregularities reported in 2006).

Among the EU10, Latvia (0.77 MEUR) and Hungary (0.63 MEUR) come before Poland (0.59 MEUR). For the second consecutive year, the Czech Republic failed to indicate the estimated irregular amounts for the reported irregularities.

4.2.2. Impact on budget

Since 2002 the impact of reported irregularities has been oscillating between 2.0% (in 2002) and 1.6% (in 2003), as showed in chart SF5.

Chart SF 5: Impact of irregularities on SF budget



In particular, the impact on the budget of the reported irregularities has remained stable from 2006 to 2007.

On the one hand, this supports the conclusion that a certain consistency and continuity have been achieved in the reporting of irregularities by Member States.

However, on the other hand, there is a great difficulty in analysing correctly this information. As already indicated above (see *supra* par. 4.1), the reported irregularities refer to programmes and projects that are of a multi-annual nature and, furthermore, a part of the reported irregularities refers to a different programming period (for more details see paragraph 4.2.5 below). Furthermore, the budget for the year 2007, on which the impact of irregularities reported by the Member States has been calculated, is indicating the resources allocated to the first year of the programming period 2007-2013, while none of the reported irregularities can be referred to it.

This implies that a correct estimation of the impact of irregularities and suspected frauds on the part of the European budget dedicated to the Cohesion policy is possible only by analysing the irregularities by programming period. Paragraphs 4.2.5 and 4.3.2 will deal with these specific issues.

4.2.3. Detection methods

Table SF8 shows the most frequent detection methods and the related detected amounts.

Table SF8: detection methods

Table SF8 DETECTION METHODS Year 2007			
Description	Frequency	Detected amounts	Average detected amounts
Control of documents	779	102,126,093	131,099
Other facts	693	195,351,017	281,892
National administrative of financial control	401	115,023,951	286,843
On the spot control of achievement of project or action	284	21,142,123	74,444
Ex post control	308	49,565,839	160,928
Documentary check	236	25,209,383	106,819
Control on the premises of the company	203	79,023,324	389,277
Routine	203	71,316,589	351,313
Art 3(1) lett (f) Reg NN. 1681/94 and 1831/94			
Download 15/04/2008			

Two aspects need to be underlined. In the first place the excessive use of a generic description of the detection method used: “other facts”. Secondly, the extremely high average amounts detected through “Controls on the premises of the company” and “Routine controls”.

4.2.4. *Types of irregularity*

Differences remain among Member States as to the types of irregularities reported and, to a certain extent, these are consistent with last year. The majority of cases involve irregularities of an “administrative” nature that are normally detected in the course of the routine documentary checks which are conducted before any payment of European money is made. To demonstrate this, among the most frequent types of irregularity reported by Member States are the “not eligible expenditure” and “missing or incomplete supporting documents”. Once again, Italy was the country where the most falsifications of documents were detected. Italy was not the only MS to report this kind of situation as similar cases were also reported by Poland, Germany, the United Kingdom, Portugal, Latvia, Luxembourg, Hungary, the Czech Republic and France.

Table SF9 shows the most frequent types of irregularities together with the amounts involved and the indicative average amount:

Table SF9: Most frequent types of irregularities reported

Table SF9 TYPES OF IRREGULARITY year 2007				
code	denomination	frequency	related irregular amounts	average amounts
325	Non-eligible expenditure	852	158,375,237	185,886
614	Infringement of rules concerned with public procurement	324	145,382,088	448,710
999	Other irregularities (to be specified)	311	54,839,838	176,334
210	Missing or incomplete supporting documents	304	47,290,502	155,561
201	Missing or incomplete documents	141	11,289,405	80,067
812	Action not carried out in accordance with rules	137	16,637,880	121,444
612	Failure to respect other regulations/contract conditions	133	40,948,389	307,883
213	Falsified supporting documents	132	26,775,956	202,848
601	Failure to respect deadlines	125	18,376,653	147,013
741	Failure to fulfil commitments entered into	107	13,029,791	121,774

download 15/04/2008

It is important to underline that the most frequent types of irregularities are almost the same as in the last four years confirming a certain consistency in patterns and trends relating to structural measures and consistency in reporting by the Member States.

The consistent pattern across all the funds is that the “non-eligible expenditure” is the most reported typology. “Infringement of rules concerned with public procurement” is the second most reported typology for the ERDF and the Cohesion Fund.

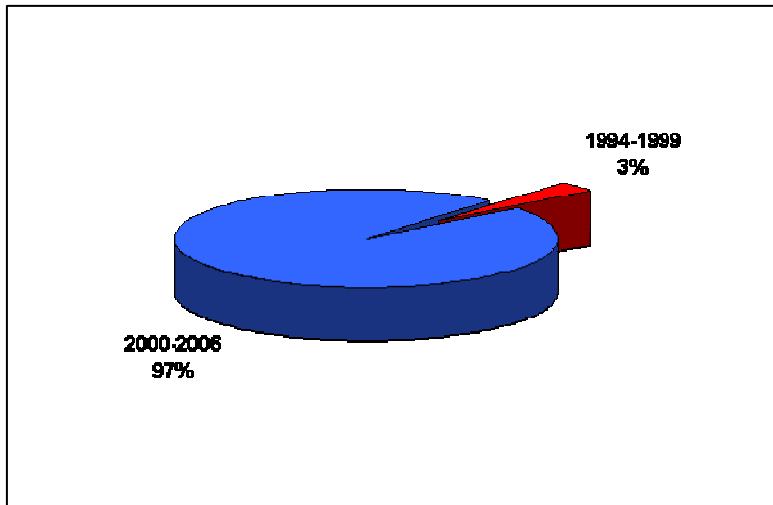
“Missing or incomplete supporting documents” is the second most reported typology for the ESF and FIFG.

It should be underlined that the generic code “other irregularities” is still the third most used typology (the second for the EAGGF – section Guidance), with an impact of 8.5% on the total reported irregularities. Member States should still pay some attention to this aspect.

4.2.5. Trends related to the programming period 2000-2006

In 2007, about 97% of the reported irregularities were referred to the programming period 2000-2006, as showed in chart SF6. The number of irregularities still referred to the programming period 1994-1999 is therefore decreasing. In 2006, the share of irregularities related to the old programming period was still about 9% of the total reported irregularities.

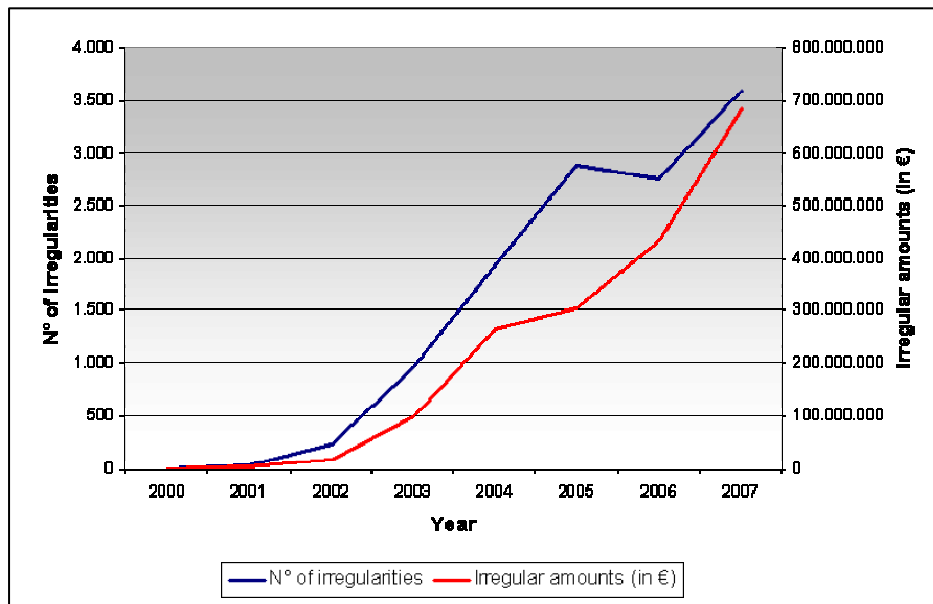
Chart SF 6: Distribution of reported irregularities per programming period



This is to be expected as the attention of the controls is naturally focussed on running projects rather than closed operations.

Chart SF7 shows the trend of reported irregularities (in terms of both numbers and financial amounts involved) referred to the 2000-2006 programming period alone as from the year 2000.

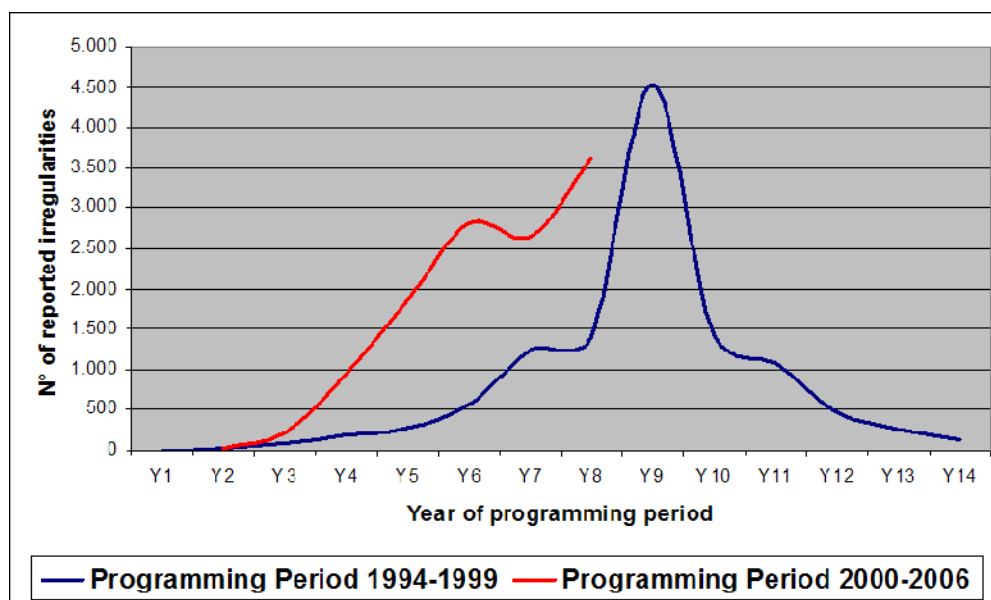
Chart SF 7: 1998-2006 trend concerning number of reported irregularities and irregular amounts – Programming Period 2000-2006



Irregularities related to the current programming period have been steadily increasing year after year. This is due to the fact that controls on the projects also progressed with the advancing of the financed operations. It is worth remembering that the projects financed through the Structural Funds are implemented during several years.

Chart SF8 puts in comparison the trend related to the programming period 2000-2006 with that of the previous period in terms of numbers of reported irregularities.

Chart SF 8: 1998-2006 trend concerning number of reported irregularities and irregular amounts – Programming Period 2000-2006



The chart clearly shows that the number of irregularities related to the current programming period reported in the first 8 years since its beginning are many more than those related to the previous.

This is due to a number of reasons. The increased resources allocated to the structural measures, the higher number of Member States that benefit from them, a better understanding of the reporting obligations from national authorities, but also, probably, a growing attention to this sector and improved controls.

This difference between the two programming periods also induces to foresee that the peak referred to the year of closure of the current programming period will be probably lower than that of the previous round (in correspondence with Year 9-Y10).

See paragraph 4.3 for more analysis about the programming period 2000-2006.

4.3. Specific analysis

4.3.1. Irregularities affecting the different funds

Table SF10 shows the repartition of the irregular amounts reported for 2007 between the different Funds (including the Cohesion Fund).

The numbers have increased in comparison to last year due to the already mentioned change in the legislation. In 2006 the Member States communicated to the Commission 3,216 irregularities; in 2007 it was 3,832 (increase by 19.2%).

Like in previous years, most of the irregularities were communicated for the ERDF and ESF. About 83% of the irregularities were reported for those two funds alone. The other three funds have seen a decrease as compared to 2006.

This situation is showed in details in chart SF9 and table SF10 below.

Chart SF 9 Cases of irregularities per Structural Fund (CF included)

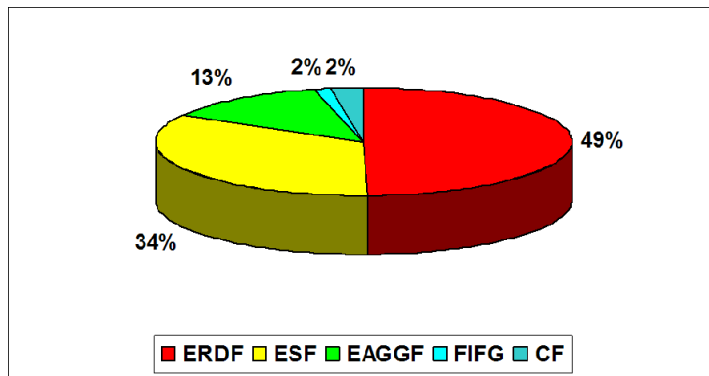


Table SF 10: Number of reported irregularities by fund in 2007 as compared to 2006

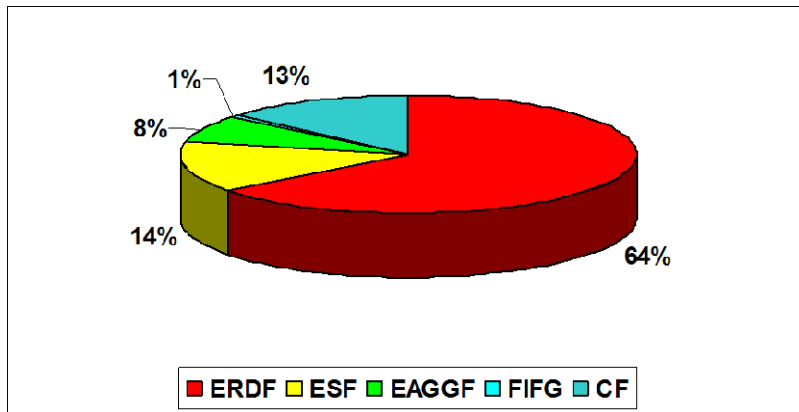
	ERDF	ESF	EAGGF-G	FIFG	CF	TOTAL
2007	1,906	1,290	484	60	92	3,832
2006	1,225	1,133	548	82	228	3,216
Difference	681	157	-64	-22	-136	616
Variation %	55.6%	13.9%	-11.7%	-26.8%	-59.6%	19.2%

As far as the amounts are concerned, the total irregular amounts grew by 17.7% as compared to 2005.

Like in the number of cases, the ERDF has also the biggest share in the irregular amounts – 64%. However, differently than in the number of cases, the ESF accounts only for 14% of the amounts and the Cohesion Fund for 13%. That difference in the share of different funds in the total number of cases and total amounts is due to the fact that the average costs of projects vary significantly according to the financing fund (and therefore according to the type of project/operation financed). The projects carried out in the framework of the Cohesion Fund can be extremely costly, wherefrom very high values of irregularities.

Chart SF10 represents graphically the described situation.

Chart SF 10: Amounts affected per Structural Funds (CF included)



As compared to 2006, the share of the ERDF has greatly increased (as last year it represented 50% of the amounts). The total irregular amount for the ERDF has risen by 48% in comparison to 2006. Two other funds experienced an increase of the irregular amounts in 2007 in relation to the previous year. In the EAGGF-Guidance a growth of 13.7% was observed, while the ESF increased by 20% in value. Table SF11 provides details concerning all the funds.

Table SF 11: Irregular amounts by fund as compared to 2006 (amounts in € 1,000)

	ERDF	ESF	EAGGF-G	FIFG	CF	TOTAL
2007	534,363	114,138	62,874	6,056	110,223	827,654
2006	360,024	94,955	55,317	6,401	186,605	703,302
Difference	174,339	19,183	7,557	-345	-76,382	124,352
Variation %	48.4%	20.2%	13.7%	-5.4%	-40.9%	17.7%

While comparing the share of funds in the total irregularities, the most striking conclusion is the difference in the Cohesion Funds share in the total amounts and in the number of cases. This however is due, as already mentioned, to the high value of projects carried out in its framework.

If only the four Structural Funds are taken in consideration, the distribution of the reported irregularities and related involved financial amounts is that presented in the following charts SF11 and SF12.

Chart SF 11 (left): Number of irregularities per Structural Fund (CF excluded)

Chart SF 12 (right): Amounts affected per Structural Funds (CF excluded)

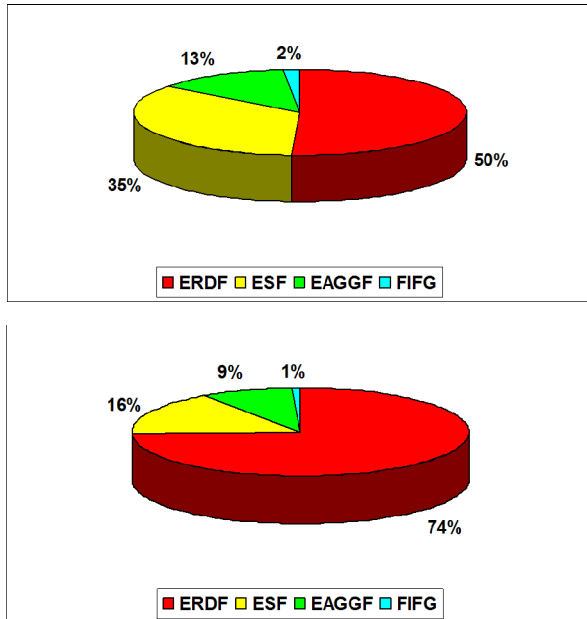


Table SF12 below shows how irregularities among the funds are distributed in relation to the financial allocations of the different funds (Cohesion Fund excluded). The data contained in the table highlight an over-representation of irregularities related to the ERDF. A possible explanation is the fact that the ERDF finances projects of greater financial value than the other funds and, therefore, related irregularities may affect higher financial amounts.

Table SF 12: Irregularities by fund (number and amounts) in relation to budget allocated

Table SF12				
IRREGULARITIES BY FUND IN RELATION TO BUDGET ALLOCATED (CF EXCLUDED)				
year 2007				
funds	n° of irregularities	irregular amounts (in €)	% of total irreg. amounts	allocation of resources as % of total
ERDF	1,906	534,362,839	74.5%	57.7%
ESF	1,290	114,137,716	15.9%	30.5%
EAGGF	484	62,874,424	8.8%	10.1%
FIG	60	6,056,408	0.8%	1.8%
total	3,740	717,431,387	100.0%	100.0%

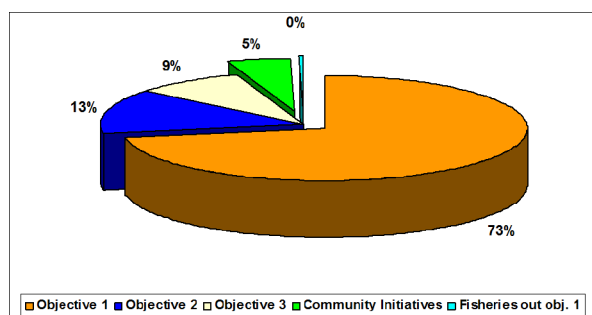
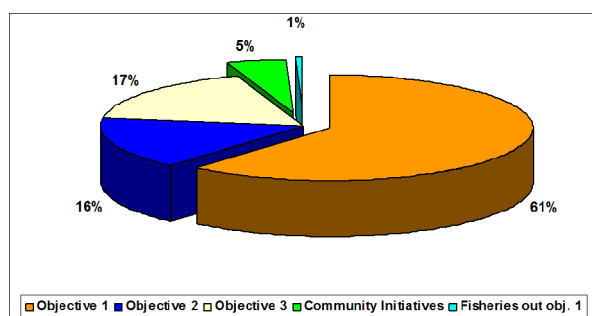
4.3.2. Irregularities by Objective – Programming Period 2000-2006

The Cohesion policy, as already specified in paragraph 4.1, aims at supporting the economy of regions lagging behind or in a difficult contingent economic situation. The European support; which is always accompanied by a national support, varies according to the fact that a region falls within the area of a given objective.

Charts SF13 and SF14 show how the irregularities reported in 2007 and related to the programming period 2000-2006 were distributed among the different objectives⁵⁶.

Chart SF 13 (left): distribution of irregularities related to PP2000-2006 by number, according to objective – 2007 – reported irregularities (left) and related irregular amounts (right)

Chart SF 14 (right): distribution of irregularities related to PP2000-2006 by value, according to objective – 2007



The distribution of the irregularities is very much in line with the allocation of the financial resources among the different objectives, with a slight over representation of irregularities related to objective 3 programmes and an under representation of irregularities affecting objective 2 regions and programmes for fisheries out of objective 1 regions as showed in the table SF13.

