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**COMMISSION STAFF WORKING DOCUMENT**

**Statistical Evaluation of Irregularities- Own Resources, Agriculture, Cohesion Policy,  
Pre-Accession Funds and Direct Expenditure -Year 2009**

**Accompanying document to the**

**Report from the Commission on the protection of the European Communities' financial  
interests and the fight against fraud – 2009**

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# PART I - INTRODUCTION

## 1. INTRODUCTION

### 1.1. Structure of the document

The present document<sup>1</sup> is divided in four parts.

The first introductory part is composed of four chapters which contain, respectively, the definitions of the specific terms used throughout the document; give a short description of the European Budget and its different “management” modes; describe the legal background for the reporting of irregularities and the new reporting system.

The second is dedicated to the analysis of irregularities reported in the area of the Traditional Own Resources (Revenues). The implementation mode for this part of the budget is that described under chapter 2.2 letter b) – shared management.

The third is composed of 5 chapters dedicated, respectively, to Agricultural expenditure, European Fisheries Fund, Structural measures (for these three sectors the management mode is that indicated under chapter 2.2 letter b. – shared management), Pre-accession Assistance (the implementation mode for this sector is indicated under letter b. – decentralised management) and Direct expenditure (whose implementation mode is that described under chapter 2.2 letter a.).

The fourth part summarises the main conclusions of parts 2 and 3.

### 1.2. Definitions

For the purposes of this document, the following definitions apply.

#### 1.2.1. *Irregularity*

**Irregularity:** means 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 by charging an unjustified item of expenditure to the Community budget.

#### 1.2.2. *Fraud*

**Fraud:** There is clear distinction between the legal notion of fraud and a more common sense's notion of the term.

The former refers to definition(s) contained in legal acts which establish the behaviour and its subjective and objective elements that constitute a fraud. These elements need to be ascertained in a court of law decision which is not open for (further) appeal (‘res iudicata’).

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<sup>1</sup> This document cannot be considered as an official position of the Commission.



The "European" legal definition of the behaviour characterising fraud is contained in article 1(1), point (a), of the "Convention on the Protection of the European Communities' Financial Interests" according to which, “[...] 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.”

National legislations contain several articles in the criminal and civil code that describe the conducts and the related penalties. Some of these provisions are the result of the implementation of the Convention into the national legal system.

The distinction between irregularities and fraud is that fraud 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 fraud. The Commission's statistical assessment of and ability to respond to, irregularities are influenced by the accuracy and timeliness of the notifications made by the Member States.

### 1.2.3. *Suspected fraud*

**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 the European Communities' financial interests.

This definition has been introduced in Commission Regulation (EC) N. 2035/2005. It has been "confirmed" in Regulation N. 1828/2006 for the Programming Period 2007-2013.

In their communications of irregularity to the Commission, Member States have been requested to indicate whether a reported irregularity can be regarded as 'suspected fraud'. This notion was introduced in order to provide some data for statistical purposes and to avoid the necessity of waiting until the end of criminal procedures for a final indictment.

#### 1.2.4. Irregularity and Fraud Rates

The **Irregularity Rate** (IrR) is calculated using Equation 1-1 below:

**Equation** Error! No text of specified style in document.-1: **Irregularity Rate**

Irregularity Rate (IR)	$\frac{\text{Total financial amount affected by irregularity}}{\text{Total payments/expenditure}} \times 100$
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The **Fraud Rate** (FrR) is calculated using Equation 1-2 below:

**Equation** Error! No text of specified style in document.-2: **Fraud Rate:**

Fraud Rate (FrR)	$\frac{\text{Total financial amount affected by suspected fraud}}{\text{Total payments/expenditure}} \times 100$
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The IrR and FrR can be calculated by financial year (as in the case of the Agriculture sector – see Chapter 6) or on the entire Programming Period (as in the case of Structural Funds – see Chapter 7) and by Member State. Please note that the FrR is calculated using amounts linked to cases of suspected fraud<sup>2</sup>. In the 2008 report the same concept was identified as “suspected fraud rate” or “estimated fraud rate”.