Table SF 13: Irregularities by objective (by numbers and amounts) in relation to budget allocated

⁵⁶ Three general objectives are foreseen for the programming period 2000-2006:
 Objective 1: promote the development and structural adjustment of regions whose development is lagging behind;
 Objective 2: supporting the economic and social conversion of areas experiencing structural difficulties;
 Objective 3: supporting the adaptation and modernisation of education, training and employment policies and systems in regions not eligible under Objective 1.
 Furthermore, through the Funds are also financed the so called “Community Initiatives”, aimed at intervening on specific aspects such as, for example, stimulating interregional cooperation (INTERREG); promoting the design and implementation of innovative models of development for the economic and social regeneration of troubled urban areas (URBAN).

OBJECTIVE	N° OF IRREGULARITIES	IRREGULAR AMOUNTS (in €)	% OF TOTAL IRREG. AMOUNTS	ALLOCATION OF RESOURCES AS % OF TOTAL
Objective 1	2,227	494,830,018	72.3%	69.7%
Objective 2	582	91,754,454	13.4%	11.5%
Objective 3	616	61,088,616	8.9%	12.3%
Community Initiatives	174	34,969,495	5.1%	5.3%
Fisheries out Obj. 1	21	1,446,663	0.2%	1.2%
total	3,620	684,089,246	100.0%	100.0%

4.3.3. Irregularities vs suspected frauds

First estimations of which proportion of the reported irregularities could be defined as “suspected frauds” were presented in the Annual Reports since 2004. These attempts were mainly based on specific analyses of the information reported by the Member States concerning the *modus operandi*, the type of irregularity, the administrative state of an irregularity and the additional information given in text fields.

After the modifications introduced by Regulations Nos. 2035/2005 and 2168/2005 to the basic Regulations Nos. 1681/94 and 1831/94, as of January 1st 2006, Member States have to classify the reported irregularity, indicating whether the reported irregularity is a “suspected fraud” or not. The concept of “suspected fraud” is necessary, because a given situation can be defined as fraud only after a sentence is issued by a competent court.

As already indicated under paragraph 4.1.6, Member States were able to classify 67% of the reported irregularities (that is to say that they indicated whether the reported situation was evaluated as an administrative irregularity or a suspected fraud). It is an encouraging progress in relation to the previous year, when only 51% of the reported cases provided for this indication, but it also shows that there is still room for improvement, in particular from certain Member States (4 Member States have still not provided any qualification at all; other 3 Member States could provide the classification only for a limited part of their reported irregularities. For more details, see *supra* par. 4.1.6).

The data sample is, therefore, particularly significant and the results of this analysis base now on more solid grounds than in the past.

About 15% of the 2,582 irregularities for which qualification has been provided, were qualified as “suspected frauds”. This result is fully in line with last years’ estimations.

Furthermore, by applying the same analytical techniques of the previous years⁵⁷ to the data set classified by the Member States, the results obtained are rather consistent with those obtained on the portion of information received from the Member States as indicated in table SF14 below. In fact, the results differ in only 4% of the cases.

Table SF14: Comparison between Commission and Member State classification of irregularities

Table SF 14				
COMPARISON BETWEEN COMMISSION AND MS CLASSIFICATION				
year 2007				
Classification	Differences	Same results	total	Difference as % of total
suspected fraud	11	375	386	2.8%
irregularity	90	2,106	2,196	4.1%
total	101	2,481	2,582	3.9%

It should be also highlighted that from a very detailed analysis of the cases where differences exist, elements provided by the Member States induce to consider correct the re-classification operated by the Commission.

Table SF15 shows the different results based on the classification provided by the Member States (and limited to the 2,582 irregularities for which the qualification has been provided) and that operated by the Commission on the whole data set for the year 2007.

Table SF 15: Percentage of irregularities qualified as “suspected fraud” and estimation of “suspected frauds” on the reported irregularities per Fund

Table SF 15						
% OF SUSPECTED FRAUDS BY FUND - COMPARISON BETWEEN EC AND MS CLASSIFICATION						
year 2007						
Classification	ERDF	ESF	EAGGF	FIFG	CF	total
Member State qualification (67 % of the full dataset)	17.8%	13.0%	12.2%	14.3%	7.0%	14.8%
COMMISSION qualification (on the full dataset)	12.7%	11.7%	14.7%	13.3%	4.3%	12.4%

The differences between the percentages can be explained by the fact that the two data set are not the same.

As already indicated under paragraph 4.1, in relation to the reporting of irregularities affecting the Cohesion Fund, there seems to be a discrepancy with the other funds that induces to think that still many progresses are needed in relation to compliance with reporting obligations.

⁵⁷

The estimation method has remained basically the same, with some minor variations, following the lessons “learned” in analysing the cases directly classified by the Member States. This slightly “revised” method has been applied again to the entire database of reported irregularities for the years 2000-2007 in order to produce Chart SF15. The different method used explains the different values showed on that chart in comparison with similar charts appeared on the statistical annexes to the annual reports for the years 2005 and 2006.

Table SF16 presents the same comparison between the classification provided by Member States and Commission’s analysis in relation to the amounts reported.

Table SF 16: Percentage of reported financial amounts involved in cases qualified as “suspected fraud” and estimation of “suspected fraud” amounts per fund

Table SF 16						
% OF SUSPECTED FRAUDS ON IRREGULAR AMOUNTS BY FUND - EC AND MS CLASSIFICATION						
year 2007						
Classification	ERDF	ESF	EAGGF	FIFG	CF	total
Member State qualification (67 % of the full dataset)	34.4%	17.5%	14.7%	5.5%	0.0%	24.9%
COMMISSION qualification (on the full dataset)	20.9%	17.3%	16.1%	15.4%	0.0%	17.0%

This table shows even more the need for a deeper attention by Member States reporting irregularities affecting the Cohesion Fund. The 0% indicated above is due to the fact that the irregular amounts for the cases classified as “suspected frauds” still need to be assessed by the national authorities.

Despite the consistent and positive results showed above in terms of comparability and compatibility of the two approaches (the Member States’ and the Commission’s), it is still recommended to take a lot of caution in assessing the meaning of these figures. A 100% classification from the Member States would remove this caution, but the results are, indeed, encouraging.

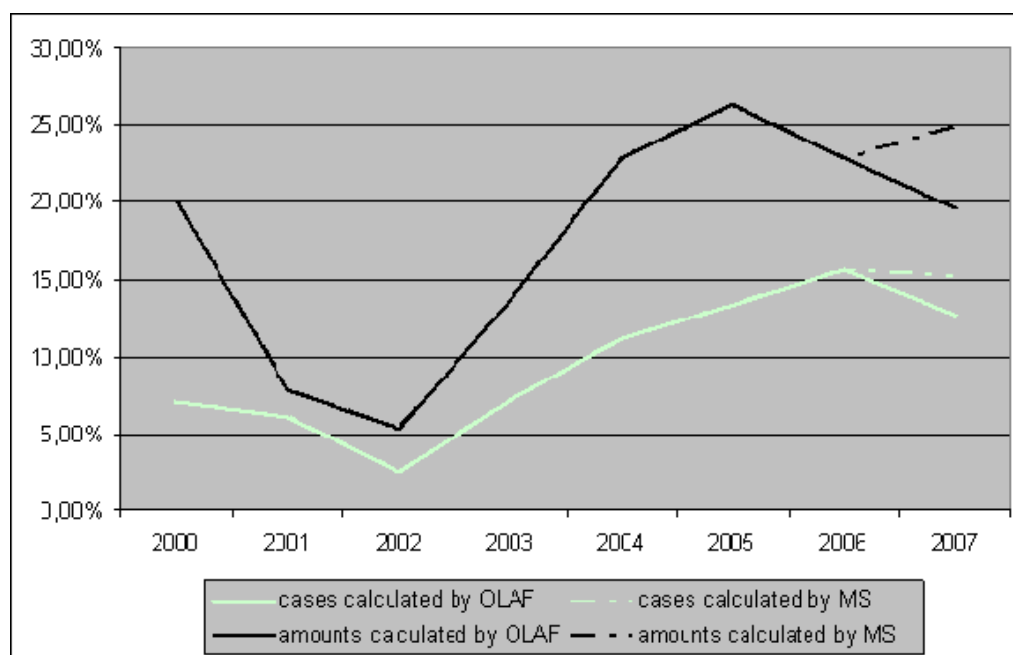
Chart SF15⁵⁸ presents the trend of the percentage of suspected frauds on the total reported irregularities in the last eight years calculated according to the Commission’s estimations.

A striking aspect is the relatively stable percentage of irregularities that could be estimated as suspected fraud in the last four years. It is around 12% of the total reported (black line on the chart).

⁵⁸

As data referred to the Cohesion fund are considered not reliable, they have been excluded from this chart. See also footnote 51 for more details about data showed on this chart.

Chart SF 15: Level of “suspected frauds” on total reported irregularities from 2000 to 2007



The lowest level of suspected fraud as a percentage of total reported irregularities was registered in 2002. This was also the year in which the highest number of cases of irregularities was reported to OLAF, coinciding with the closure of the 1994-1999 programming period.

On the basis of this estimation, in 2007, reported “suspected frauds” affect about 0.31% of the commitments.

However, this does not mean that this amount is effectively defrauded or turns out into a loss for the European budget. In fact, these amounts relate to suspected fraudulent behaviours that have been detected by national authorities and for which recovery procedures are undergoing. Moreover, when these situations were detected in early stages of the process, the “potential” loss is even decreased, because no payments or only interim payments have been granted.

By analysing only the cases estimated to be considered as “suspected frauds”, the amounts still to be recovered related to them impact on the EU budget for 0.20%.

4.3.4. Irregularities detected before payment

Therefore, an interesting aspect to examine in the framework of the protection of the Communities’ financial interests is what proportion of irregularities is detected before any payment is effectively made to the beneficiaries.

This aspect can provide some concrete elements also concerning Member States’ preventive action.

Table SF17 shows the total number of irregularities reported by each Member State (column A); the number of irregularities detected before any payment is made (column B); what percentage B represents on A (column C); the financial amounts reported as irregular (column D) and those related to the irregularities detected before payment (column E); and finally what percentage of the total irregular financial amounts reported have been identified before payment (column F).

Table SF 17: irregularities detected before payments per Member States - 2006

Table SF17 IRREGULARITIES DETECTED BEFORE PAYMENT year 2007							
MS	Reported irregularities	Irregularities detected before payment	% of detected before payment on total	Reported irregular amounts	Amounts related to irregularities detected before payment	% of detected before payment on total	MS
	A	B	C = B / A (in %)	D	E	F = E / D (in %)	
AT	28	0	0.0%	4,753,776	0	0.0%	AT
BE	28	0	0.0%	1,565,419	0	0.0%	BE
CY	1	0	0.0%	3,328	0	0.0%	CY
CZ	40	16	40.0%	4,885,846	4,416,268	90.4%	CZ
DE	412	38	9.2%	49,529,468	11,454,783	23.1%	DE
DK	11	0	0.0%	333,680	0	0.0%	DK
EE	34	4	11.8%	1,323,911	70,484	5.3%	EE
EL	92	1	1.1%	92,843,090	225,000	0.2%	EL
ES	647	0	0.0%	213,927,080	0	0.0%	ES
FI	43	10	23.3%	2,305,017	590,990	24.0%	FI
FR	140	1	0.7%	6,179,163	33,263	0.5%	FR
HU	30	21	55.3%	3,332,609	1,564,143	46.9%	HU
IE	33	1	3.0%	8,720,548	6,638,190	76.1%	IE
IT	662	24	3.6%	158,389,460	7,884,239	5.0%	IT
LT	8	3	37.5%	884,505	113,882	12.9%	LT
LU	9	0	0.0%	248,458	0	0.0%	LU
LV	8	0	0.0%	1,909,279	0	0.0%	LV
MT	2	0	0.0%	32,301	0	0.0%	MT
NL	146	119	81.5%	27,176,349	18,480,360	68.0%	NL
PL	291	176	60.5%	30,843,279	11,147,534	36.1%	PL
PT	544	0	0.0%	50,781,928	0	0.0%	PT
SE	79	62	78.5%	3,594,637	2,097,758	58.4%	SE
SI	4	0	0.0%	128,793	0	0.0%	SI
SK	30	14	46.7%	2,702,300	1,673,107	61.9%	SK
UK	502	69	13.7%	161,179,907	17,003,069	10.5%	UK
total	3,832	559	14.6%	827,654,210	83,393,069	10.1%	total

Very high rates of detection before payment emerge especially in some of the new Member States (namely Hungary, Malta, Poland and Slovakia) and in Sweden, the Netherlands and Ireland.

4.4. Recovery

In 2007, Member States communicated, pursuant to Regulation No. 1681/94, 3,740 irregularities for a total financial amount of EUR 717,431,387 (see Annex 15).

The situation as regards recovery in 2007 (see Annex 16) is as follows:

- Member States recovered EUR 153,465,848;

- the sum to be recovered was EUR 418,231,399;
- in the same period, the amount declared irrecoverable pursuant to Article 5, par. 2 of Regulation No. 1681/94, and which is awaiting a formal decision is EUR 216,644

Pursuant to Regulation No.1831/94, Member States reported 92 irregularities for a total amount of EUR 110,222,823 (see annex 17), of which EUR 39,298,464 remain to be recovered.

4.5. Conclusions

Introduction

- Member States reported 3,832 irregularities in 2007;
- The total financial amount affected in 2007 was about EUR 828 million.

Reporting discipline

- The number of irregularities reported through the Electronic modules AFIS/ECR has been increasing and represent now over 75% of the total;
- Eight (8) Member States still do not use the electronic modules AFIS/ECR: Estonia, France, Germany, Ireland, Luxembourg, Latvia, Spain and Sweden;
- Germany and Estonia send an electronic file via the AFIS-mail, which still needs some processing;
- Member States need to pay more attention to submit the irregularities within deadlines established by regulations, but the situation is improving in relation to the past;
- The time gap between detection and reporting is satisfactory for 82% of the irregularities;
- Germany is the only country that does not communicate personal data;
- The classification of the irregularity (indicating whether or not it is a case of “suspected’ fraud) is an element of the reporting that needs to be strengthened. In 2007, the classification was provided in 67% of the irregularities, increasing in comparison with 2006;
- Despite the clarifications and simplifications introduced with Regulations Nos. 2035/2005 and 2168/2005, there is still need for further harmonisation of reporting between Member States.

General trends

- The number of irregularities reported to the Commission increased by 19.2% in relation to 2006;

- The irregular financial amounts related to those irregularities increased by 17.7%;
- The impact of irregularities on the total Structural actions budget remained stable (1.83%);
- Italy, Spain, Portugal, the United Kingdom and Germany are the countries that reported the highest number of irregularities in 2007. Poland is the first among the EU10;
- Spain, Italy, the United Kingdom and Germany are the countries that reported the highest amounts. Poland is the first of the EU 10;
- Higher irregular financial amounts reported by a given country do not necessarily imply that in this country more frauds and irregularities occur than in others. The reason could be a higher number of controls;
- The most frequent method for detecting irregularities is the control of documents. The method which has the highest average detected amount is “control on the premises of the company”;
- Not eligible expenditure is the most frequently reported type of irregularity. The other reported typologies are in line with previous years;
- Concerning the programming period 2000-2006, the trend is increasing for both number of irregularities and related amounts.

Specific analysis

- ERDF remains the fund to which the highest number of irregularities and the highest amounts are related. This is normal considering that it is the Fund with the largest resources available.
- ERDF was also the fund having showed the highest increase in terms of number of reported irregularities and related amounts.
- Irregular amounts increased also in relation to ESF and EAGGF. They decreased for FIFG and the Cohesion Fund;
- The greatest majority of irregularities related to the programming period 2000-2006 are referred to Objective 1 regions which are also the regions benefiting from the greatest support. In general, there is a certain correlation between the budget allocated and the irregularities reported;
- “Suspected frauds”, as a percentage of the total number of reported irregularities, represent around 12-15% in 2007. This result is in line with previous years
- High rates of detection before payment emerge especially in some of the new Member States (namely Hungary, Malta, Poland and Slovakia) and in Sweden, the Netherlands and Ireland.

Recovery

- In 2007, the irregular financial amounts increased and so did the amounts to be recovered;
- 63% of the reported irregular amounts are to be recovered, while they represented 51% of the total reported irregular amounts in 2006;
- The amounts to be recovered are declining for the Cohesion Fund.

5. PRE-ACCESSION FUNDS (ANNEXES 18-21)

In 2007 Member States and Candidate Countries sent 1,615 reports on three pre-accession funds (PHARE, SAPARD, ISPA) to the Commission/OLAF of which 332 new communications and 1,283 updates of cases which had been reported previously. The total amount affected by irregularities in 2007 was EUR 32,384,953 where PHARE accounts for EUR 15,787,226 (96 cases), SAPARD – EUR 10,789,619 (150 cases), ISPA – EUR 5,808,108 (86 cases).

5.1. Reporting discipline

The obligation to report irregularities in the area of pre-accession assistance is established in the Financing Agreements signed between the acceding countries, Candidate countries and the European Community and is in accordance with the provisions of Commission Regulation (EC) 1681/1994⁵⁹.

Pre-accession assistance related irregularities are reported using standard paper form. Afterwards the submitted information is inserted in the data base managed by OLAF. The reporting countries tend to misinterpret the obligatory fields in the form, therefore the consistency and comparability of the reported information remains to be an issue.

Table PA 1: Share of reliability of reported information in 2007

Table PA1			
Reliability of reported information 2007			
Country	Cases with mistakes	Communications 2007	Reliability %
BG	40	347	88.47%
RO	34	639	94.68%
SK	10	57	82.46%
HU	8	25	68.00%
PL	8	380	97.89%
CZ	4	70	94.29%
LT	4	31	87.10%
EE	2	23	91.30%
LV	1	20	95.00%
TR	1	6	83.33%
HR	0	2	100.00%
MT	0	11	100.00%
SI	0	4	100.00%
Total	112	1615	93.07%

Insufficient quality of reported information remains to be an outstanding problem although some improvements have been achieved. Inconsistencies and even contradictions in different sections of the same report still occur. In absolute numbers Bulgaria has the highest number of notifications containing one or more content

⁵⁹ As amended by Regulation (EC) No 2035/2005

mistakes (40), followed by Romania (34). In relative terms Hungarian notifications are the least reliable. The same countries were identified in the 2006 report.

The share of reliable reports in Table PA 1 has to be interpreted with caution⁶⁰. Most common mistakes are incorrect or incomplete financial aspects of the reports, missing practices employed in committing irregularities, missing types of irregularities.

A number of technical nature mistakes occur in Bulgarian, Hungarian, Czech, and Romanian reports, namely, numbering of the cases is not sequential, reporting quarters are mixed, some pages are missing, project details are not precise.

The incorrect numbering of the cases becomes a hindrance to cooperation with MSs' authorities on follow up of related issues. Sequential numbering is an important pre-condition and some progress is expected from some reporting authorities.

The irregularity management team in OLAF performs quality checks and tries to clarify all the inconsistencies found in the reports. Frequently they occur in financial aspects as miscalculations or result from different exchange rates used. A more responsible approach towards the preparation of reports by the reporting authorities would enable the Commission to minimize the quality checks and correspondence related to these issues.

At the end of 2007 a thorough overview⁶¹ of OLAF data base and cross check of all the communications sent by reporting countries were carried out. It resulted in clarifying financial aspects sections as well as deleting duplicate cases. Member States' authorities have been contacted and requested to provide further information on cases detected before 2007 which contain inconsistencies and were not followed-up (no information provided on administrative or judicial measures taken and recoveries). Bulgaria, Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia received lists of cases. Bearing in mind the approaching closure of the programmes data on the financial aspects should be up to date and precise.

5.1.1. *Timely reporting*

Timely reporting of irregularities continues to be one of the problems OLAF is facing when working with analysis of the reported information. In 2007 5 countries out of 14 missed the reporting deadline⁶² for at least one of the pre-accession funds. The deadlines were fully respected by Cyprus, Czech Republic, Estonia, Latvia, Lithuania, Malta, Romania, and Slovenia. Some special cases are worth bringing into the light. Bulgaria missed the reporting deadline for ISPA for all 4 reporting quarters in 2007. Croatia started reporting first cases in 2007 (only 'nil' reports had been sent

⁶⁰ Mistakes are calculated on a case basis. If there are several mistakes in one report it is counted as one. A comparison is then drawn between problematic cases and all communications (new and updates) received from the reporting country in 2007.

⁶¹ Consequently eligible amounts and irregular amounts may differ from the ones indicated in 2006 report.

⁶² Following the two months at the end of each quarter, Member states and Candidate Countries are obliged to report to the Commission any irregularities which have been the subject of initial administrative or judicial investigations.

before), however, the deadlines were missed. Hungary failed to report PHARE and SAPARD on time for three quarters in 2007. Turkey does not keep to the reporting schedule.

Table PA 2: Timely reporting

Table PA2 TIMELY REPORTING				
Country	Reported too late	Reported on time	Total reports	% of late reports
HR	2	0	2	100.00%
HU	19	6	25	76.00%
SK	26	31	57	45.61%
BG	88	259	347	25.36%
PL	57	323	380	15.00%

Failure to respect reporting deadlines by the Member States and Candidate Countries makes the preparation of a thorough analytical overview of detected irregular cases rather difficult. Since pre-accession assistance related irregularities are reported in paper some time is needed to process them.

5.1.2. Time gaps

In accordance with the Regulation 1681/94 there are three obligatory dates to be filled in (date of first information, the period of irregularity, date when the irregularity was established). The calculations are based on the dates presented in the first notifications sent in 2007. Failure to indicate at least one of the required dates affects the compliance. Some reporting countries tend to leave out the dates therefore more attention should be concentrated on this aspect.

Table PA 3: Compliance in 2007 – missing dates

Table PA3 COMPLIANCE 2007 - MISSING DATES			
Country	No cases	Cases with dates missing	% Compliance
BG	76	22	71.05%
CZ	7	1	85.71%
EE	8	0	100.00%
HR	2	0	100.00%
HU	7	6	14.29%
LV	2	0	100.00%
MT	2	1	50.00%
PL	44	1	97.73%
RO	164	8	95.12%
SI	1	1	0.00%
SK	13	1	92.31%
TR	6	2	66.67%
Total	332	43	87.05%

Table PA 4 presents the average time period that each reporting country takes to detect an irregularity and then to report it to the Commission. Cyprus and Lithuania did not report any cases in 2007. The analysis takes into account the start date of

irregularity, the date of establishment, and the date of reporting the case to the Commission. Due to missing dates in a number of cases Table PA 4 is compiled on a limited dataset.

Table PA 4: Timely reporting – time gap in 2007 cases

Table PA4		
TIMELY REPORTING - TIME GAP 2007 CASES		
Country	Average time gap in months	
	Irregularity - Detection	Detection - Reporting
BG	14.26	2.56
CZ	19.91	9.77
CY		
EE	22.03	1.95
HR	4.87	0.82
HU	42.57	5.13
LT		
LV	22.58	0.83
MT	4.77	4.80
PL	32.49	5.39
RO	22.31	2.50
SI		
SK	4.68	7.55
TR	1.80	2.23
Total	17.48	3.96

The average time span for relevant authorities to detect an irregularity is 17,48 months. However, for Hungary it is 3.5 years, for Poland almost 3 years. This time period also signals the end of the project cycle.

A maximum period of 5 months (3 months + 2 months) to report a detected irregularity is established by Regulation No. 1681/1994. According to the provided information, it takes almost 4 months on average to report the detected irregularities. Czech Republic and Slovakia were late to submit the information on detection to the Commission.

Some very short periods between detection and reporting (less than a month) give rise to doubts on the correct interpretation of ‘the date of establishment’ by the reporting countries. Reporting countries are required to fill in the date of primary administrative or judicial finding⁶³. If the data are correct the result is very positive.

⁶³ As defined in Art. 1a (3) of the Commission regulation 1681/94 "primary administrative or judicial finding" means a first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure.

5.1.3. Personal data

Personal data relate to one more aspect of reporting discipline. Reporting countries are obliged to give information on the identity of the natural or legal persons involved in the irregularity⁶⁴.

Table PA 5: 2007 cases containing personal data

Table PA5 PERSONAL DATA 2007			
Country	No cases	Missing names	Compliance %
BG	76	0	100.00%
CZ	7	0	100.00%
EE	8	0	100.00%
HR	2	0	100.00%
HU	7	0	100.00%
LV	2	0	100.00%
MT	2	1	50.00%
PL	44	1	97.73%
RO	164	3	98.17%
SI	1	0	100.00%
SK	13	2	84.62%
TR	6	0	100.00%
Total	332	7	97.89%

In general the situation is very satisfactory and only Malta, Poland, Romania, and Slovakia need to slightly improve.

5.1.4. Reporting thresholds

Different thresholds to report the detected irregular cases to the Commission apply to pre-accession assistance, namely EUR 4000 for SAPARD, EUR 10,000 for PHARE⁶⁵, and no threshold for ISPA related irregularities. Some reporting countries keep sending cases where the Community amount affected is below the reporting threshold. Table PA 6 shows the number of cases reported below the threshold in 2007.

Table PA 6: Irregularities reported in 2007 below the threshold

⁶⁴ Missing personal data at some instances might be justified by provisions of Article 3(3) of Regulation 1681/94 stipulating 'If national provisions provide for the confidentiality of investigations, communication of information shall be subject to the authorization of the competent court of tribunal'.

⁶⁵ Since 1st January 2006

Table PA6 CASES BELOW THE THRESHOLD				
Country	All funds €			
	No Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	25	3,215,329	92,169	61,479
CZ	1	164,033	798	0
EE	3	13,492	4,787	2,846
LV	1	46,548	1,227	943
PL	2	18,757	6,745	6,745
RO	1	40,878	1,436	0
SK	3	371,309	12,180	6,716
Total	36	3,870,346	119,342	78,729

5.1.5. Practices employed

Reporting countries are obliged to indicate the practices employed in committing the irregularity (*modus operandi*)⁶⁶. This can be done by using the provided codes or giving a description. The list of codes provides a collection of types of irregularities. If the reporting countries do not choose the relevant code OLAF picks the most appropriate code on the basis of the description. This is necessary to make the data reported by different countries comparable. Failure to provide clear and accurate descriptions by reporting authorities leads to difficulties in analyzing the data. Reporting countries should be more precise in providing such information.

5.1.6. Classification of irregularity

Reporting countries are obliged to indicate whether the reported irregularity can be considered as 'suspected fraud' or not. When the reporting countries fail to classify the reported cases OLAF does it on the basis of the overall information provided in the report. Table PA 7 provides a rate of compliance with respect to classification of irregularity.

Table PA 7: Compliance in 2007 - classification of irregularities

Table PA7 CLASSIFICATION OF CASES 2007					
Country	Blank	Fraud	Irregularity	No of cases	Compliance %
CZ	7			7	0.00%
MT	2			2	0.00%
SI	1			1	0.00%
TR	6			6	0.00%
PL	33	3	8	44	25.00%
SK	9		4	13	30.77%
HU	4		3	7	42.86%
LV	1		1	2	50.00%
EE	3		5	8	62.50%
RO	57	10	97	164	65.24%
BG	21	8	47	76	72.37%
HR			2	2	100.00%
Total	144	21	167	332	56.63%

⁶⁶ Article 3 of Commission Regulation (EC)1681/94

Croatia fully complied but only two cases were reported. Czech Republic, Malta, Slovenia, and Turkey did not classify any of the reported irregularities in 2007. Cyprus and Lithuania have not reported any new cases in 2007 so they do not appear in the compliance assessment. On average 56.6% of cases were classified. There is a decrease in compliance with reference to 2006.

5.1.7. Summary

Table PA 8 makes a summary of different aspects of compliance rate. The countries are listed in order of compliance with the requirements established by the Regulation 1681/94. Inconsistencies for each country are more precisely seen by analysing separate columns. Cyprus and Lithuania did not report new cases in 2007 therefore their compliance could only be measured on the basis of updates but could not be complete.

The summary reveals that countries reporting very few cases like Malta and Slovenia get to the bottom of the list because mistakes get high weighting. They should pay more attention to the classification of cases and dates. As for Hungary the low overall result is a matter of great concern.

Summary compliance of 82.4% manifests some limitations with reference to further analysis carried out in the report. Low compliance with the reporting obligation might imply some weaknesses in administrative set up of the reporting mechanism in the Member States and Candidate Countries concerned.

Table PA 8: Compliance per reporting country 2007

Table PA8 SUMMARY COMPLIANCE %					
Country	Missing dates	Missing names	Classification of cases	Timely reporting	Summary compliance %
EE	100.00%	100.00%	62.50%	100.00%	90.63%
RO	95.12%	98.17%	65.24%	100.00%	89.63%
LV	100.00%	100.00%	50.00%	100.00%	87.50%
BG	71.05%	100.00%	72.37%	74.64%	79.52%
PL	97.73%	97.73%	25.00%	85.00%	76.36%
HR	100.00%	100.00%	100.00%	0.00%	75.00%
CZ	85.71%	100.00%	0.00%	100.00%	71.43%
TR	66.67%	100.00%	0.00%	100.00%	66.67%
SK	92.31%	84.62%	30.77%	54.39%	65.52%
MT	50.00%	50.00%	0.00%	100.00%	50.00%
SI	0.00%	100.00%	0.00%	100.00%	50.00%
HU	14.29%	100.00%	42.86%	24.00%	45.29%
Total	87.05%	97.89%	56.63%	87.88%	82.36%

5.2. General Trends

The intention of this descriptive analysis is to provide an overview of the reported irregularities in 2007 as well as comparison with the trends observed for the period 2002 -2006.

One should take into account that Member States and Candidate Countries must report to the Commission cases exceeding the established thresholds. As presented in Table PA 6 reports below the threshold are included in the overall analysis. Since reporting countries decided to report them to the Commission it is possible that irregular amounts are only indicative and will be specified. Therefore they are likely to get higher in the follow up reports.

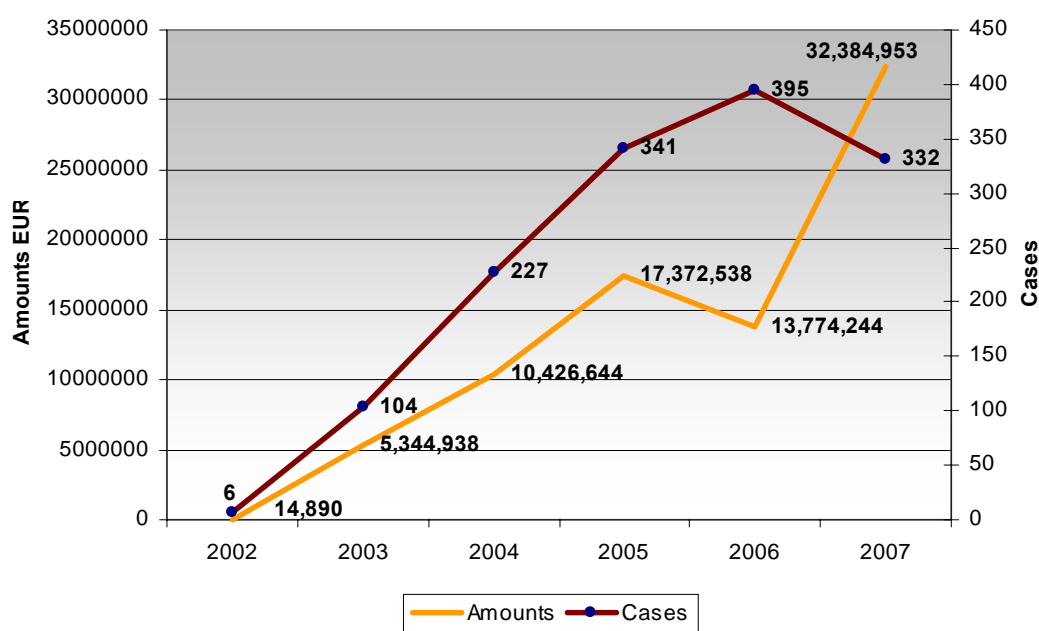
Overall trend

The number of cases reported (first communications) in 2007 decreased by 15.9%, however, the number of follow-up reports increased by 55.9% in comparison to 2006.

A sharp decrease by 53.2% is observed in the number of PHARE cases, a small decrease by 8.5% in SAPARD cases, and an enormous increase by 230.7% (from 26 in 2006 to 86 in 2007) in ISPA cases. This reflects that less new cases are detected because pre-accession funds are undergoing the final stages of the project cycle. The high number of updates illustrates that beneficiary countries are actively proceeding with administrative or judicial measures concerning cases detected previously. However, the high number of updates is not characteristic to all the reporting countries. Some of them just started reporting in 2007.

Irregularities are not distributed equally among the reporting countries due to different periods of eligibility of expenditure. Three groups of reporting countries can be distinguished, namely 2004 accession Member States, 2007 accession Member States, and Candidate countries – Croatia and Turkey. In 2007 EU-10 account for 25.3%, Bulgaria and Romania – 72.3%, Croatia and Turkey – 2.4% of the total number of reported cases. Talking about the total irregular amount reported EU-10 make 19.7%, Bulgaria and Romania – 76.1%, Croatia and Turkey – 4.1%.

Chart PA 1: Irregularities communicated by reporting countries (2002-2007)



5.2.1. *Amounts involved*

For the purposes of this report the term eligible amount stands for the amount committed to be paid at the signature of the contract if the expenditure incurred is justified and eligible.

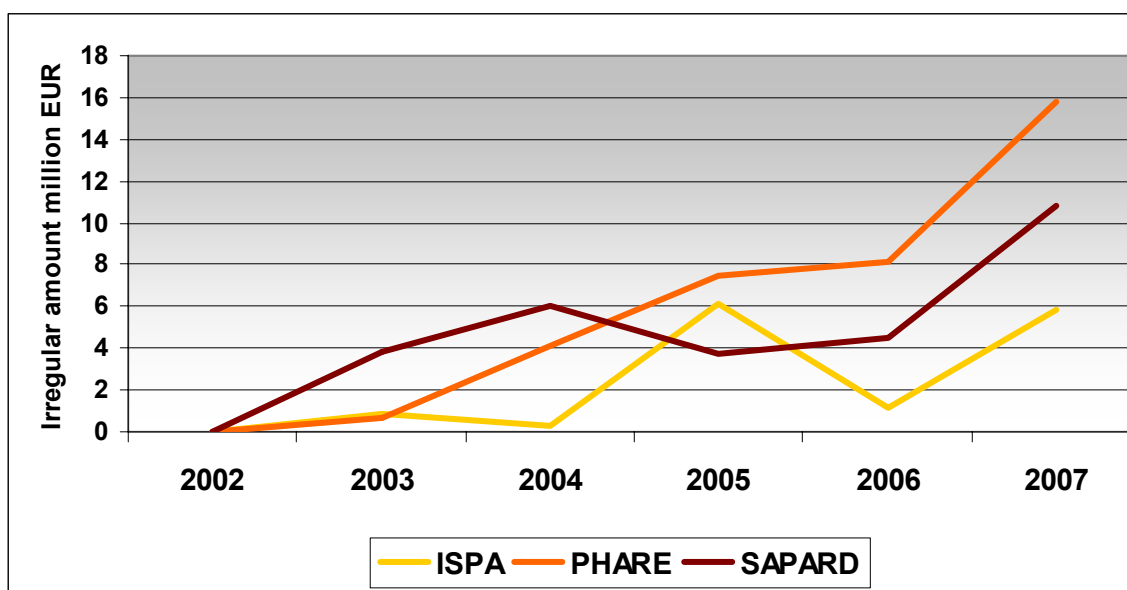
With regard to the amounts involved both eligible and irregular total amounts went up.

In 2007 the eligible amount increased by 208% in comparison to 2006. This was caused by a big increase of eligible expenditure for ISPA (432%). The decrease in PHARE and SAPARD could not counterbalance the ISPA increase. In PHARE eligible expenditure declined by 77% and in SAPARD it went down by 17%.

EU-10 does not report ISPA irregularities any longer due to the transfer of expenditure into the Cohesion Fund. Consequently, only Bulgaria and Romania sent communications for ISPA in 2007 (see Annex 18). There is a striking difference between both the number of cases and amounts involved as reported by Bulgaria and Romania. The number of ISPA cases reported by Romanian authorities has increased four times combined with 5 time increase in the irregular amounts. As for Bulgaria the number of cases increased twice (from 2 to 4) but the irregular amount almost 15 times. The eligible amount reported by Bulgarian authorities is relatively small bearing in mind that the average value of ISPA contracts is a million euro or more. Obviously there is a difference in the approach to irregularity reporting in those two countries.

Irregular amount reported in 2007 went up by 135%. The irregular amounts in all three funds went up sharply, especially for ISPA. There are several reasons behind it. Many projects, which did not get into the audit samples before, are being checked only at the final stages of the implementation when the final payment claims are tabled. Since all the projects are being checked before final payments are made, this triggers the detection of irregularities. Big irregular amounts manifest the fact that a number of projects failed to be implemented or violated eligibility rules, therefore the whole amount of the contract becomes irregular.

Chart PA 2: Irregular amounts by fund



The charts have to be interpreted with caution. The number of reporting countries is growing therefore it results in the increasing amounts. What is more, pre-accession assistance funded projects run over several years while the affected amounts are calculated with reference to the reporting year. While the closure of the programmes is approaching the remaining projects (possibly contracted at the beginning of the programme and with several addenda) are frequently problematic.

Furthermore, a distinction has to be made between cases with potential financial impact detected before the payments and real financial impact resulting in recoveries (see 5.3.2 and 5.4).

The major part of irregular cases is not fraudulent and undergoing corrective measures (see 5.3.2).

Countries benefiting from the biggest support (Romania, Poland, Bulgaria, Hungary) reported the highest number of irregularities (164, 76, 44 and 7 respectively). The pattern, however, is different with reference to the irregular amounts. Romania, Bulgaria, Hungary, and Slovakia reported the highest irregular amounts. Annex 18 presents all the figures in detail per each reporting country.

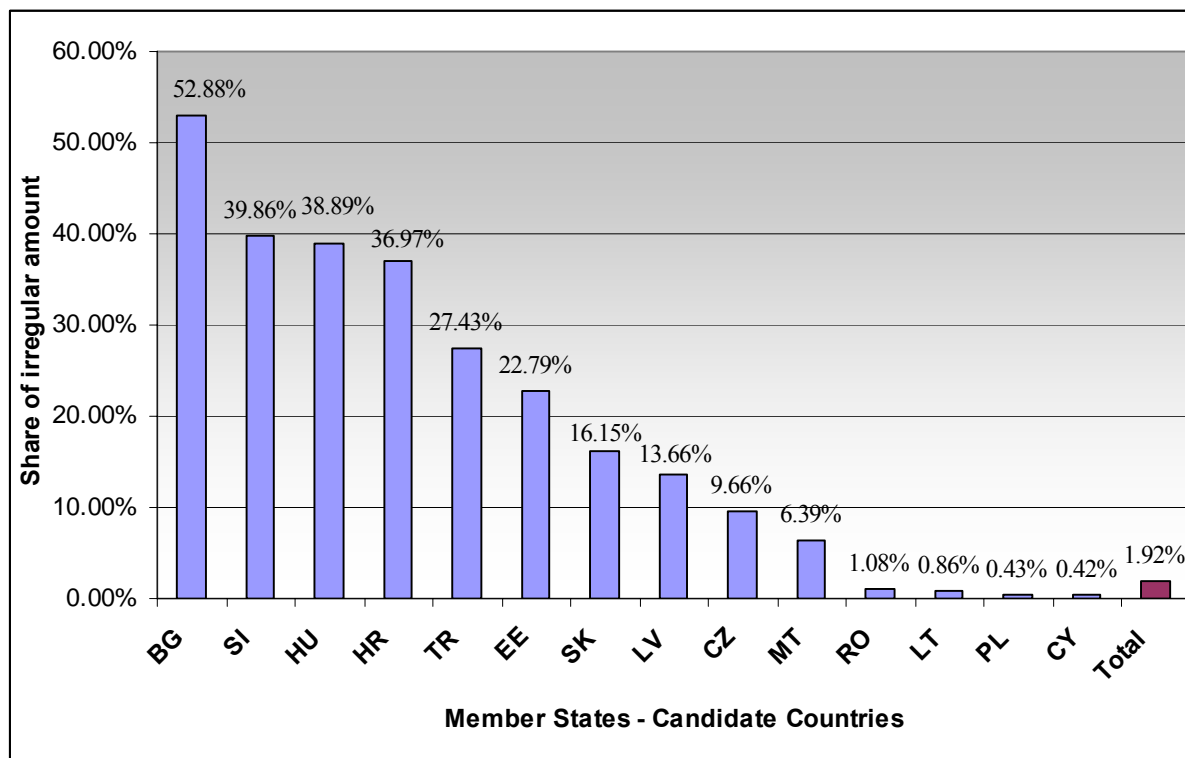
The differences in the number of reported cases and irregular amounts do not imply higher vulnerability to irregularities by some countries. The reasons for high number of irregularities reported could be a higher number of controls carried out by national authorities or Community audits in the reporting year.

Impact on the budget

After the accession of EU-10 no new expenditure was committed (except for SAPARD where some commitments were made up at the end of 2004). For Bulgaria and Romania the last commitment year was 2006. 2007 was the first year of

commitments under Instrument of Pre-Accession Assistance (IPA)⁶⁷ focusing on Candidate and Potential Candidate countries for the programming period 2007- 2013.