#### 1.2.5. Fraud Frequency and Fraud Amounts Levels

The Fraud Frequency Level (FFL) represents the percentage of cases qualified as suspected frauds on the total number of reported irregularities and is calculated using Equation 1-3 below.

**Equation** Error! No text of specified style in document.-3: **Fraud Frequency Level**

Fraud Frequency Level (FFL)	$\frac{\text{Total number of suspected fraud cases}}{\text{Total number of reported irregularities}} \times 100$
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The Fraud Amounts Level (FAL) represents the percentage of financial amounts involved in cases qualified as suspected frauds on the total reported financial amounts affected by irregularities and it is calculated using Equation 1-4 below.

<sup>2</sup> These rates and the following levels had already been introduced in the 2008 Report and Statistical Annex with similar names. This year’s Statistical Annex defines precisely these concepts in order to use them in the years to come. In other parts of the Statistical Annex or in the Report itself, the Fraud Rate may be referred to also as Suspected Fraud Rate. The calculation method remains the same.

**Equation Error! No text of specified style in document.-4: Fraud Amounts Level**

$$\text{Fraud Amount Level (FAL)} = \frac{\text{Total financial amount affected by suspected fraud}}{\text{Total amount affected by irregularities}} \times 100$$

FFL and FAL can be calculated by financial year (as in the case of the Agriculture sector – see Chapter 6) or on an entire Programming Period (as in the case of Structural Funds – see Chapter 7) and by Member State.

## 2. THE EUROPEAN UNION BUDGET

Taxpayers' money is used by the European Union (EU) to fund activities that all Member States and parliaments have agreed upon in the Treaties. A small amount – around 1% of the Union's national wealth, which is equivalent to about EUR 235 per head of the population – comes into the EU's annual budget and is then spent mainly for its citizens and communities.

### 2.1. Revenues

The European Union has its 'own resources' to finance its expenditure. Legally, these resources belong to the Union. Member States collect them on behalf of the EU and transfer them to the EU budget.

Own resources are of three kinds:

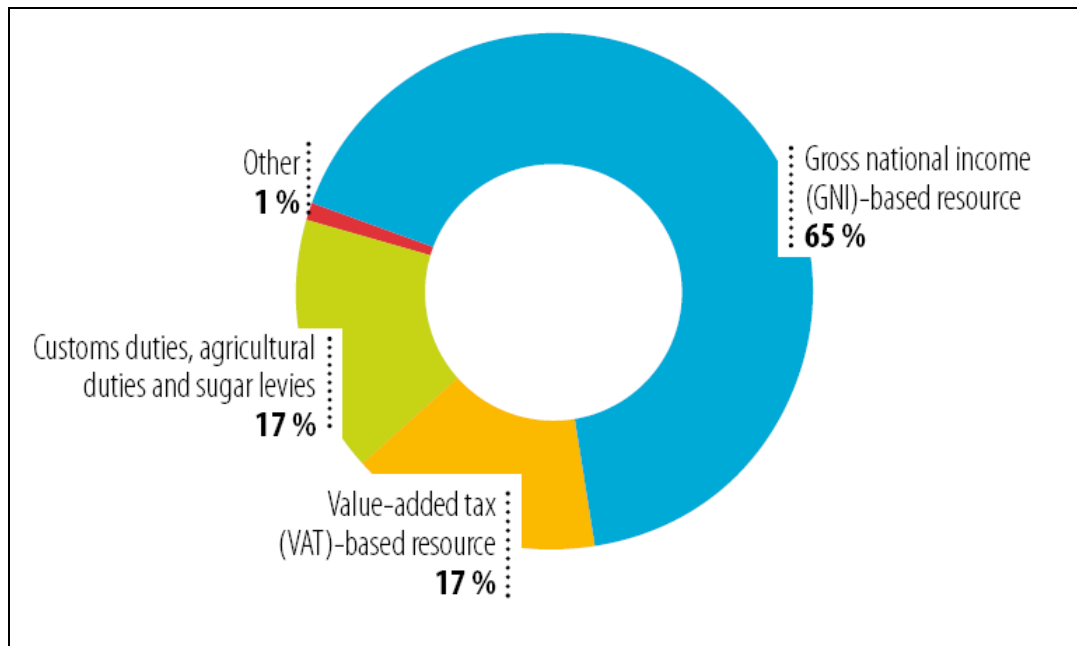
- **Traditional own resources** (TOR) — these mainly consist of duties that are charged on imports of products coming from a non-EU state.
- The resource based on **value added tax** (VAT) is a uniform percentage rate that is applied to each Member State's harmonised VAT revenue.
- The resource based on **gross national income** (GNI) is a uniform percentage rate applied to the GNI of each Member State.