Chart PA 3: Reported irregular amount as share of the eligible amount under reported irregular projects



The comparison is drawn between the total values of the projects reported and the total irregular amounts per country. The share of irregular amount makes 1.92%. The chart illustrates that the share of irregular amount is very little. Big beneficiaries of pre-accession assistance like Poland and Romania report relatively little irregular amounts detected, therefore it influences the overall figure. Bulgaria, Slovenia, and Hungary report cases with rather high irregular share which sometimes equals the total value of the project.

The impact of irregularities reported in 2007 on budgetary allocations for the same year is 2.46% (EUR 32 million irregular amounts on EUR 1.3 billion of allocations). However, this figure should be read with great caution as budgetary allocations for 2007 refer to different beneficiaries⁶⁸.

If the impact of irregularities is calculated on the whole programming period (therefore on the “real” beneficiaries), in fact, the result is quite different: 0.49% (EUR 79 million total irregular amounts reported so far on an overall budget of about EUR 16 billion).

⁶⁷ Council Regulation (EC) No 1085/2006

⁶⁸ As of 1st January 2007, the countries benefiting from pre-accession assistance are: Croatia, Turkey, FYROM, Albania, Bosnia-Herzegovina, Serbia (and Kosovo) and Montenegro. See footnote 66.

5.2.2. Method of detection

Reporting countries are required to indicate the manner in which the irregularity was discovered⁶⁹. Despite the fact that pick list for possible methods of detection had been provided, few reporting authorities made use of it. Therefore the codes were attributed on the basis of the descriptions (frequently very laconic and vague) presented in the reports.

Most of the irregularities in 2007 were detected by means of ‘Control of documents’. This method is becoming more frequent in comparison to all years. This could be explained by checks of the final payment requests due to the closure of many projects. On the other hand this method is of a rather general nature and can be used throughout the project cycle.

Table PA 9: Method of detection by number of reported irregularities

Table PA9 METHODS OF DETECTION				
Description	2007		All years	
	Cases	%	Cases	%
Control of documents	114	34.34%	414	29.47%
National administrative or financial control	63	18.98%	420	29.89%
On the spot control of achievement of project or action	61	18.37%	194	13.81%
Ex post control	21	6.33%	82	5.84%
Interservice collaboration	17	5.12%	23	1.64%
Control of accounts	16	4.82%	29	2.06%
National fiscal control	10	3.01%	42	2.99%
Community controls	4	1.20%	13	0.93%
Control by national anti-fraud service	4	1.20%	25	1.78%
	22	6.63%	163	11.60%
Total	332	100.00%	1405	100.00%

The Table PA 10 below presents an overview of methods of detection which helped to trace the highest irregular amounts. Half of irregular amounts in 2007 were detected by means of ‘Control of documents’. This is the most frequent method for all reporting years. The major difference between two tables is that in terms of detected irregular amounts ‘On the spot control of achievement’ appeared to be more effective. ‘National administrative or financial control’ in 2007 traced less irregular amounts in comparison to all the years while ‘On the spot control of achievement’ discovered more in comparison to overall tendencies. All three methods imply ex-ante and ex-post controls. It is a natural outcome since the data set involves projects under different stages of implementation (from procurement to final payments).

Table PA 10 : Method of detection by irregular amounts reported

⁶⁹ Article 3 of Commission Regulation (EC)1681/94

Table PA10 METHODS OF DETECTION				
Description	2007		All years	
	Amount	%	Amount	%
Control of documents	16,854,135	52.04%	30,531,162	38.49%
On the spot control of achievement of project or action	5,827,667	17.99%	9,050,114	11.41%
National administrative or financial control	4,572,144	14.12%	22,901,988	28.87%
Information published in the media	1,521,578	4.70%	1,777,645	2.24%
Community controls	1,176,577	3.63%	1,248,069	1.57%
Interservice collaboration	853,733	2.64%	1,224,260	1.54%
Additional control on request by the Commission	364,021	1.12%	364,021	0.46%
National fiscal control	302,538	0.93%	1,245,144	1.57%
	912,560	2.82%	10,975,804	13.84%
Total	32,384,953	100.00%	79,318,207	100.00%

5.2.3. Types of irregularity

Most common type of irregularity by number of received cases in 2007 was ‘Non eligible expenditure’ just like in 2006. 22% percent of cases were of this type. Second most frequent modus operandi ‘Failure to fulfil commitments entered into’ changed in comparison to 2006. This is yet another indication that a number of projects failed to be implemented.

Table PA 11: Types of irregularities by number of reported irregularities

Table PA11 TYPES OF IRREGULARITIES				
Description	2007		All years	
	Cases	%	Cases	%
NON-ELIGIBLE EXPENDITURE	74	22.29%	249	17.72%
FAILURE TO FULFIL COMMITMENTS ENTERED INTO	70	21.08%	129	9.18%
FAILURE TO RESPECT OTHER REGULATIONS/CONTRACT CONDITIONS	66	19.88%	157	11.17%
UNJUSTIFIED EXPENDITURE	32	9.64%	65	4.63%
INFRINGEMENT OF RULES CONCERNED WITH PUBLIC PROCUREMENT	13	3.92%	77	5.48%
ACTION NOT CARRIED OUT IN ACCORDANCE WITH RULES	10	3.01%	62	4.41%
ACTION NOT IMPLEMENTED	9	2.71%	20	1.42%
FALSIFIED SUPPORTING DOCUMENTS	9	2.71%	81	5.77%
OTHER IRREGULARITIES (TO BE SPECIFIED)	8	2.41%	96	6.83%
	41	12.35%	469	33.38%
Total	332	100.00%	1405	100.00%

‘Failure to respect other regulations or contract conditions’ was the most frequent modus operandi in 2007 for PHARE (33%) followed by ‘Actions not carried out in accordance with rules’ (10%). There is a change in comparison to 2006 when the types of irregularities were more related to project implementation and justification of expenditure incurred. As for ISPA in 2007 the most common type was ‘Non eligible expenditure’ (53%) and ‘Unjustified expenditure’ (34%). This tendency did not change with reference to 2006. As for SAPARD the most recurrent was ‘Failure to fulfil commitments entered into’ (44%) and ‘Failure to respect other regulations or contract conditions’ (21%).

3,92% of cases reported in 2007 had an element of fraud i.e. falsified supporting documents, false or falsified certificates or declarations, false or falsified request for aid⁷⁰. In PHARE they made 10%, SAPARD 2% of the reported cases.

A comparative analysis based on the affected irregular amount in Table PA 12 shows a slightly different result. The most frequent types of irregularities involving higher amounts in 2007 were ‘Failure to respect other regulations or contract conditions’ followed by ‘Falsified supporting documents’. This is the outcome of high share of these types in PHARE, respectively 34% and 47% of irregular amount in this fund. Irregularities detected in SAPARD involved ‘Failure to fulfil commitments entered into’ (70%), in ISPA – ‘Non eligible’ expenditure’ (47%).

‘Failure to respect other regulations or contract conditions’ is the most common type of irregularity looking at the overall tendency. This implies that project results were affected by certain infringements.

Table PA 12 : Types of irregularities by reported irregular amounts

Table PA12 TYPES OF IRREGULARITIES				
Description	2007		All years	
	Amount	%	Amount	%
FAILURE TO FULFIL COMMITMENTS ENTERED INTO	9,707,885	29.98%	12,721,116	16.04%
FALSIFIED SUPPORTING DOCUMENTS	4,678,147	14.45%	8,836,819	11.14%
FAILURE TO RESPECT OTHER REGULATIONS/CONTRACT CONDITIONS	4,333,913	13.38%	10,646,655	13.42%
NON-ELIGIBLE EXPENDITURE	3,714,600	11.47%	7,160,854	9.03%
INFRINGEMENT OF RULES CONCERNED WITH PUBLIC PROCUREMENT	1,244,739	3.84%	2,388,268	3.01%
UNJUSTIFIED EXPENDITURE	1,170,296	3.61%	1,903,159	2.40%
ACTION NOT CARRIED OUT IN ACCORDANCE WITH RULES	1,100,499	3.40%	2,213,248	2.79%
OPERATOR/BENEFICIARY NOT HAVING THE REQUIRED QUALITY	616,937	1.91%	618,002	0.78%
OTHER IRREGULARITIES (TO BE SPECIFIED)	483,708	1.49%	3,071,622	3.87%
	1,294,245	4.00%	29,691,223	37.43%
Total	32,384,953	100.00%	79,318,207	100.00%

5.3. Specific analysis

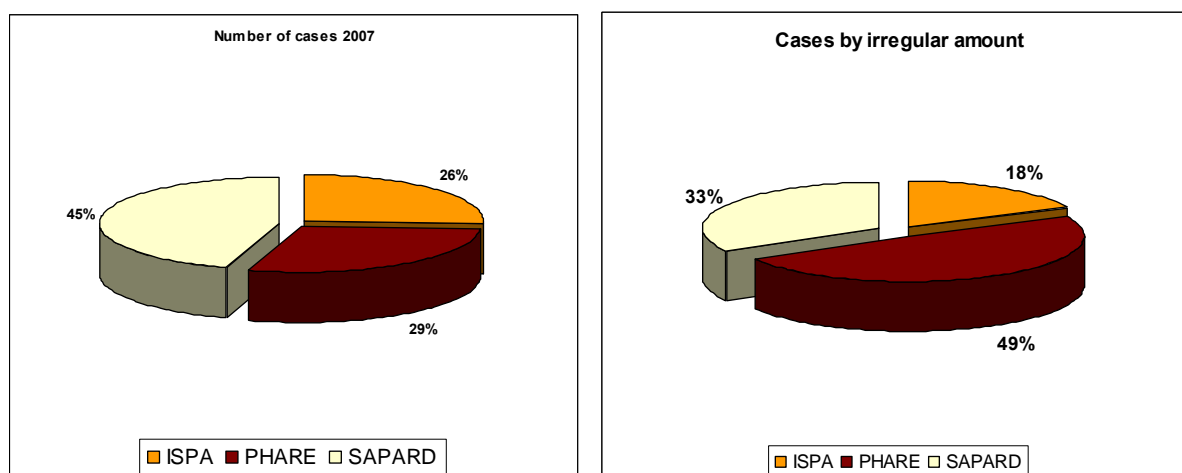
5.3.1. Irregularities affecting different funds

The total number of cases changed in comparison to 2006 (-15.9%). Just as during previous years most irregularities were communicated for PHARE and SAPARD. Those two funds made 74% of irregularities reported.

As demonstrated by Chart PA 4 the highest number of cases reported in 2007 concerned SAPARD and made almost half of the total cases reported in numbers. The biggest share of irregular amount was reported for PHARE (49% of the total).

⁷⁰ - 3,92% presents a total sum of the number of reported cases including an element of fraud. The share of some separate modus operandi is rather small and is not reflected in the table PA 11 of most frequent types.

Chart PA 4: Distribution of communications per fund in 2007



Taking a closer look at ISPA reports one observes that the number of cases does not correlate with the irregular amounts reported. Usually ISPA projects are huge in value but the irregular amounts reported are relatively little (no reporting threshold) and sometimes not indicated at all.

It is similar for SAPARD as in some cases irregular amounts are under calculation. However the ones indicated almost coincide with the amounts to be recovered. Consequently most of SAPARD cases were detected after the payments had been made. This could be related to the fact that SAPARD was closed in 2007⁷¹ but not for Romania and Bulgaria which reported highest numbers of irregularities. The checks can be carried out 5 years after the final payments had been made, so it is likely that some new irregularities will still be detected in the coming years.

The situation is different for PHARE as the share of the number of cases is smaller than the share of irregular amount. The reason could be related to a rather high reporting threshold of EUR 10,000.

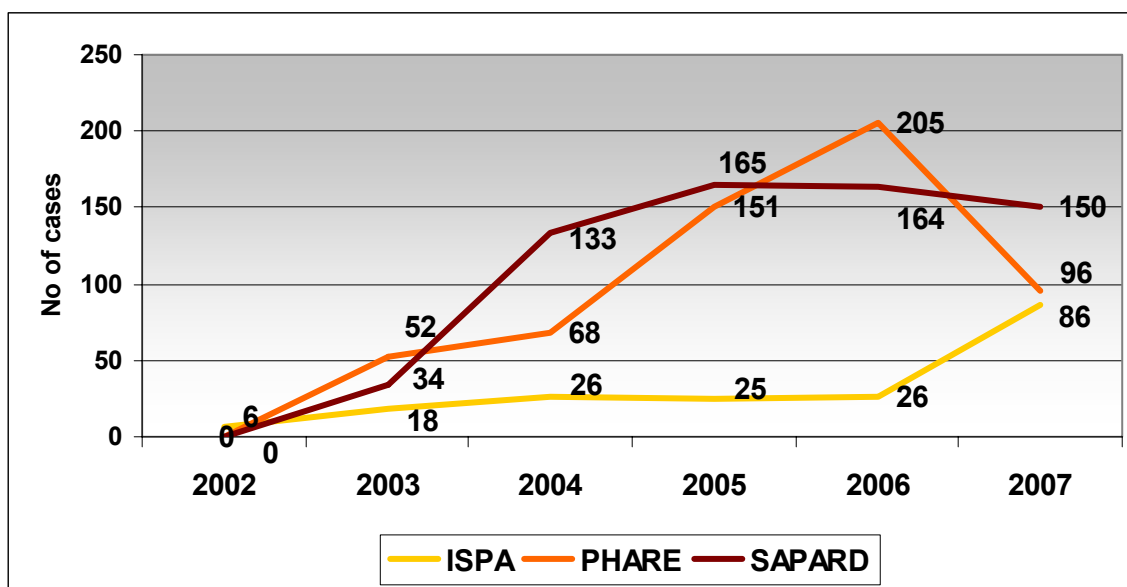
Chart PA 5 presents the fluctuation of the number of cases throughout a period of 6 years. The lowest numbers of cases continue to be detected in ISPA with a drastic increase in 2007. For PHARE and SAPARD the numbers were steadily growing till 2007. The overall trend had changed as PHARE cases decreased in numbers, but SAPARD remained relatively stable. So far the trend was dominated by PHARE and SAPARD, but there was a significant increase for ISPA which was likely to be underreported. However, the greater part of ISPA cases in 2007 were reported by Romania.

After the accession of 10 Member States, no more allocations were given under PHARE programme; however, financial assistance was provided under Transition Facility in 2004-2006. 2006 was the final programming year for the Transition Facility, although contracting is envisaged to continue until 2008 and payment of

⁷¹ Czech Republic (in 2006), Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia, and Slovakia; Cyprus and Malta did not benefit from SAPARD.

funds until 2009. 10 Member States have not detected any Transition Facility related cases. This could be explained by the fact that final project beneficiaries have been Member States' institutions and relevant supervision has been insured at different stages of the project cycle. However it is possible that some of them were reported as PHARE.

Chart PA 5: Distribution of cases by number



5.3.2. Irregularity vs suspected fraud

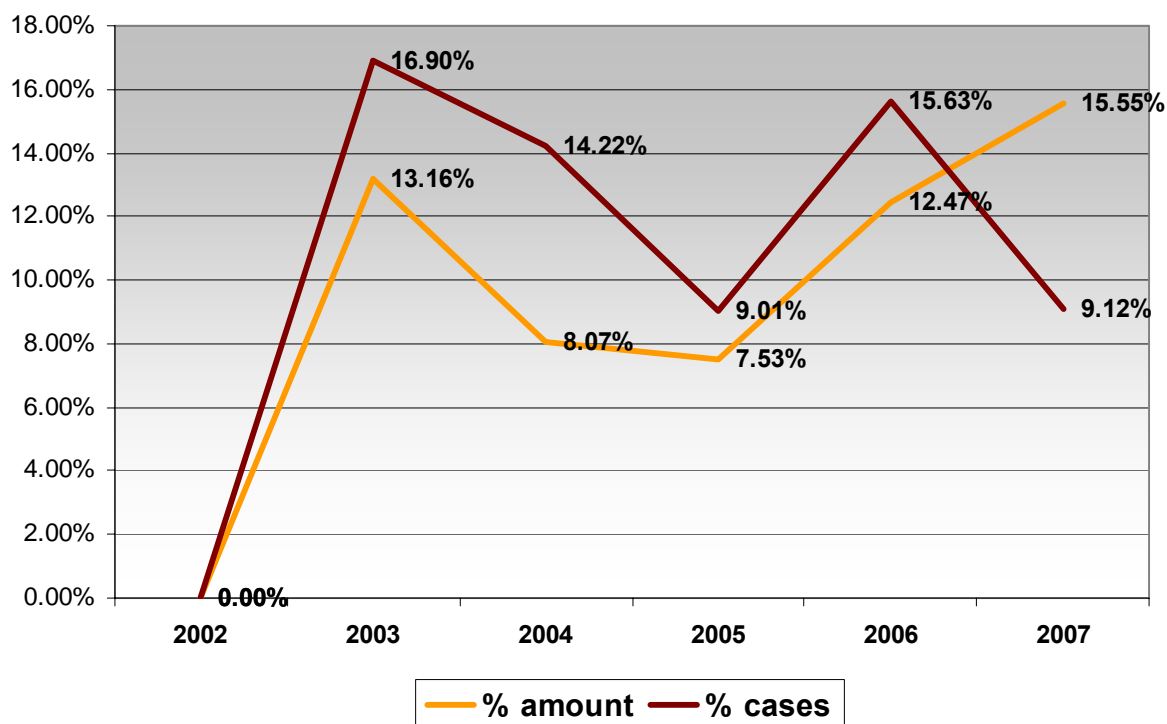
In general reporting countries are rather reluctant to classify the reported irregularities as proved by Table PA 7 representing 56.6% compliance. In 2007 cases classified as suspected fraud made up 9.1% (30) of irregularities and 15.5% of irregular amount. For the sake of transparency it is worth mentioning that these figures result from OLAF classification. According to the reporting countries' classification, the share of suspected fraud cases is 6.3% (21). Bulgaria, Romania, and Poland classified some cases as suspected fraud. There was an increase in comparison with 2006. It indicates that larger scale projects were reported as allegedly fraudulent.

Distribution of fraud cases across the funds is not adequate. There are no suspected fraud cases in ISPA in any years. For SAPARD 6 suspected fraud cases were reported in 2007 and 67 for all the years. For PHARE 24 reported in 2007 and 97 in total.

3.9% of cases reported in 2007 had an element of fraud i.e. falsified supporting documents, declarations. In PHARE they make 10%, SAPARD 2% of the reported cases. This has to be interpreted with caution as reporting countries sometimes classify the case as fraud but indicate the modus operandi which is more likely to be an administrative infringement than criminal offence. An in depth analysis is necessary of a case basis.

Relatively low figures justify the argument that the major part of reported irregularities is not fraudulent and is undergoing corrective actions. The cases classified as suspected fraud do not imply actual losses for the EU budget. On the contrary, they reflect adequate measures taken by the national authorities to prevent malpractices. The real pre-accession assistance related losses for EU budget could only be estimated when the programmes and the reported cases are closed (when deductions are made, recoveries are finalized, or final court rulings are published).

Chart PA 6: Share of suspected fraud in reported cases



The share of amount of cases classified as suspected fraud in relation to the total eligible amount of the reported projects is 0.23%. The total irregular amount of all the reported projects in relation to the total eligible amount is 1.92%. The percentage of the sum of suspected fraud in relation to the total allocated amount for period 2002-2006 is 0.06% (EUR 9 million). For the year 2007 alone, it is 5 million euros, that is to say 0.38% of the annual budget, but the impact on the annual budget has the same limits highlighted in paragraph 5.2.2.. The figure is twice as high in comparison to 2006 report data. This is a natural outcome as no new allocations were given to the reporting countries for PHARE, SAPARD, and ISPA but follow up reports were received and the financial aspects were specified. In addition, new cases were detected in 2007.

5.4. Recovery

The estimation of proportion of irregularities detected before any payments had been made reveals the extent of preventive actions taken by the reporting countries at the early stages.

Chart PA 7: Detection after payment

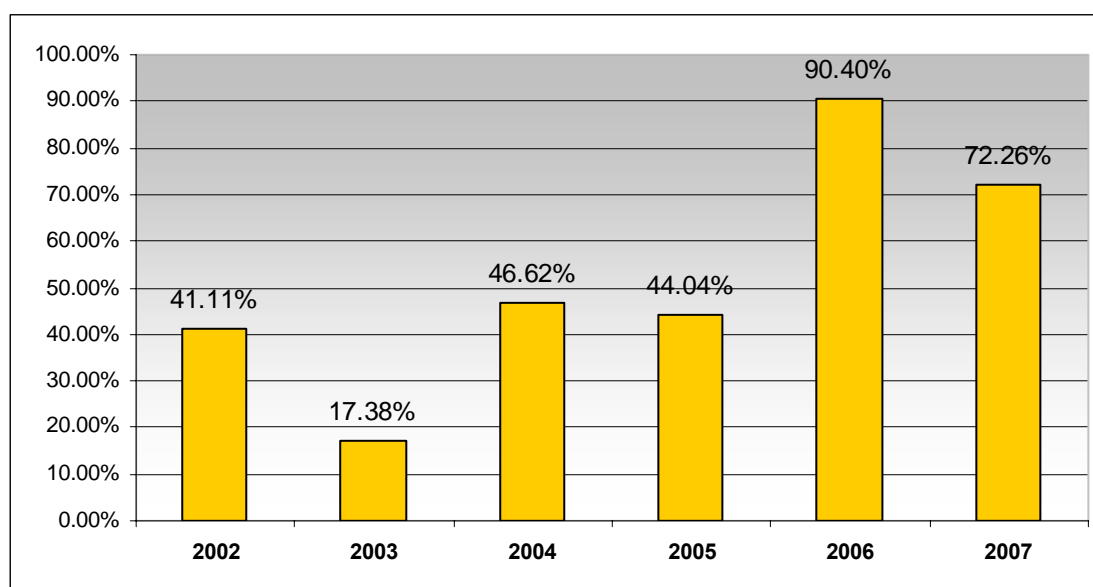


Chart PA 7 reveals the tendency that most of the reported irregularities were detected after payments had been made. It is characteristic to the recent years and is a consequence of the final stages of the projects. A decrease in comparison to 2006 could be explained by Croatian and Turkish cases detected before payment during the contracting period.

Table PA 13 demonstrates the recovery situation per country. The table comprises of all the years and all the funds. It presents the recovery rate which is the percentage of the total amount recovered and the total amount to be recovered.

The lowest amount to be recovered for all years is in ISPA – EUR 2.8 million. For 2007 the situation is different as the lowest amount to be recovered concerns PHARE - EUR 1.9 million. The highest amount to be recovered in 2007 comes from SAPARD.

ISPA has the highest recovery rate of 68.6% talking about the total amount to be recovered, while for SAPARD the rate is 22.7% and for PHARE – 32.8%.

Table PA 13: Recovery by reporting country

Table PA 13 RECOVERIES			
Country	Amount recovered	Amount to be recovered	Recovery rate
BG	492,282	6,978,801	6.59%
CY	0	0	#DIV/0!
CZ	375,724	1,230,998	23.38%
EE	2,639,872	886,853	74.85%
HR	0	0	#DIV/0!
HU	1,382,043	984,537	58.40%
LT	180,786	530,484	25.42%
LV	52,719	258,454	16.94%
MT	33,927	65,961	33.97%
PL	1,853,276	1,496,184	55.33%
RO	13,238,375	11,994,889	52.46%
SI	0	52,294	0.00%
SK	922,184	3,287,345	21.91%
TR	0	360,898	0.00%
Total	21,171,186	28,127,698	42.94%

The overview in Table PA 14 points out delays in the recovery process. There are some amounts to be recovered detected in 2003 where the risk for losses is high. The highest recovery rate is for cases dated 2004. It might be influenced by a special procedure required by SAPARD Multiannual Financing Agreement. SAPARD related Community amounts which are to be recovered in accordance with Part 2.8 Article 14 of MAFA have to be written off two years after recording in the debtors' ledger and deducted from the next application for payment. The situation with respect to 2006 is unsatisfactory, although it is expected to improve in 2008. Reporting countries should undertake recovery measures soon after the detection of irregularities and inform the Commission about deductions made.

Table PA 14: Recovery rate by reporting year

Table PA 14 RECOVERIES			
Year	Amount recovered	Amount to be recovered	Recovery rate
2002	6,122	0	100.00%
2003	588,258	340,562	63.33%
2004	3,393,179	1,467,346	69.81%
2005	4,603,118	3,047,978	60.16%
2006	3,397,973	9,053,849	27.29%
2007	9,182,537	14,217,963	39.24%
Total	21,171,186	28,127,698	42.94%

5.5. Conclusions

Member States and Candidate Countries reported 332 new irregularities in 2007 where the total financial amount affected was around EUR 32 million.

Reporting discipline

The reporting countries tend to misinterpret the obligatory fields in the form, therefore consistency and comparability of the reported information remains an issue.

A more responsible approach towards the preparation of reports by the reporting authorities is necessary to increase the reliability of the submitted information.

The classification of irregularities is an element of reporting which needs further improvement. In 2007 the compliance rate was only 56.6%.

The rate of summary compliance with the reporting obligation is 82.4%.

Low compliance with the reporting obligation might imply some weaknesses in administrative set up of the reporting mechanism in the Member States and Candidate Countries concerned.

General trends

The number of cases reported in 2007 decreased but the amount affected increased.

Irregularities are not distributed equally among the reporting countries due to different periods of eligibility of expenditure.

The increase in the irregular amounts is justified by the enhanced controls at the end of the project cycle and the growing number of reporting countries.

The differences in the number of reported cases and irregular amounts do not imply higher vulnerability to irregularities by some countries.

Most of the irregularities in 2007 were detected by means of 'Control of documents'.

Most common type of irregularity by number of received cases in 2007 was 'Non eligible expenditure' just like in 2006.

Countries benefiting from the biggest support (Romania, Poland, Bulgaria, Hungary) reported the highest number of irregularities (164, 76, 44 and 7 respectively). The pattern is different with reference to irregular amounts. Romania, Bulgaria, Hungary, and Slovakia reported the highest irregular amounts.

Specific trends

The highest number of cases reported in 2007 concerned SAPARD and made almost half of the total cases reported in numbers. The biggest share of irregular amount was reported for PHARE (48% of the total).

Dominance by PHARE and SAPARD irregularity reports is observed but there was a significant increase for ISPA in 2007 which was likely to be underreported.

In 2007 cases classified as suspected fraud made up 9.1% of irregularities and 15.5% of irregular amount.

Distribution of fraud cases across the funds is not adequate. There are no suspected fraud cases in ISPA in any years. For SAPARD 6 suspected fraud cases were reported in 2007 and 67 for all the years. For PHARE 24 reported in 2007 and 97 in total.

Estimation of the impact on the budget is based on reported information and is inextricably linked to countries' approach to reporting and cooperation with the Commission.

6. DIRECT EXPENDITURE – CENTRALISED DIRECT MANAGEMENT

6.1. Methodology

This chapter contains a descriptive analysis of information concerning irregularities and cases of suspected fraud relating to expenditure directly managed by staff in the Commission departments through ‘centralised direct management’⁷².

Given that the changes to the Commission's accounting system ABAC, as described in the main body of this report, only became operational in 2008 it was necessary to identify an interim solution for the 2007 reporting period in order to provide an initial overview of irregularities and fraud detected in the area of the budget managed by the Commission.

It was important that any interim solution strike the right balance between providing a sufficient level of detail whilst not imposing a disproportionate burden on Commission Services. It was decided that for this report the information should be based as much as possible on existing data sources already held within the Commission and particularly on “centralised direct management”. This is one of four different implementation modes through which the Commission may implement the budget:

Centralised Management – both directly when the budget is spent by the Commission services and indirectly when the Commission delegates executive tasks to community agencies or National Agencies in the Member States such as is the case for a significant part of education programmes.

In Shared Management the implementation of the Budget is delegated to the Member States as is the case for much the Agriculture and Structural Funds budget.

Under certain conditions financial management of parts of external aid programmes are (partly or totally) delegated to third countries through Decentralised Management.

And in limited circumstances Commission may delegate certain implementation tasks to intergovernmental and/or international organisations under Joint Management.

It was also decided that this year the data should be restricted to irregularities where a recovery order or forecast of revenue has been established by the Commission service concerned, as irregular amounts which were recovered via expense documents by offsetting subsequent payments have only been systematically captured in the Commission’s accounting system from this year. Under these

⁷²

In accordance with Article 53a of the revision of Financial Regulation and its Implementing Rules, Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 390 of 30.12.2006, p. 1) and Commission Regulation no. 478/2007 of 23 April 2007, amending Commission Regulation no. 2342/2002 (OJ L 111 of 28.4.2007, p.1)

conditions a number of irregularities will have been excluded from this exercise, notably those where the irregular amounts have led to reduced final payments. It should also be noted that many recovery orders are linked to neither irregularities nor fraud and are therefore not covered in this analysis and on some occasions the irregular amount is an estimation as the extent of the problem can only be determined following further verification.

The relevant data was collated by means of a questionnaire sent to all Commission Directorates General in which they were requested to provide qualifications for cases of irregularity and suspected fraud detected in 2007 based on recovery orders or forecasted recovery. However, in some cases it was necessary for operational services to estimate the amount involved as the allegation was subject to an ongoing OLAF investigation. Given the nature of this kind of data capture and potential differences in interpreting the data requested the reliability and consistency of the information received should be treated with caution.

6.2. General analysis

In response to the survey a total of 411 cases of irregularities and suspected fraud detected in 2007 were communicated to OLAF by Commission Services. The total value of contracts in which irregularities and suspected fraud have been detected amounts to EUR 300 million of which EUR 33 million has been identified as irregular⁷³.

6.2.1. Method of detection

The vast majority of cases (81%) were detected by means of routine ex-post audit controls at community level; representing a total of 335 of the 411 cases reported to OLAF. Excluding those cases where the method of detection has been qualified as “other”, the next most common method of detection was community level ex-ante and ex-post desk controls (accounting for 18 and 10 cases respectively). In 15 cases the irregularity/fraud was detected as a result of information received from an informant.

Table DE1: Method of detection

METHOD OF DETECTION	NO OF CONTRACTS		IRREGULAR AMOUNT INVOLVED	
		SHARE	€	SHARE
Community audit control – ex-post	335	81.5%	16,891,649.38	51.2%
Informant	15	3.6%	8,657,960.13	26.3%
Community desk control ex-post	10	2.4%	5,032,090.15	15.2%
Other	31	7.5%	676,771.00	2.1%
National control	1	0.2%	740,226.00	2.2%
Community desk control ex-ante	18	4.3%	975,451.16	2.9%

⁷³

In cases of suspected fraud, an initial determination of the financial impact can, usually, only be established following the conclusion of the OLAF investigation, and it is only when the judicial procedure has come to an end that the actual amount of fraud can be determined.

European Court of Auditors	1	0.2%	4,275.24	0.01%
TOTAL	411	100%	32,978,423.06	100%

However, when looking at the irregular amounts of the contracts, the share resulting from community ex-post audit controls drops to 51.2% (EUR 16.9 million) of the total irregular amounts, followed closely by informants 26.3% (EUR 8.7 million) and community ex-post desk controls 15.2% (EUR 5 million).

If differentiated between cases of irregularities and suspected fraud, Community ex-post audit control was the most common method of detection of cases classified as irregularity; 256 cases were detected by these means (93% of cases). When compared by irregular amount, in those cases classified as irregularity, Community ex-post audit control still remains the main method of detection but its share drops to 72%, followed by informant 12%. Among the cases classified as suspected fraud, both Informant and Community audit control ex-post were the most frequent methods of detection by irregular amount (respectively 38% and 34% of irregular amount detected). However by number of occurrence, cases detected by Community ex-post audit controls were six fold more frequent than cases detected via informant. Among 136 cases of suspected fraud 79 were detected by the Community audit control ex-post (58%). In 23% of suspected fraud cases the Commission services indicated method of detection as “other”.

Table DE2: Method of detection by qualification of irregularity

QUALIFICATION OF IRREGULARITY	METHOD OF DETECTION	NO OF CONTRACTS		IRREGULAR AMOUNT INVOLVED	
			SHARE	€	SHARE
Irregularity	Community audit control – ex-post	256	93.1%	10,683,779.82	71.9%
	Informant	2	0.7%	1,840,815.00	12.4%
	Community desk control ex-post	5	1.8%	1,774,224.20	11.9%
	Community desk control ex-ante	11	4.0%	559,213.91	3.8%
	European Court of Auditors	1	0.4%	4,275.24	0.0%
TOTAL OF IRREGULARITY		275		14,862,308.17	
	Informant	13	9.6%	6,817,145.13	37.6%
	Community audit control – ex-post	79	58.1%	6,207,869.56	34.3%
	Community desk control ex-post	5	3.7%	3,257,865.95	18.0%
	National control	1	0.7%	740,226.00	4.1%
	Other	31	22.8%	676,771.00	3.7%
	Community desk control ex-ante	7	5.1%	416,237.25	2.3%
TOTAL OF SUSPECTED FRAUD/OLAF NOTIFIED		136		18,116,114.89	

6.2.2. Types of irregularity

By number of cases, by far the most common type of irregularity is non-eligible expenditure (315 cases representing 77% of all cases); although this is significantly reduced in terms of irregular amounts to only 42% of the total amount affected (EUR 13.9 million). Missing or incomplete document is the next most common type of irregularity by number (37 cases or 9% of all cases), this again is reduced when looking at the amounts concerned as it accounts for only EUR 2.3 million or 6.9% of the total affected amount.

Table DE 3: Type of irregularity/suspected fraud type⁷⁴

TYPE OF IRREGULARITY	NO OF CONTRACTS		IRREGULAR AMOUNT INVOLVED	
		SHARE	€	SHARE
Non-eligible expenditure ⁷⁵	315	76.6%	13,867,501.90	42.1%
Documents falsified	11	2.7%	7,338,921.60	22.3%
Corruption	7	1.7%	4,198,767.00	12.7%
Other	24	5.8%	2,493,229.32	7.6%
Documents missing or incomplete	37	9.0%	2,289,464.68	6.9%
Action not in accordance with rules	5	1.2%	2,260,592.49	6.9%
Action not implemented	6	1.5%	381,231.10	1.2%
Public procurement infringements	3	0.7%	82,747.00	0.3%
Operator/beneficiary below quality	2	0.5%	45,497.97	0.1%
Incompatible accumulation of aid	1	0.2%	20,470.00	0.1%
TOTAL	411		32,978,423.06	

Among cases classified as irregularities non-eligible expenditure was identified in 315 cases (77%). Next most frequent typology in this category was missing or incomplete documents, 37 cases. Together they constitute almost 90% of types of irregularity in this category. If analysed by irregular amount the share of non-eligible expenditure drops to 42%, followed by the falsified documents 22%. Missing documents and actions not in accordance with rules both constitute 7% of the *modus operandi* by irregular amount.

Table DE 4: Type of irregularity by qualification of irregularity

QUALIFICATION OF IRREGULARITY	TYPE OF IRREGULARITY	NO OF CONTRACTS		IRREGULAR AMOUNT INVOLVED	
			SHARE	€	SHARE
Irregularity	Non-eligible expenditure	205	74.5%	8,414,021.69	56.6%
	Documents missing or incomplete	37	13.5%	2,289,464.68	15.4%
	Action not in accordance with rules	2	0.7%	2,002,815.00	13.5%
	Other	20	7.3%	1,708,807.73	11.5%
	Action not implemented	6	2.2%	381,231.10	2.6%
	Operator/beneficiary below quality	2	0.7%	45,497.97	0.3%
	Incompatible accumulation of aid	1	0.4%	20,470.00	0.1%
	Public procurement infringements	2	0.7%	0.00	0.0%
Total of Irregularity		275		14,862,308.17	
Suspected fraud/OLAF notified	Documents falsified	11	8.1%	7,338,921.60	40.5%
	Non-eligible expenditure	110	80.9%	5,453,480.21	30.1%
	Corruption	7	5.1%	4,198,767.00	23.2%
	Other	4	2.9%	784,421.59	4.3%
	Action not in accordance with rules	3	2.2%	257,777.49	1.4%
	Public procurement infringements	1	0.7%	82,747.00	0.5%
Total of Suspected fraud/OLAF notified		136		18,116,114.89	

⁷⁴

It should be noted that these classifications have been used solely within the context of this exercise and it was not always possible to retrospectively qualify into the sub-categories of non-eligible expenditure.

⁷⁵

The entirety of irregularities related to Eurostat has been reported under the generic qualification of “non-eligible expenditure”, without providing further specifications about the reasons of the non-eligibility (as, for example, the absence of documents or an incomplete documentation).

Non-eligible expenditures had a similarly high share among suspected fraud cases as among irregular amount; representing 81% of cases occurring in 110 notifications of suspected fraud. Documents falsification was identified on 11 occasions and corruption was suspected in 7 cases. By irregular amount the three indicated *modus operandi* represent 94% of case by irregular amount, but their distribution is much more balanced if compared by number of reports. Document falsification made up to 41% of irregular amount, followed by non-eligible expenditure 30% and Corruption 23%⁷⁶.

Non-eligible expenditure remains the most frequently identified type of irregularity, followed by missing or incomplete documents in those cases qualified as Irregularity and by falsified documents in those cases qualified as suspected fraud.

6.2.3. Amounts involved

The presumed financial impact of the irregularities was about EUR 33 million of which suspected fraud amounted to EUR 18.1 million as notified in 136 cases. The amounts notified in the sector of external actions amounted to EUR 19.1 million and in the area of internal policies to EUR 13.7 million. The financial impact of suspected fraud cases identified in 2007 amounted to 0.17% of the total value of contracts managed on a centralised direct basis by the Commission.

Table DE 5: Irregularities by budget heading

BUDGET HEADING	ELIGIBLE AMOUNT ⁷⁷	IRREGULAR AMOUNT			
		IRREGULARITY		SUSPECTED FRAUD	
		CONTRACTS	€	CONTRACTS	€
External action	173,551,989.81	158	5,076,279.25	53	14,065,045.08
Internal policies	127,290,795.12	117	9,786,028.92	83	4,051,069.81
TOTAL	300,842,784.93	275	14,862,308.17	136	18,116,114.89

⁷⁶ For the purposes of this analysis a broad definition of corruption (including conflicts of interests and favouritism) has been used.

⁷⁷ It should be noted that in the column referred to "Eligible amount", Eurostat reported paid amounts and not eligible amounts.

Table DE 6: Irregularities/suspected fraud by budget title⁷⁸

BUDGET TITLE	ELIGIBLE AMOUNT ⁷⁹⁸⁰	IRREGULAR AMOUNT			
		IRREGULARITY		SUSPECTED FRAUD	
		CONTRACTS	€	CONTRACTS	€
Agriculture and rural development	18,911,010.30	14	1,602,084.66	1	224,997.46
Communication	1,251,198.05	2	46,402.43		
Development and ACP Economic and financial affairs	275,000.00	3	190,000.00		
	617,587.00	3	129,488.00		
Education and culture	73,606,808.10	32	914,719.23	2	240,028.00
Employment and social affairs	7,831,077.03	21	1,114,781.99	5	451,915.69
Energy and transport	10,123,268.65	9	792,338.11		
Enlargement	11,364,225.60	4	75,038.41	1	740,226.00
Enterprise	881,871.88	7	281,810.68	11	281,423.00
Environment	514,313.09	3	187,700.41	6 ⁸¹	187,118.49
External relations ⁸²	56,326,161.21	7	3,512,937.90	21	12,648,048.08
Fisheries and maritime affairs	4,477,862.00	4	324,931.35		
Health and consumer protection	266,167.16			2	200.00
Humanitarian aid	105,586,603.00	144	1,298,302.94	31	676,771.00
Information society and media	50,450.77			1	11,822.69
Regional policy	835,473.05	1	706,260.00	4	81,132.77
Research	568,428.60			4	346,368.99
Statistics ⁸³	7,251,774.44	20	3,670,014.09	47	2,226,062.72
Trade	103,505.00	1	15,497.97		
TOTAL	300,842,784.93	275	14,862,308.17	136	18,116,114.89

Amounts involved by country

This section looks at the country in which the economic operator concerned in the cases of irregularly/fraud are established.

⁷⁸ It should be noted that there is not necessarily a correlation between the budgetline title and the Directorate General (DG) in charge of the corresponding European policy, as in some cases more than one service implement a given budget line. Therefore, the figures in the table do not refer to the number of irregularity/fraud cases and amounts involved per DG.

⁷⁹ Eligible amount refers to the total amount of the contracts (concerned by an irregularity/suspected fraud) allocated to a beneficiary.

⁸⁰ See footnote n. 76

⁸¹ The six contracts involved in cases of suspected frauds are, in fact, related to a single contractor, benefiting from six contracts.

⁸² Development Aid – all funds except EDF

⁸³ Figures provided by Eurostat may give a distorted image of reality. They tend to over-represent the importance of cases of suspected frauds and, doing so, of irregularities in general in the domain of statistics. In reality, ex-post controls carried out in 2006 were concentrated on a particular beneficiary already visited before and that had already raised a suspicion of fraud and the transfer of the file to OLAF. On the basis of this situation, the same beneficiary was visited a second time, in order to enlarge the controlled population. Likewise, on a hundred of contracts controlled in 2006 (corresponding to about ten controls), 65 contracts concerned this beneficiary who made the object of ad hoc controls and not of a “routine” control. Being this a targeted control, its results could induce a distorted and not favourable perception of reality.