The budget also receives other revenue, such as taxes paid by EU staff on their salaries, contributions from non-EU countries to certain EU programmes and fines on companies that breach competition or other laws.

Revenue flows into the budget in a way which is roughly proportionate to the wealth of the Member States. The United Kingdom, Germany, the Netherlands, Austria and Sweden, however, benefit from some adjustments when calculating their contributions.

Chart 2-1 shows how the four elements indicated above contribute to the EU budget, while Annex 1 provides a summary of financing by type of own resource and by Member State.

Chart Error! No text of specified style in document. -1: Source of financial resource to the European Budget



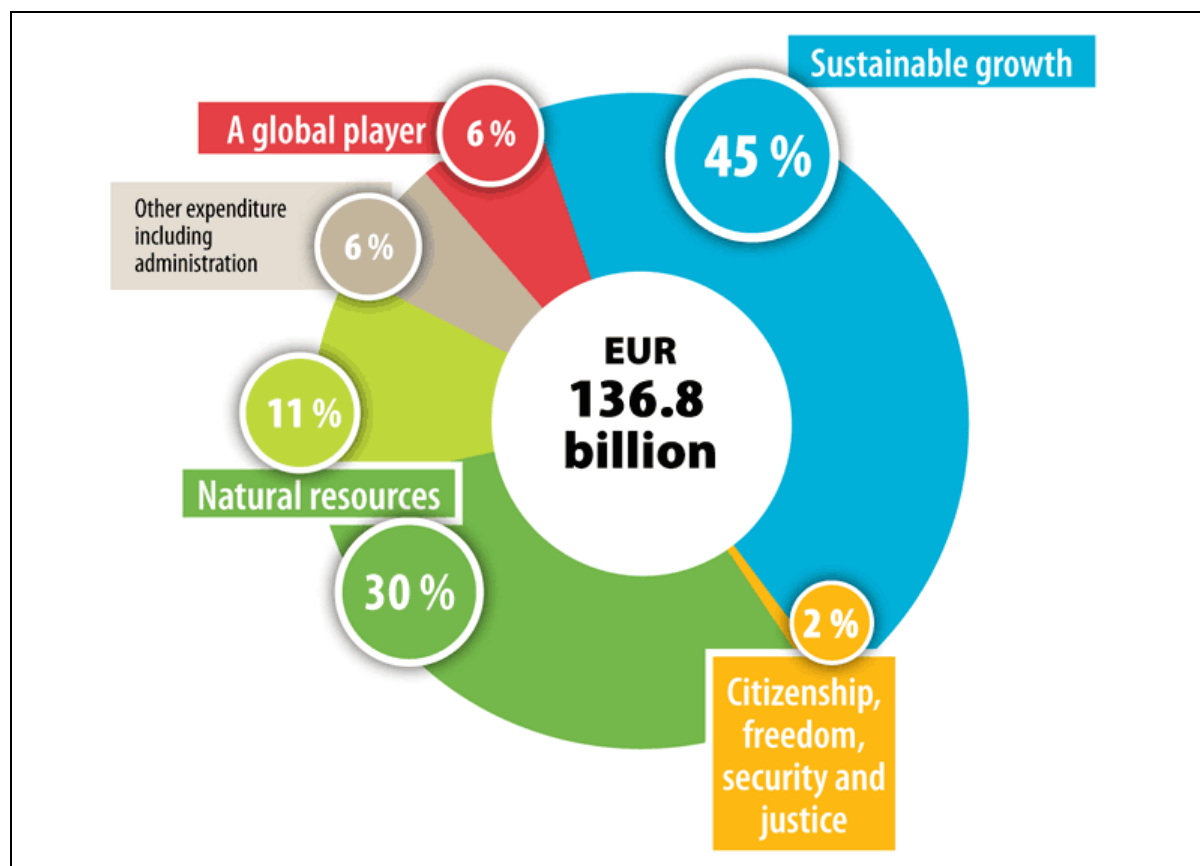
## 2.2. Expenditure

The EU Budget for 2009 included 6 headings of expenditure:

- **Sustainable Growth** represents the largest share of EU budget the biggest share of the EU budget, which will go to research, innovation, employment and regional development programmes;
- **Natural Resources** cover the second largest portion of the expenditure supporting the agricultural expenditure and direct aids, rural development, fisheries and environment;
- **Citizenship, Freedom, Security and Justice** supports initiatives aiming at strengthening active citizenship or addressing issues like terrorism, crime and immigration;
- The **EU as a Global Player** sets the resources for the Common Foreign and Security Policy, the EU Neighbourhood Policy, Pre-Accession Assistance, Humanitarian Aid and Development Cooperation;
- **Other expenditure** includes the running costs for the European Institutions and some compensation to New EU Countries.

Chart 2-2 shows the distribution of the EU financial resources among the six different headings, while Annex 2 provides a more detailed overview of the 2009 budget by sub-heading.

**Chart Error! No text of specified style in document.-2: Distribution of the expenditure financial resource by Budget Heading**



### 2.3. Management of the Budget and Legal Framework for the Reporting of irregularities

According to article 317 of the Treaty on the Functioning of the European Union (ex Article 274 of the Treaty establishing the European Community), the Commission shall implement the budget. Council Regulation (EC, Euratom) No 1605/2002<sup>3</sup> of 25 June 2002 on the Financial Regulation (FinR) applicable to the general budget of the European Communities indicates that the Commission implements the budget:

- (1) on a centralised basis: implementation tasks are performed either directly by its departments or indirectly by executive agencies created by the Commission, bodies set up by the Communities - provided that this is compatible with the tasks set out in the basic act - and, subject to certain conditions, national public-sector bodies or bodies governed by private law with a public-service mission;
- (2) on a shared or decentralised basis: implementation tasks are delegated to the Member States (shared management) or third countries (decentralised management); the Commission applies clearance-of-accounts procedures or

<sup>3</sup> Official Journal L 248 of 16.09.2002

financial correction mechanisms enabling it to assume final responsibility for the implementation of the budget;

- (3) by joint management with international organisations: certain implementation tasks are entrusted to international organisations.

### **3. THE LEGAL FRAMEWORK FOR IRREGULARITIES REPORTING AND THE REPORTING SYSTEMS**

#### **3.1. The Legal Framework**

European legislation provides for the protection of the Union's financial interests in all areas of activity<sup>4</sup>. The FinR sets the principles and rules for the correct implementation of the budget. 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. 1150/2000 specifies the requirement for own resources and Regulation No. 1848/2006<sup>5</sup> for the agriculture sector. For the cohesion policy, which runs over multi-annual programmes the legal framework is more complex and is covered by Regulations Nos. 1681/94<sup>6</sup> and 1831/94<sup>7</sup> for the programming periods until the 2000-2006 and by Regulation No 1828/2006<sup>8</sup> for the period 2007-2013<sup>9</sup>. In

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<sup>4</sup> 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.

<sup>5</sup> 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).

<sup>6</sup> 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 Fisheries Guidance (FIFG). It has been amended by Regulation No. 2035/2005 of 12 December 2005

<sup>7</sup> Regulation 1831/94 applies to the Cohesion Fund. It has been amended by Regulation No. 2168/2005 of 23 December 2005.

<sup>8</sup> 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.

<sup>9</sup> 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)

the case of pre-accession funds the obligation to report irregularities is specified in Community legislation and in the Pre-Accession and Accession Agreements the European Community and the Candidate and Acceding States.

Member States are required to report detected irregularities within two months of the end of each quarter. The initial communication has to be updated with follow-up communications to provide relevant information about the financial, administrative and judicial follow-up.