The vast majority (95%) of beneficiaries concerned are based within the EU. Outside the EU, only 14 cases of irregularities were detected, although this accounted for over 50% of the total irregular amounts amounting to EUR 18.2 million. Over half of the irregularities by amount related to non-EU beneficiaries were in countries eligible for assistance under the Neighbourhood Policies which account for EUR 5.1 million, followed closely by ACP countries (EUR 4.2 million).

Table DE 7: Irregularities by beneficiary region of origin

CONTRACTOR PLACE OF ORIGIN BY REGION ⁸⁴	ELIGIBLE AMOUNT ⁸⁵	IRREGULAR AMOUNT			
		IRREGULARITY		SUSPECTED FRAUD	
		CONTRACTS	€	CONTRACTS	€
EU	225,291,697.95	262	11,175,815.71	122	8,260,233.34
EFTA	13,085,318.30	7	93,554.56		
ACP	16,498,538.65	1	80,000.00	3	4,191,123.56
Asia	1,374,855.00	1	567,550.00	1	379,755.00
Latin America	3,010,756.85	2	2,945,387.90	2	213,484.90
NEP	41,498,871.18	2	0.00	8	5,137,187.04
TOTAL	300,842,784.93	275	14,862,308.17	136	18,198,861.89

Whilst reported irregularities are largely evenly spread among the Member States, there were above average reports involving Portugal (21%), Italy (17%) and the United Kingdom (14%). There is a greater discrepancy when looking at cases of suspected fraud; where beneficiaries based in Portugal account for 59% of all cases. It should be noted however that the Portuguese contracts concerned relate to only one beneficiary who is suspected of fraudulent activity in multiple contacts. A similar situation can be observed regarding Italy, where one beneficiary accounted for nearly half of all contracts concerned.

However by irregular amount beneficiaries from the EU represent close to 60% of all irregularities and suspected frauds, accounting for EUR 19.4 million. Again, whilst irregularities are largely evenly spread among the Member States, higher than average irregular amounts were detected relating to Spain (22% or EUR 4.3 million), Portugal (17% or EUR 3.3 million), Italy (13% or EUR 3.3 million), Germany (12% or EUR 2.3 million), and the United Kingdom (9% or EUR 2.8 million). Together beneficiaries from these five Member States represent 73% of all irregularities by amount. These observations are largely mirrored when looking at amounts affected in cases of suspected fraud.

⁸⁴ EU – European Union, EFTA – European Free Trade Association, ACP – Africa, Caribbean and Pacific; NEP – European Neighbourhood Policy.

⁸⁵ See footnote 76.

Table DE 8: Irregularities by Member State of origin of beneficiary

CONTRACTOR PLACE OF ORIGIN	ELIGIBLE AMOUNT ⁸⁶	IRREGULAR AMOUNT			
		IRREGULARITY		SUSPECTED FRAUD	
		CONTRACTS	€	CONTRACTS	€
AT	2,445,268.40	2	91,622.37	2	844,654.56
BE	74,768,382.02	23	226,440.64	3	215,028.00
CY	675,940.10	1	273,482.85	1	273,482.85
CZ	880,505.00	4	83,437.23		
DE	15,702,486.26	27	2,172,455.01	2	165,970.00
DK	12,595,485.07	8	66,022.11		
EE	658,391.60	3	51,310.99		
EL	3,792,045.30	4	144,627.84		
ES	14,269,589.93	30	2,100,569.02	2	2,226,358.54
FI	3,717,171.50	9	194,840.18		
FR	20,704,514.89	30	1,355,695.42	2	120,133.39
HU	65,127.99	1	61,960.68		
IE	4,712,268.00	11	660,905.17		
IT	33,869,329.85	32	1,768,234.44	33	676,971.00
NL	2,147,006.44	7	165,701.36		
PL	240,908.10	3	46,171.92	1	10,736.00
PT	7,789,217.47	10	199,090.05	72	3,117,479.76
SE	2,278,153.05	8	324,016.56		
UK	23,919,950.98	48	1,189,231.87	4	609,419.24
EU TOTAL	225,231,741.95	261	11,175,815.71	122	8,260,233.34

6.3. Specific analysis

Irregularity versus Suspected fraud

Of the total of 411 contracts identified, 33% had been qualified by the Commission services as suspected fraud. The share of suspected fraud cases increases to 55%, when comparing the irregular amounts. In fact, the average irregular amount per case was 2.4 times higher in suspected fraud cases than in cases of irregularity and amounted to an average of EUR 133,207 per case, compared to EUR 54,045 for all cases. It should be noted that it is possible that the financial impact of suspected fraud cases could be revised during the course of OLAF's investigations.

Table DE 9: Irregularity and Suspected fraud cases

	NUMBER OF COMMUNICATIONS	ELIGIBLE AMOUNT ⁸⁷	IRREGULAR AMOUNT	IRREGULAR SHARE IN ELIGIBLE
Irregularity	275	223,902,497.35	14,862,308.17	6.64%
Suspected Fraud	136	76,940,287.58	18,116,114.89	23.55%
TOTAL	411	300,842,784.93	32,978,423.06	10.96%

⁸⁶ See footnote 76.

⁸⁷ See footnote 76.

It is clear that the ratio between cases of suspected fraud and irregularity within this data set is relatively high. This can be largely explained by two factors, firstly that as this results are based on irregularities which resulted in recovery order or forecast of recovery it has excluded these irregular amounts which have been recovered via expense documents by offsetting subsequent payments; secondly it is likely that the irregular amounts related to cases of suspected fraud will be amended during the course of OLAF's investigations, indeed some allegations may prove to be unfounded and subsequently reclassified as either an irregularity, error or correct payment.

6.4. Recovery

In those cases detected in 2007 full or partial recovery has already been reported in 226 cases. Commission Services have recovered EUR 3.7 million. In 184 cases the full irregular amount has been recovered, in 223 cases the amount to be recovered has yet to be determined as they are currently subject to an OLAF investigation. In 204 cases there is an outstanding amount to be recovered, corresponding to EUR 10.7 million.

Table DE 10: Amount Recovered and to be Recovered

	RECOVERED		TO BE RECOVERED	
	NO OF CONTRACTS	AMOUNT	NO OF CONTRACTS	AMOUNT
Irregularity	170	3,070,394.81	123	6,732,399.10
Suspected Fraud	56	678,435.49	81	3,977,885.90
TOTAL	226	3,748,830.30	204	10,710,285.00

The recovery rate for all notifications is 26% and is higher in the cases identified as irregularities (31%) than in cases qualified as suspected fraud (15%).

6.5. Conclusions

Given that this exercise was a first attempt to integrate the areas of the budget managed by the Commission into this report and the limited scope of the analysis, these initial findings, as with other areas of the report, should be treated with extreme caution and not as empirical evidence of the level of fraud and irregularity.

It is likely that a number of irregularities detected during 2007 were excluded from the data provided by Commission Services as they fell outside the tight criteria set in terms of management mode and linkage to recovery actions.

Concerning cases of suspected fraud the accuracy of the amounts affected is questionable as a final qualification of irregular or fraud can only be established following the OLAF investigation and, *sensu stricto* only once a final judicial decision has been pronounced.

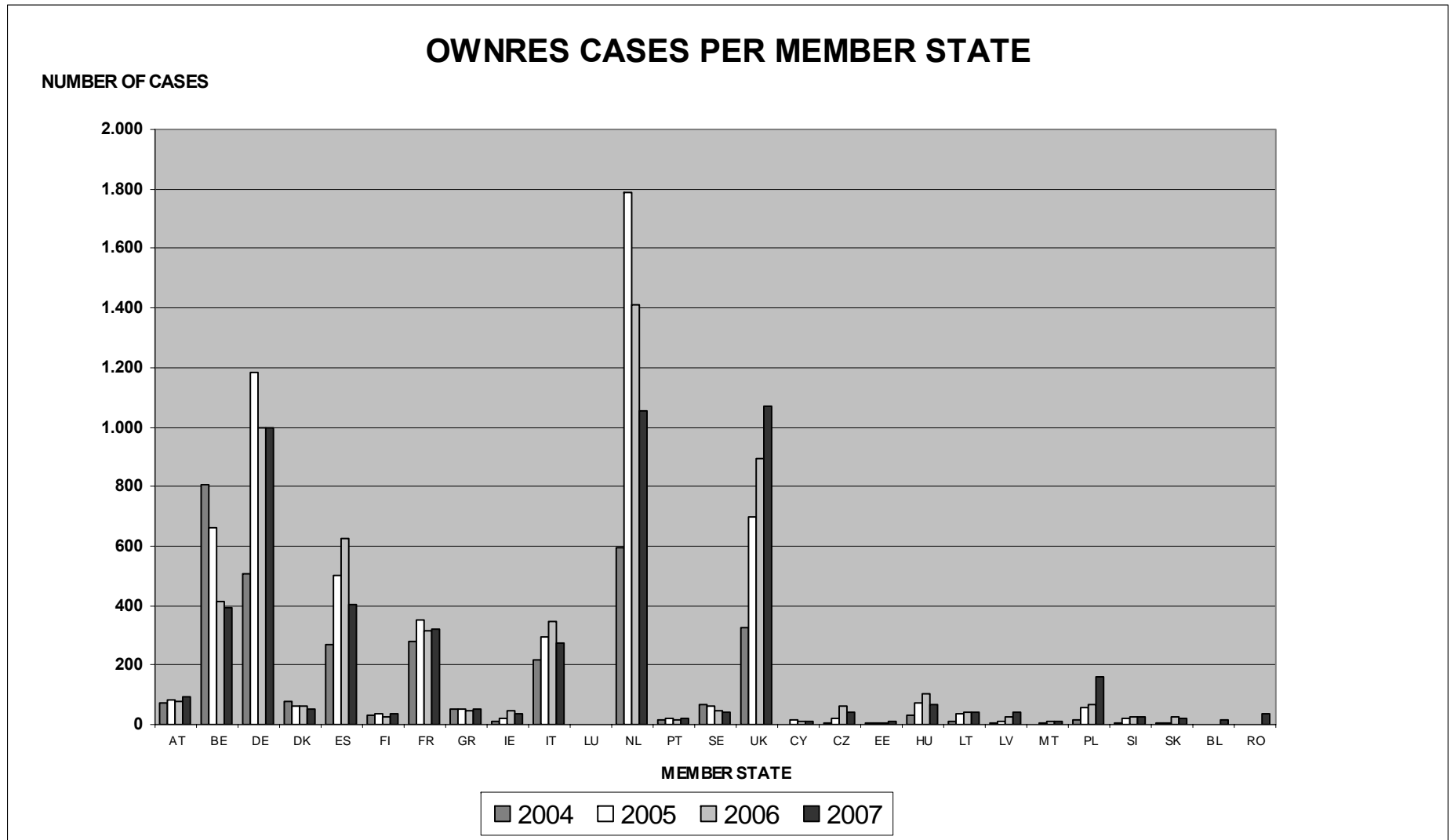
For the next reporting year more comprehensive data will be made available as a result of the changes made to the Commission's reporting system.

ANNEXES

ANNEX 1 – NUMBER OF CASES OWNRES AND AMOUNTS – PERIOD 2004-2007 PER MEMBER STATE

Number of cases OWNRES and amounts period 2004-2007 per Member State										
Member	2004		2005		2006		2007		% Change cases	% Change amount
State	Cases	Amount €	Cases	Amount €	Cases	Amount €	Cases	Amount €	2006 - 2007	2006 - 2007
AT	74	7.605.154	83	5.168.629	75	6.316.745	91	5.500.312	21,33%	-12,92%
BE	805	17.639.660	662	9.118.723	415	11.763.052	395	22.307.864	-4,82%	89,64%
DE	506	29.346.355	1.181	72.204.696	997	55.797.373	998	54.472.872	0,10%	-2,37%
DK	80	6.979.600	64	6.884.838	64	5.142.048	54	7.256.158	-15,63%	41,11%
ES	267	18.666.974	501	48.911.216	625	30.362.995	403	12.925.302	-35,52%	-57,43%
FI	29	1.597.791	34	1.992.413	28	1.464.957	34	1.714.218	21,43%	17,01%
FR	277	20.863.377	349	34.950.733	314	33.304.670	321	33.315.774	2,23%	0,03%
GR	50	4.099.877	54	8.063.290	46	11.457.617	53	2.744.851	15,22%	-76,04%
IE	10	401.444	22	671.846	47	2.820.593	35	2.482.972	-25,53%	-11,97%
IT	218	25.867.816	296	30.384.553	346	70.888.871	275	31.048.300	-20,52%	-56,20%
LU	0	0	0	0	1	49.291	0	0	N/A	N/A
NL	596	41.072.383	1.789	29.837.391	1.409	38.902.390	1.052	57.072.423	-25,34%	46,71%
PT	15	630.533	20	1.652.095	17	818.261	23	393.960	35,29%	-51,85%
SE	68	6.021.599	60	3.265.267	47	2.164.111	42	2.398.254	-10,64%	10,82%
UK	325	27.705.224	698	59.395.121	895	61.715.364	1.069	115.284.887	19,44%	86,80%
EUR-15 TOTAL	3.320	208.497.787	5.813	312.500.811	5.326	332.968.338	4.845	348.918.147	-9,03%	4,79%
CY	2	54.136	16	380.408	9	193.532	11	750.402	22,22%	287,74%
CZ	4	481.813	19	526.638	63	2.237.307	39	1.424.688	-38,10%	-36,32%
EE	3	54.900	3	165.287	5	178.010	12	455.754	140,00%	156,03%
HU	29	1.692.522	70	1.932.201	103	7.867.072	67	6.027.841	-34,95%	-23,38%
LT	8	205.209	35	1.515.325	39	1.599.918	40	1.286.472	2,56%	-19,59%
LV	7	252.392	9	526.732	28	1.886.170	40	2.254.487	42,86%	19,53%
MT	2	125.735	6	882.756	11	1.226.978	10	404.949	-9,09%	-67,00%
PL	17	652.034	55	1.211.436	69	1.807.599	158	8.569.400	128,99%	374,08%
SI	7	586.361	22	618.272	24	950.848	27	1.589.490	12,50%	67,17%
SK	3	318.119	4	68.348	28	1.561.967	20	1.070.723	-28,57%	-31,45%
EUR-10 TOTAL	82	4.423.221	239	7.827.403	379	19.509.401	424	23.834.206	11,87%	22,17%
BG	0	0	0	0	0	0	15	471.173	N/A	N/A
RO	0	0	0	0	0	0	37	3.837.168	N/A	N/A
EUR-2 TOTAL	0	0	0	0	0	0	52	4.308.341	N/A	N/A
EUR-27 TOTAL	3.402	212.921.008	6.052	320.328.214	5.705	352.477.739	5.321	377.060.694	-6,73%	6,97%

ANNEX 2 – OWNRES CASES PER MEMBER STATE



ANNEX 3 – IMPACT ON CUSTOM PROCEDURE FREE CIRCULATION

IMPACT ON CUSTOM PROCEDURE FREE CIRCULATION				
YEAR	CASES	IMPACT CASES % OF TOTAL	AMOUNTS ESTABLISHED	IMPACT AMOUNTS ESTABLISHED % OF TOTAL
2003	2168	66,38%	211.026.810	78,89%
2004	2223	65,34%	176.236.140	82,77%
2005	3216	53,14%	259.434.116	80,99%
2006	3601	63,12%	262.000.678	74,33%
2007	3428	64,42%	290.654.592	77,08%

ANNEX 4 – TOP 10 CHAPTER HEADINGS

TOP 10 CHAPTER HEADINGS											
2005				2006				2007			
CN	PRODUCT	AMOUNT €	CASES	CN	PRODUCT	AMOUNT €	CASES	CN	PRODUCT	AMOUNT €	CASES
85	TVs and monitors etc.	65.241.373	1.102	85	TVs and monitors etc.	65.276.360	1031	85	TVs and monitors etc.	93.490.696	932
24	Tobacco / cigarettes	29.805.629	380	24	Tobacco / cigarettes	39.768.154	327	24	Tobacco / cigarettes	28.107.416	337
61	Clothing	25.517.843	378	15	Oils and fats	22.925.458	85	07	Edible vegetables	22.111.479	88
17	Sugar / sugar-products	23.450.987	70	61	Clothing	20.032.799	224	87	(Parts of) cars / motors	22.057.814	296
84	Machines	18.347.223	446	10	Cereals	15.016.504	48	84	Machines	19.499.287	348
87	(Parts of) cars / motors	16.414.124	262	02	Meat	14.769.586	327	64	Footwear	17.934.315	260
62	Clothing	13.816.231	687	87	(Parts of) cars / motors	13.208.052	303	61	Clothing	16.830.881	336
07	Edible vegetables	13.302.629	123	73	Articles of iron and steel	12.934.065	125	62	Clothing	15.372.188	377
03	Fish etc.	8.533.337	164	84	Machines	12.773.323	383	20	Preparations of vegetables	13.215.632	85
73	Articles of iron and steel	7.784.044	139	07	Edible vegetables	12.692.785	118	63	Other textile articles	9.980.149	69

ANNEX 5 – GOOD AFFECTED BY FRAUD AND IRREGULARITY – PERIOD 2005-2007

GOODS AFFECTED BY FRAUD AND IRREGULARITY PERIOD 2005-2007								
2005			2006			2007		
TARIFF CODES	CASES	AMOUNTS €	TARIFF CODES	CASES	AMOUNTS €	TARIFF CODES	CASES	AMOUNTS €
24022090	291	21.662.136	24022090	275	31.869.145	85282190	69	24.288.573
17019910	48	21.621.784	85254099	24	16.174.767	07032000	48	20.471.185
07032000	99	12.737.519	07032000	81	11.703.340	24022090	237	15.398.049
85282190	97	12.585.283	15091010	15	11.258.441	85281298	4	13.282.138
84089071	3	8.827.262	85393190	103	9.401.239	85281294	41	10.337.447
85281252	13	8.266.042	61103099	27	8.176.350	87031018	47	9.799.781
85219000	133	7.009.142	10062098	8	7.333.373	64030000	6	6.706.330
61101130	46	6.069.265	85219000	147	6.652.975	63039118	1	6.468.283
61103099	47	5.286.291	73121071	1	6.376.418	44121310	6	5.948.919
85281294	33	5.152.674	15091090	16	6.090.434	84119190	7	5.246.096
62021100	5	4.926.722	10063000	1	5.818.641	20059081	1	4.590.327
85393190	87	4.624.195	17029099	27	5.550.293	85393190	88	4.384.171
03061380	49	4.283.024	96131000	15	5.529.776	24012010	9	3.798.535
83051000	10	3.676.416	17019910	20	5.355.341	24031010	42	3.697.450
61102099	65	3.635.415	24022000	2	5.189.984	61103099	74	3.441.751
85254099	25	3.510.702	02023090	53	5.017.135	62034231	17	3.239.738
24022000	7	3.468.348	02072710	132	4.923.363	32159080	14	3.116.692
21069098	57	3.326.372	08030019	50	4.304.781	85219000	96	3.078.920
87032319	14	3.262.751	02071410	105	4.285.771	04051000	1	3.071.722
02072710	44	2.709.319	85281294	76	4.106.123	61101190	13	3.071.468
74261200	1	2.227.132	36799690	1	3.679.969	20031030	42	3.051.009
73121086	1	2.157.282	84149000	4	2.773.172	96131000	8	2.642.807
84821090	10	2.146.241	85282190	65	2.700.782	84733010	55	2.616.431
08030019	35	2.111.777	85281220	16	2.611.463	85369010	2	2.549.674
76011000	14	2.106.650	90013000	2	2.600.076	64039938	3	2.548.693

ANNEX 6 – FRAUD AND IRREGULARITIES: BREAKDOWN BY ORIGIN OF GOODS

FRAUD AND IRREGULARITIES: BREAKDOWN BY ORIGIN OF THE GOODS DURING 2005-2007								
2005			2006			2007		
COUNTRY	CASES	€	COUNTRY	CASES	€	COUNTRY	CASES	€
China	1.299	133.197.283	China	1.389	132.541.927	China	1.499	214.148.157
USA	694	48.397.838	Thailand	78	50.711.140	USA	658	72.269.945
Japan	299	40.629.242	USA	652	48.341.881	Japan	228	55.650.876
Canada	60	26.496.963	Japan	293	46.029.984	Thailand	85	45.055.846
Not specified	1.140	21.059.368	Tunisia	47	39.156.655	South Korea	160	25.463.553
South Korea	115	19.735.416	Brazil	350	38.966.283	Taiwan	128	24.051.934
Jamaica	162	14.663.084	Turkey	81	26.430.425	Not specified	668	22.073.986
Thailand	76	12.784.877	Not specified	794	22.438.823	Turkey	72	20.549.890
Brazil	141	12.590.799	South Korea	151	18.891.443	Vietnam	49	16.406.006
India	82	11.801.950	Bangladesh	52	17.111.836	Bangladesh	176	15.674.333

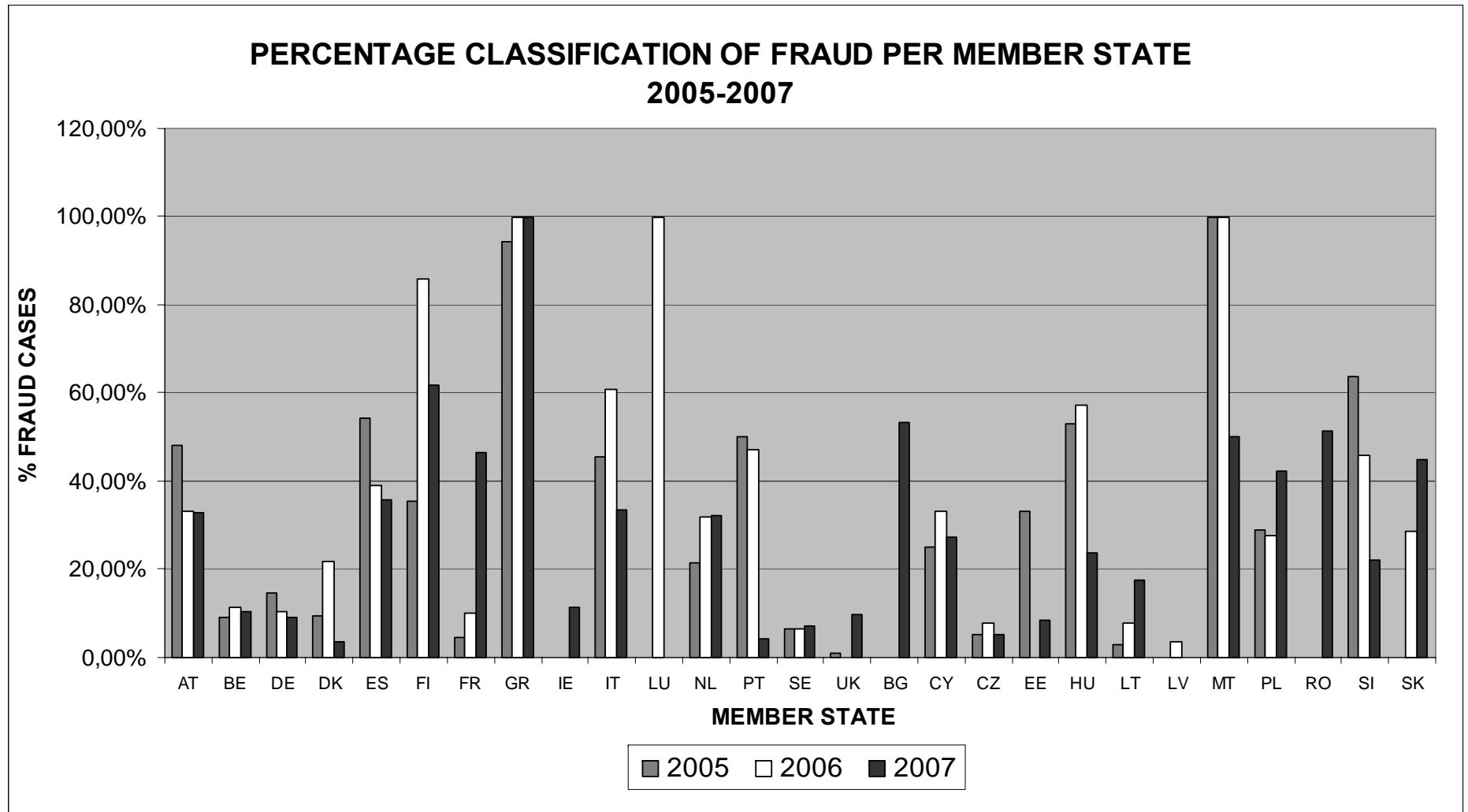
ANNEX 7 – RECOVERY RATES OWNRES

RECOVERY RATES TRADITIONAL OWN RESOURCES (RR)									
MEMBER STATES	2006						2007		
	AMOUNT € 2006	RECOVERED € 2006	RR 2006	AMOUNT € IN 2007	RECOVERED €IN 2007	RR for 2006 in 2007	AMOUNT € 2007	RECOVERED €2007	RR 2007
AT	6.857.684	2.299.000	33,52%	6.316.745	2.493.559	39,48%	5.500.312	1.600.436	29,10%
BE	12.387.812	1.537.940	12,41%	11.763.052	3.478.927	29,58%	22.307.864	1.415.487	6,35%
BG	0	0	N/A	0	0	N/A	471.173	236.994	50,30%
CY	193.604	91.749	47,39%	193.532	102.412	52,92%	750.402	59.090	7,87%
CZ	2.287.699	1.430.251	62,52%	2.237.307	1.464.630	65,46%	1.424.688	1.080.783	75,86%
DE	46.345.172	28.722.922	61,98%	55.797.373	36.130.422	64,75%	54.472.872	39.064.385	71,71%
DK	6.067.958	4.617.533	76,10%	5.142.048	3.706.014	72,07%	7.256.158	6.334.705	87,30%
EE	178.010	32.457	18,23%	178.010	156.384	87,85%	455.754	231.635	50,82%
ES	27.590.199	13.535.077	49,06%	30.362.995	15.765.145	51,92%	12.925.302	9.378.359	72,56%
FI	1.464.957	241.489	16,48%	1.464.957	268.130	18,30%	1.714.218	654.884	38,20%
FR	33.387.673	11.654.263	34,91%	33.304.670	11.779.383	35,37%	33.315.774	11.487.611	34,48%
GR	442.048	342.322	77,44%	11.457.617	789.125	6,89%	2.744.851	151.948	5,54%
HU	7.428.526	753.265	10,14%	7.867.072	990.619	12,59%	6.027.841	1.283.280	21,29%
IE	2.604.534	2.561.438	98,35%	2.820.593	2.604.534	92,34%	2.482.972	1.987.124	80,03%
IT	69.882.133	1.913.057	2,74%	70.888.871	3.618.267	5,10%	31.048.300	3.528.907	11,37%
LT	1.634.868	763.832	46,72%	1.599.918	1.278.473	79,91%	1.286.472	408.342	31,74%
LU	49.291	49.291	100,00%	49.291	49.291	100,00%	0	0	N/A
LV	1.422.325	375.539	26,40%	1.886.170	407.725	21,62%	2.254.487	874.726	38,80%
MT	574.945	0	0,00%	1.226.978	28.314	2,31%	404.949	156.232	38,58%
NL	63.284.120	6.215.407	9,82%	38.902.390	17.275.689	44,41%	57.072.423	8.436.879	14,78%
PL	2.067.153	1.102.239	53,32%	1.807.599	1.220.406	67,52%	8.569.400	2.430.412	28,36%
PT	835.319	255.621	30,60%	818.261	255.621	31,24%	393.960	239.516	60,80%
RO	0	0	N/A	0	0	N/A	3.837.168	393.829	10,26%
SE	2.164.111	2.001.858	92,50%	2.164.111	2.001.858	92,50%	2.398.254	1.201.561	50,10%
SI	950.848	304.093	31,98%	950.848	310.684	32,67%	1.589.490	1.299.872	81,78%
SK	1.527.433	510.713	33,44%	1.561.967	545.247	34,91%	1.070.723	300.113	28,03%
UK	61.250.909	32.057.182	52,34%	61.715.364	32.520.765	52,69%	115.284.887	56.252.454	48,79%
EUR-27 TOTAL	352.879.331	113.368.538	32,13%	352.477.739	139.241.624	39,50%	377.060.694	150.489.564	39,91%

ANNEX 8 – SEIZED AND CONFISCATED GOODS

SEIZED AND CONFISCATED GOODS (cigarettes CN 24022090)						
MEMBER STATES	2005		2006		2007	
	CASES	ESTIMATED OR ESTABLISHED AMOUNT OF TOR €	CASES	ESTIMATED OR ESTABLISHED AMOUNT OF TOR €	CASES	ESTIMATED OR ESTABLISHED AMOUNT OF TOR €
AT	5	435.499	4	97.191	2	89.954
BE	23	2.021.266	15	752.736	5	269.912
DE	11	377.347	11	442.643	0	0
DK	0	0	3	78.122	0	0
ES	0	0	0	0	0	0
FI	4	379.152	7	223.516	9	154.145
FR	8	1.093.927	26	1.264.583	28	1.597.259
GR	11	1.219.395	15	3.214.309	12	1.692.483
IE	0	0	3	216.059	5	803.923
IT	0	0	0	0	4	345.497
LU	0	0	0	0	0	0
NL	3	148.077	0	0	0	0
PT	0	0	1	691.200	0	0
SE	4	78.515	3	48.760	3	385.600
UK	1	248.488	0	0	41	4.153.116
EUR-15 TOTAL	70	6.001.666	88	7.029.119	109	9.491.889
BG	0	0	0	0	0	0
CY	0	0	2	364.685	1	33.673
CZ	0	0	0	0	0	0
EE	1	140.655	0	0	1	41.304
HU	12	552.809	14	456.445	6	193.168
LT	3	43.336	5	109.526	0	0
LV	0	0	2	490.904	4	693.930
MT	5	435.521	7	780.914	2	205.013
PL	12	335.117	17	403.059	33	786.077
RO	0	0	0	0	19	3.243.636
SI	6	411.201	9	549.900	6	187.055
SK	0	0	3	397.874	1	144.760
EUR-12 TOTAL	39	1.918.639	59	3.553.307	73	5.528.616
EUR-27 TOTAL	109	7.920.305	147	10.582.426	182	15.020.505

ANNEX 9 – PERCENTAGE CLASSIFICATION OF FRAUD PER MEMBER STATE



ANNEX 10 – AMOUNTS INVOLVED IN FRAUD

AMOUNTS INVOLVED IN FRAUD PER MEMBER STATE PERIOD 2005-2007									
MEMBER STATE	2005			2006			2007		
	CASES	FRAUD CASES	FRAUD IN €	CASES	FRAUD CASES	FRAUD IN €	CASES	FRAUD CASES	FRAUD IN €
AT	83	40	4.073.367	75	25	2.568.695	91	30	3.218.983
BE	662	60	3.307.008	415	47	3.045.442	395	41	2.049.238
DE	1.181	171	22.373.635	997	104	12.118.133	998	91	10.609.832
DK	64	6	2.490.966	64	14	2.433.934	54	2	213.813
ES	501	272	30.578.821	625	244	20.098.581	403	144	4.699.076
FI	34	12	273.779	28	24	1.267.261	34	21	1.101.219
FR	349	16	1.399.642	314	32	119.450	321	149	6.567.014
GR	54	51	7.910.055	46	46	11.457.617	53	53	2.744.851
IE	22	0	0	47	0	0	35	4	134.805
IT	296	135	15.931.062	346	210	62.422.053	275	92	16.337.234
LU	0	0	0	1	1	49.291	0	0	0
NL	1.789	382	23.970.804	1.409	448	34.572.089	1.052	338	35.895.551
PT	20	10	565.484	17	8	280.718	23	1	66.670
SE	60	4	0	47	3	0	42	3	0
UK	698	6	1.329.561	895	1	24.726	1.069	103	9.799.472
EUR-15 TOTAL	5.813	1.165	114.204.184	5.326	1.207	150.457.990	4.845	1.072	93.437.758
BG	0	0	0	0	0	0	15	8	242.517
CY	16	4	71.582	9	3	21.855	11	3	26.483
CZ	19	1	21.097	63	5	80.204	39	2	222.161
EE	3	1	140.655	5	0	0	12	1	41.304
HU	70	37	664.525	103	59	4.562.332	67	16	2.556.971
LT	35	1	16.287	39	3	414.212	40	7	77.313
LV	9	0	0	28	1	130.892	40	0	0
MT	6	6	882.756	11	11	1.226.978	10	5	285.766
PL	55	16	419.773	69	19	403.059	158	67	5.933.961
RO	0	0	0	0	0	0	37	19	3.243.636
SI	22	14	476.207	24	11	579.346	27	6	187.055
SK	4	0	0	28	8	477.049	20	9	311.511
EUR-12 TOTAL	239	80	2.692.882	379	120	7.895.927	476	143	13.128.678
EUR-27 TOTAL	6.052	1.245	116.897.066	5.705	1.327	158.353.917	5.321	1.215	106.566.436

ANNEX 11

update 22/05/2008

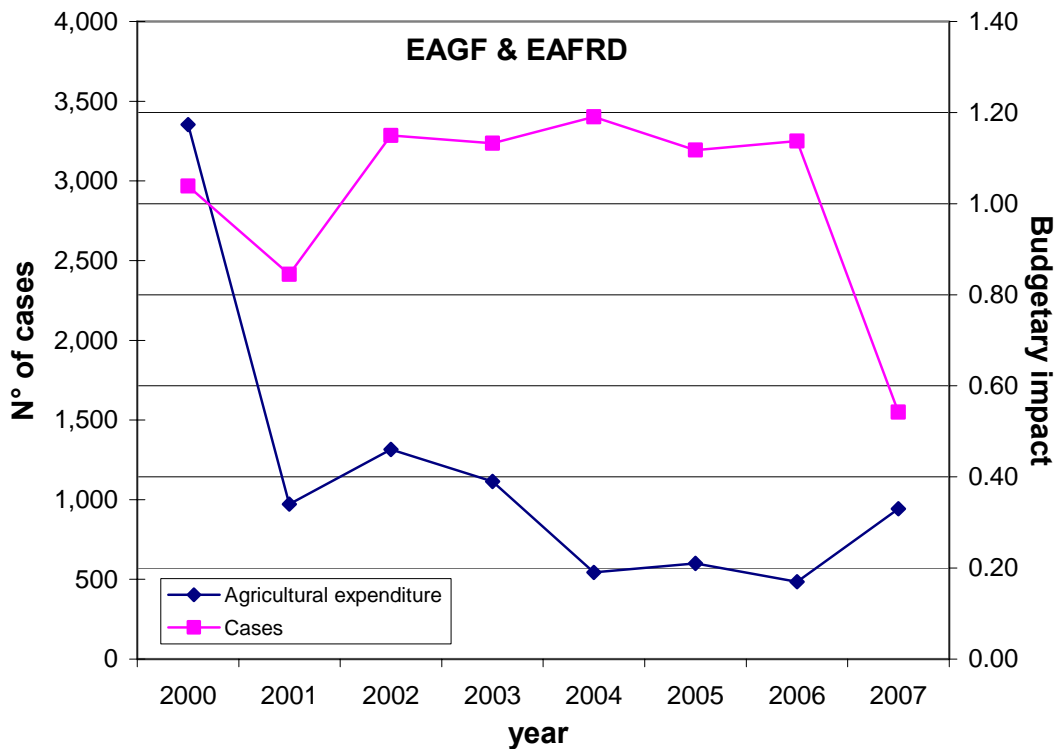
AGRICULTURAL SECTOR

IRREGULARITIES
COMMUNICATED BY MEMBER STATES
UNDER
Reg. 1848/2006

YEARS 2000 - 2007

(amounts in € 1,000)

Year	Cases	Amounts affected	% of Agricultural expenditure	Agricultural expenditure
2007	1,548	154,993	0.33	46,920,972
2006	3,249	86,825	0.17	49,742,890
2005	3,193	102,112	0.21	47,819,509
2004	3,401	82,064	0.19	42,934,711
2003	3,237	169,724	0.39	43,606,858
2002	3,285	198,079	0.46	42,781,898
2001	2,415	140,685	0.34	41,866,940
2000	2,967	474,562	1.17	40,437,400



*) The concept "irregularity" includes fraud. The qualification as fraud, meaning criminal behaviour, can only be made following a penal procedure.

ANNEX 12

update 22/05/2008

AGRICULTURAL SECTOR

IRREGULARITIES
COMMUNICATED BY MEMBER STATES
UNDER
Reg. 1848/2006

2007

(amounts in €1,000)

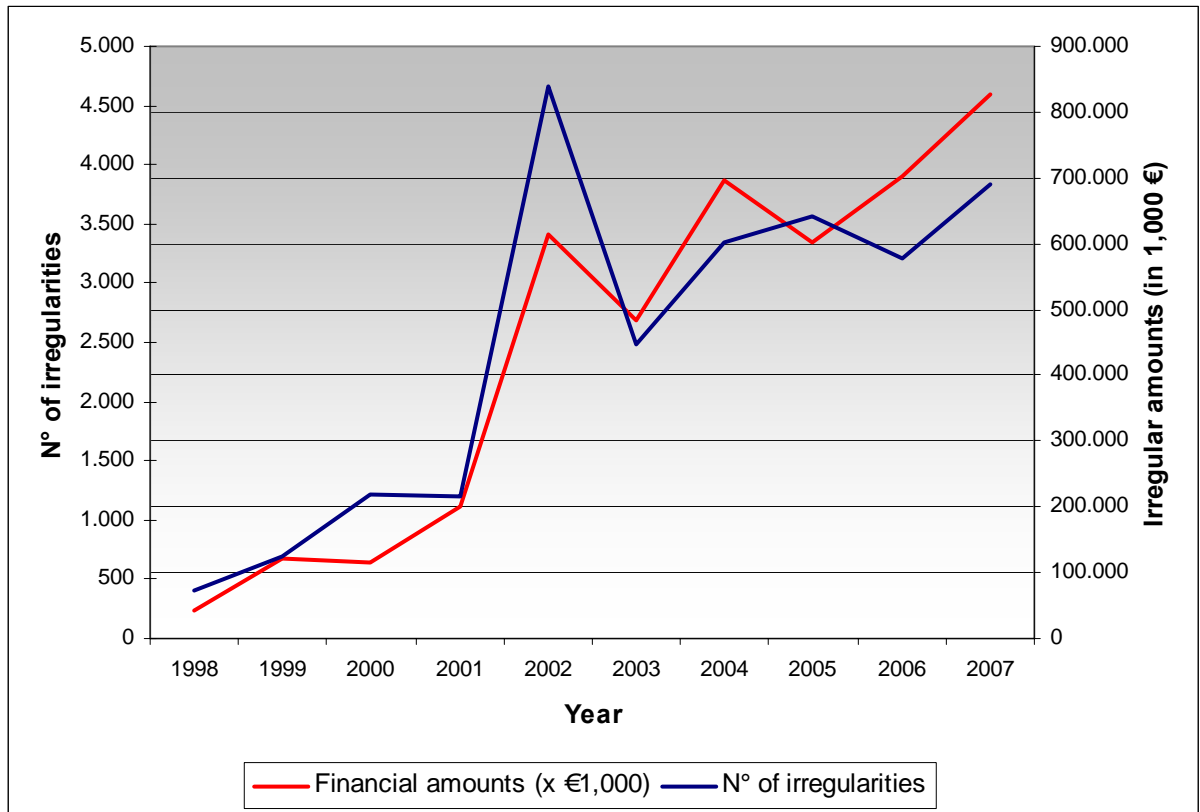
<i>Member States</i>	<i>Number of cases involved in irregularities</i>	<i>Amounts affected by irregularities</i>	<i>% of agricultural expenditure</i>
AT	27	402	0.05
BE	34	13,866	1.62
BG	0	0	0.00
CY	6	83	0.18
CZ	10	103	0.02
DE	94	2,855	0.05
DK	20	15,258	1.40
EE	16	84	0.11
EL	86	4,185	0.15
ES	335	23,609	0.40
FI	20	339	0.04
FR	147	32,637	0.34
HU	12	233	0.04
IE	26	490	0.03
IT	237	43,063	0.82
LT	10	232	0.07
LU	0	0	0.00
LV	11	142	0.09
MT	0	0	0.00
NL	64	4,349	0.38
PL	62	1,099	0.05
PT	190	5,570	0.68
RO	0	0	0.00
SE	14	285	0.03
SI	9	233	0.14
SK	23	1,707	0.56
UK	95	4,168	0.10
TOTAL	1,548	154,993	0.33

ANNEX 13

STRUCTURAL MEASURES (INCLUDING THE COHESION FUND)

IRREGULARITIES* COMMUNICATED BY MEMBER STATES 1998-2006

Year	N° of irregularities	Financial amounts	Total budget	Impact on budget
		(x €1,000)	(x €1,000,000)	
2007	3,832	827,654	45,327	1.83%
2006	3,216	703,302	38,430	1.83%
2005	3,570	600,816	37,192	1.62%
2004	3,339	695,611	35,665	1.95%
2003	2,487	482,215	30,764	1.57%
2002	4,656	614,094	30,556	2.01%
2001	1,194	201,549	29,823	0.68%
2000	1,217	114,227	25,556	0.45%
1999	698	120,633	30,654	0.39%
1998	407	42,838	28,366	0.15%



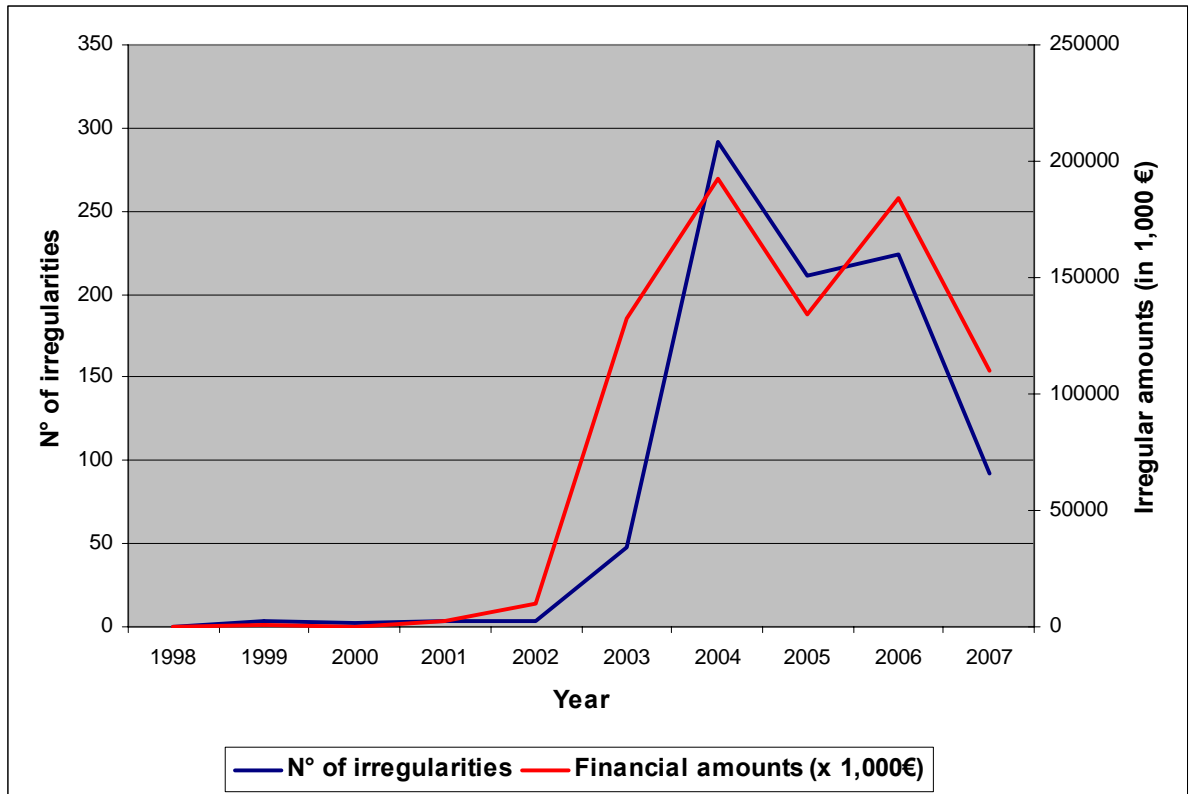
**The concept of irregularity includes fraud. The qualification as fraud, meaning criminal behaviour, can only be made following a penal procedure.*

ANNEX 14

COHESION FUND

IRREGULARITIES* COMMUNICATED BY MEMBER STATES 1998-2006

YEAR	N° OF IRREGULARITIES	FINANCIAL AMOUNTS (x 1,000 €)
1998	0	0
1999	3	914
2000	2	36
2001	4	2,534
2002	4	9,628
2003	48	132,914
2004	292	192,755
2005	211	134,265
2006	224	184,483
2007	92	110,223
TOTAL	880	767,752



**The concept of irregularity includes fraud. The qualification as fraud, meaning criminal behaviour, can only be made following a penal procedure.*

ANNEX 15

PART 1

STRUCTURAL FUNDS

IRREGULARITIES REPORTED BY MEMBER STATES - 2007

REGULATION N. 1681/94

N° OF IRREGULARITIES

MEMBER STATE	ERDF	ESF	EAGGF	FIFG	TOTAL
AT	21	6		1	28
BE	16	12			28
CY				1	1
CZ	3	32			35
DE	228	143	39	2	412
DK	6	3		2	11
EE	12	14	3	3	32
EL	34	15	17		66
ES	391	134	70	18	613
FI	11	24	8		43
FR	56	77	5	2	140
HU	15	10	10		35
IE	32				32
IT	307	208	133	10	658
LT	4		4		8
LU		8			8
LV	1		6	1	8
MT	1	1			2
NL	20	122	4		146
PL	150	38	94		282
PT	263	224	47	6	540
SE	32	44		3	79
SI	2	2			4
SK	21	3	3		27
UK	280	170	41	11	502
TOTAL	1,906	1,290	484	60	3,740

ANNEX 15

PART 2

STRUCTURAL FUNDS

IRREGULARITIES REPORTED BY MEMBER STATES - 2007

REGULATION N. 1681/94

FINANCIAL AMOUNTS INVOLVED IN IRREGULARITIES

MS	ERDF	ESF	EAGGF	FIFG	TOTAL
AT	3,973,989	329,587		450,200	4,753,776
BE	1,210,452	354,967			1,565,419
CY				3,328	3,328
CZ	1,451,237	3,434,609			4,885,846
DE	41,427,446	4,946,112	2,915,785	240,125	49,529,468
DK	271,986	34,745		26,949	333,680
EE	739,855	333,098	101,417	82,626	1,256,996
EL	16,499,726	1,739,808	7,344,106		25,583,640
ES	162,978,075	11,048,658	6,471,810	803,933	181,302,476
FI	902,784	1,036,381	445,852		2,385,017
FR	3,060,703	2,852,579	87,430	178,451	6,179,163
HU	1,272,917	476,835	951,681		2,701,433
IE	2,082,358				2,082,358
IT	121,849,034	20,780,619	14,356,625	1,403,182	158,389,460
LT	27,137		83,686		110,823
LU		248,458			248,458
LV	574,435		1,199,656	89,434	1,863,525
MT	10,139	22,162			32,301
NL	2,855,759	23,770,253	550,337		27,176,349
PL	25,920,315	1,753,712	2,578,614		30,252,641
PT	29,019,574	14,688,154	4,454,450	1,754,315	49,916,493
SE	2,293,994	1,265,443		35,200	3,594,637
SI	92,127	36,666			128,793
SK	1,381,428	578,639	15,334		1,975,401
UK	114,467,369	24,406,231	21,317,642	988,665	161,179,907
TOTAL	534,362,839	114,137,716	62,874,424	6,056,408	717,431,387

ANNEX 16

STRUCTURAL FUNDS

IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER
REGULATION N. 1681/94

SITUATION OF RECOVERY

PART 1 – AMOUNTS RECOVERED IN 2007

MS	ERDF	ESF	EAGGF	FIFG	total
AT	1,999,106	125,094		0	2,124,200
BE	176,520	339,236			515,756
CY				0	0
CZ	44	86,038			86,082
DE	12,549,186	1,149,631	615,651	0	14,314,468
DK	59,725	0		26,949	86,674
EE	542,335	309,943	0	1,780	854,058
EL	13,088,213	224,167	998,284		14,310,664
ES	31,101,789	775,393	2,195,201	261,879	34,334,262
FI	203,956	70,286	339,176		613,418
FR	2,159,954	2,386,647	87,430	0	4,634,031
HU	138,008	0	32,147		170,155
IE	2,082,358				2,082,358
IT	8,270,726	1,110,827	300,622	0	9,682,175
LT	12,830		0		12,830
LU		248,458			248,458
LV	0		0	0	0
MT	10,139	22,162			32,301
NL	63,041	1,219,094	0		1,282,135
PL	832,040	151,263	40,329		1,023,632
PT	10,088,845	4,166,258	17,364	0	14,272,467
SE	749,234	14,309		0	763,543
SI	74,209	0			74,209
SK	102,511	0	514		103,025
UK	40,931,541	10,555,281	314,822	43,303	51,844,947
total	125,236,310	22,954,087	4,941,540	333,911	153,465,848

ANNEX 16

STRUCTURAL FUNDS

**IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER
REGULATION N. 1681/94**

SITUATION OF RECOVERY

PART 2 – AMOUNTS TO BE RECOVERED

MS	Amounts to be recovered before 2007	Amounts to be recovered 2007	Amounts in Justice*	Amounts declared irrecoverable**
AT	11,997,828	2,450,683	555,005	4,265,015
BE	14,897,869	837,720	637,859	12,953,460
CY	0	3,328	0	
CZ	119,366	422,481	0	
DE	558,410,431	19,989,792	68,359,534	101,380,165
DK	9,909,481	247,006	110,946	8,599,731
EE	314,733	181,901	19,608	
EL	20,479,150	11,246,693	3,733,119	328,716
ES	61,275,993	146,972,065	6,564,042	374,005
FI	2,237,774	814,088	832,221	786,901
FR	7,381,028	1,313,872	268,274	1,904,559
HU	138,708	414,625	322,867	
IE	1,183,869	0	552,660	32,944
IT	332,847,956	101,245,439	362,928,052	1,197,227
LT	0	0	0	
LU	52,932	0	0	
LV	143,966	1,863,525	709,750	
MT	0	0	0	
NL	11,973,220	3,004,360	1,221,925	1,023,551
PL	682,314	14,987,701	5,661,885	
PT	39,390,295	28,666,161	7,373,376	2,055,972
SE	1,545,164	733,336	159,225	515,590
SI	1,158,265	54,584	36,043	
SK	102,347	207,088	0	
UK	97,011,047	82,574,951	423,616	3,928,932
TOTAL	1,173,253,736	418,231,399	460,470,006	139,346,769

* In justice: awaiting outcome of judicial procedures in national courts.

**Amounts irrecoverable: awaiting formal decision according to the procedure set out in art. 5§2 of Regulation No. 1681/94.

ANNEX 17**COHESION FUND****IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER
REGULATION N. 1831/94**

MS	N° OF IRREGULARITIES	IRREGULAR AMOUNTS	AMOUNTS AWAITING RECOVERY
CZ	5	0	0
EE	2	66,915	32,040
EL	26	67,259,450	8,955,956
ES	34	32,624,604	27,968,582
HU	3	631,256	631,256
IE	1	6,638,190	0
LT	4	773,682	676,728
LV	1	45,754	45,754
PL	9	590,638	269,068
PT	4	865,435	0
SK	3	726,899	719,080
total	92	110,222,823	39,298,464

ANNEX 18

PRE-ACCESSION ASSISTANCE IRREGULARITIES REPORTED IN 2007

Table 1

€	All Funds 2007			
Country	No of Reports	Eligible amount ⁸⁸	Irregular amount	Amount to be recovered
BG	76	17,416,609	10,320,728	5,336,730
CZ	7	791,611	477,435	389,812
EE	8	4,380,663	440,503	438,562
HR	2	2,975,000	1,100,000	0
HU	7	2,296,983	2,285,112	379,696
LV	2	71,821	26,500	26,216
MT	2	415,648	91,288	65,961
PL	44	14,069,397	1,218,020	948,096
RO	164	1,980,201,603	14,340,780	5,758,364
SI	1	58,682	17,295	17,295
SK	13	2,225,008	1,830,788	644,150
TR	6	1,253,092	236,504	213,082
Total	332	2,026,156,117	32,384,953	14,217,963

Table 2

€	PHARE 2007			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	30	7,600,100	5,190,959	518,278
CZ	1	230,375	86,826	0
EE	3	4,226,333	364,021	364,021
HR	2	2,975,000	1,100,000	0
HU	3	1,983,196	1,978,587	73,171
LV	1	46,548	1,227	943
MT	2	415,648	91,288	65,961
PL	12	10,544,714	223,650	89,530
RO	28	27,079,758	5,290,905	471,200
SK	8	1,355,133	1,223,259	143,984
TR	6	1,253,092	236,504	213,082
Total	96	57,709,897	15,787,226	1,940,170

⁸⁸ If the amount was reported in national currency the Commission monthly exchange rate was used.

Table 3

€	SAPARD 2007			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	42	9,555,210	4,970,288	4,818,452
CZ	6	561,236	390,609	389,812
EE	5	154,330	76,482	74,541
HU	4	313,787	306,525	306,525
LV	1	25,273	25,273	25,273
PL	32	3,524,683	994,370	858,566
RO	54	22,396,152	3,401,248	2,734,512
SI	1	58,682	17,295	17,295
SK	5	869,875	607,529	500,166
Total	150	37,459,228	10,789,619	9,725,141

Table 4

€	ISPA 2007			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	4	261,299	159,481	0
RO	82	1,930,725,693	5,648,627	2,552,652
Total	86	1,930,986,992	5,808,108	2,552,652

ANNEX 19

PRE-ACCESSION ASSISTANCE

IRREGULARITIES REPORTED IN 2007 BELOW REPORTING THRESHOLD

Table 1

€	2007 cases below reporting threshold all funds			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	25	3,215,329	92,169	61,479
CZ	1	164,033	798	0
EE	3	13,492	4,787	2,846
LV	1	46,548	1,227	943
PL	2	18,757	6,745	6,745
RO	1	40,878	1,436	0
SK	3	371,309	12,180	6,716
Total	36	3,870,346	119,342	78,729

Table 2

€	2007 PHARE			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	16	355,089	85,177	57,509
LV	1	46,548	1,227	943
PL	2	18,757	6,745	6,745
RO	1	40,878	1,436	0
SK	2	143,998	12,115	6,716
Total	22	605,270	106,700	71,913

Table 3

€	2007 SAPARD			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	9	2,860,240	6,992	3,970
CZ	1	164,033	798	0
EE	3	13,492	4,787	2,846
SK	1	227,311	65	0
Total	14	3,265,076	12,642	6,816

ANNEX 20

PRE-ACCESSION ASSISTANCE

IRREGULARITIES REPORTED – ALL YEARS

Table 1

€	All funds for all years			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	140	33,400,452	17,662,240	6,978,801
CY	5	5,624,616	23,807	0
CZ	35	23,083,006	2,229,411	1,230,998
EE	36	27,932,873	6,366,218	886,853
HR	2	2,975,000	1,100,000	0
HU	97	15,614,959	6,072,888	984,537
LT	40	102,993,517	884,358	530,484
LV	33	2,460,923	336,041	258,454
MT	7	1,562,935	99,888	65,961
PL	258	981,995,407	4,201,205	1,496,184
RO	609	2,872,079,000	31,023,324	11,994,889
SI	37	3,672,896	1,463,975	52,294
SK	99	46,252,063	7,470,532	3,287,345
TR	7	1,400,908	384,320	360,898
Total	1405	4,121,048,555	79,318,207	28,127,698

Table 2

€	PHARE all years			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	53	14,556,238	5,519,210	749,691
CY	5	5,624,616	23,807	0
CZ	16	2,060,567	545,061	432,660
EE	17	11,069,315	3,240,853	365,701
HR	2	2,975,000	1,100,000	0
HU	45	12,560,823	4,126,778	652,714
LT	20	912,091	566,694	426,960
LV	18	859,521	91,833	42,354
MT	7	1,562,935	99,888	65,961
PL	108	352,992,325	2,352,424	507,162
RO	182	279,334,087	11,968,483	5,688,111
SI	6	2,115,949	158,791	30,214
SK	86	17,319,469	6,018,922	2,027,099
TR	7	1,400,908	384,320	360,898
Total	572	705,343,843	36,197,065	11,349,525

Table 3

€	SAPARD all years			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	80	13,589,134	7,430,823	6,229,110
CZ	18	1,024,688	840,290	798,337
EE	15	3,640,066	2,954,588	351,838
HU	52	3,054,136	1,946,110	331,823
LT	13	5,232,846	315,332	103,048
LV	15	1,601,402	244,208	216,100
PL	129	11,442,308	1,779,038	966,415
RO	281	150,335,466	10,624,314	3,752,076
SI	31	1,556,948	1,305,184	22,080
SK	12	1,783,394	1,402,556	1,211,192
Total	646	193,260,388	28,842,443	13,982,020

Table 4

€	ISPA all years			
Country	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
BG	7	5,255,080	4,712,207	0
CZ	1	19,997,751	844,059	0
EE	4	13,223,492	170,777	169,314
LT	7	96,848,580	2,332	476
PL	21	617,560,774	69,743	22,607
RO	146	2,442,409,447	8,430,527	2,554,702
SK	1	27,149,200	49,054	49,054
Total	187	3,222,444,324	14,278,699	2,796,153

ANNEX 21

PRE-ACCESSION ASSISTANCE

IRREGULARITIES COMMUNICATED BY MEMBER STATES AND CANDIDATE COUNTRIES

€	ISPA				PHARE				SAPARD			
	No of Reports	Eligible amount	Irregular amount	Amount to be recovered	No of Reports	Eligible amount	Irregular amount	Amount to be recovered	No of Reports	Eligible amount	Irregular amount	Amount to be recovered
2002	6	131,861	14,890	0	0	0	0	0	0	0	0	0
2003	18	281,385,122	894,732	17,151	52	320,162,659	632,293	299,719	34	5,963,143	3,817,914	23,692
2004	26	470,031,997	251,987	223,824	68	12,674,275	4,141,466	982,976	133	50,512,707	6,033,190	260,546
2005	25	177,042,030	6,160,535	476	151	65,252,501	7,488,049	2,509,571	165	54,336,183	3,723,955	537,931
2006	26	362,866,322	1,148,447	2,050	205	249,544,511	8,148,031	5,617,089	164	44,989,126	4,477,766	3,434,710
2007	86	1,930,986,992	5,808,108	2,552,652	96	57,709,897	15,787,226	1,940,170	150	37,459,228	10,789,619	9,725,141
Total	187	3,222,444,324	14,278,699	2,796,153	572	705,343,843	36,197,065	11,349,525	646	193,260,388	28,842,443	13,982,020

ANNEX 22

IRREGULARITIES REPORTED BY MEMBER STATES IN 2007 – AGRICULTURE, STRUCTURAL AND COHESION FUNDS,
OWN RESOURCES

	AGRICULTURE		STRUCTURAL FUNDS		COHESION FUND		OWN RESOURCES		TOTAL	
	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS
AT	27	401,511	28	4,753,776			91	5,500,312	146	10,655,599
BE	34	13,866,333	28	1,565,419			395	22,307,864	457	37,739,616
BG							15	471,173	15	471,173
CY	6	83,362	1	3,328			11	750,402	18	837,091
CZ	10	103,168	35	4,885,846	5	0	39	1,424,688	89	6,413,702
DE	94	2,854,876	412	49,529,468			998	54,472,872	1,504	106,857,216
DK	20	15,257,984	11	333,680			54	7,256,158	85	22,847,822
EE	16	83,985	32	1,256,996	2	66,915	12	455,754	62	1,863,650
EL	86	4,185,084	66	25,583,640	26	67,259,450	53	2,744,851	231	99,773,025
ES	335	23,609,346	613	181,302,476	34	32,624,604	403	12,925,302	1,385	250,461,728
FI	20	338,508	43	2,385,017			34	1,714,218	97	4,437,743
FR	147	32,637,233	140	6,179,163			321	33,315,774	608	72,132,170
HU	12	233,052	35	2,701,433	3	631,256	67	6,027,841	117	9,593,581
IE	26	490,043	32	2,082,358	1	6,638,190	35	2,482,972	94	11,693,563
IT	237	43,063,210	658	158,389,460			275	31,048,300	1,170	232,500,970
LT	10	232,242	8	110,823	4	773,682	40	1,286,472	62	2,403,219
LU			8	248,458			0	0	8	248,458
LV	11	141,835	8	1,863,525	1	45,754	40	2,254,487	60	4,305,601
MT			2	32,301			10	404,949	12	437,250
NL	64	4,349,283	146	27,176,349			1,052	57,072,423	1,262	88,598,055
PL	62	1,099,347	282	30,252,641	9	590,638	158	8,569,400	511	40,512,026
PT	190	5,570,368	540	49,916,493	4	865,435	23	393,960	757	56,746,256
RO							37	3,837,168	37	3,837,168
SE	14	284,714	79	3,594,637			42	2,398,254	135	6,277,605
SI	9	232,894	4	128,793			27	1,589,490	40	1,951,177
SK	23	1,707,309	27	1,975,401	3	726,899	20	1,070,723	73	5,480,332
UK	95	4,167,640	502	161,179,907			1,069	115,284,887	1,666	280,632,434

TOTAL	1,548	154,993,326	3,740	717,431,387	92	110,222,823	5,321	377,060,694	10,701	1,359,708,231
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