### **3.2. The irregularity reporting systems**

Two main systems are in place for the reporting of irregularities to the Commission: Own Resources (OWNRES) managed by the Directorate General for Budget and the Irregularity Management System (IMS) managed by the European Anti-Fraud Office (OLAF).

#### *3.2.1. Own Resources*

Under Article 6(5) of Regulation No 1150/2000, Member States are required to communicate to the Commission, via the OWNRES system, cases of fraud and irregularity, if the TOR amount exceeds €10 000.

#### *3.2.2. Irregularity Management System*

The Irregularity Management System (IMS) is an application of the Anti-Fraud Information System (AFIS), developed and maintained by OLAF for a secure exchange of information between Member States and the Commission.

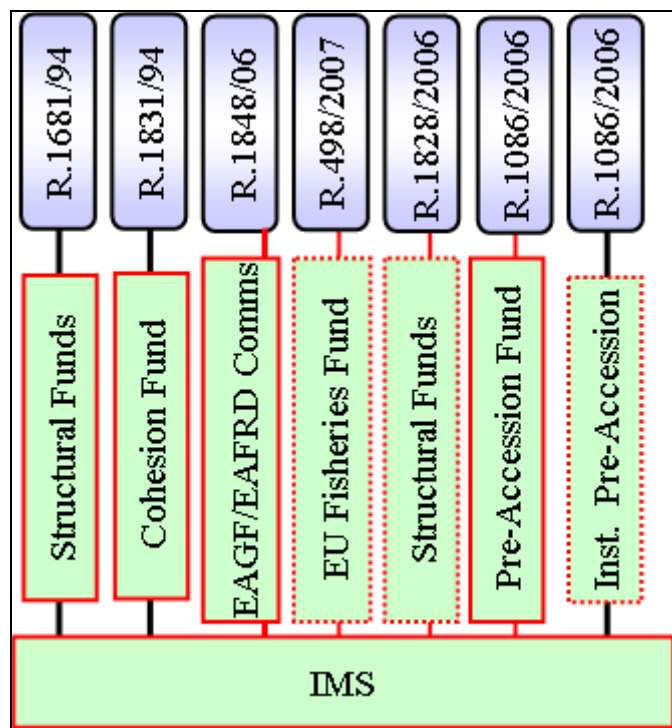
IMS is a complex application divided in several modules which enable Member States to report irregularities and (suspected) frauds under the different sectoral legislations mentioned in paragraph 1.2. The modules are named after the corresponding Regulation.

Figure 3-1 summarises the architecture of IMS and distinguishes between modules under development (framed by a dotted line) and modules currently operational (framed by a continuous line).

**Figure Error! No text of specified style in document.-1: IMS architecture**

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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.



IMS is a web based application that can be accessed directly via internet; this eases accessibility to the system, which has led to an enormous increase of the number of users in relation to the previous electronic reporting system which was using a more rigid connectivity and therefore a more limited number of users.

Another important feature of IMS is also the possibility of creating different cascade levels for each Member States, allowing establishing a “workflow” which effectively reflects the complexity of the reporting system which normally involves several bodies with different levels of responsibility, often requiring the superior to approve the transmission of the notification further on up to OLAF.

This flexibility of the system , however, implies an increased complexity in its setting up, considering that Member States’ organisation for irregularity reporting ay involve many bodies and authorities, which, then, need to be set up into the system. To exemplify such complexity, it could be mentioned the case of Spain for the Structural Funds, for which 1 organisation needs to be set up for each Operational Programme (OP). For the Programming Period 2007-2013 alone, 46 OPs (excluding those of the Territorial Cooperation Objective) have been approved.

Due to these complexities, 2009 needs to be seen as a transition year for irregularity reporting, because it implied a great effort from Member States and OLAF for the design and implementation of the reporting structures, the creation of the users, the verification and migration of existing communications. Chapter 6, 7 and 8 provide more details about the implementation of IMS in the relevant fields.

### 3.3. Implementation of the Reporting Obligation

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 fraud” and other irregularities is not consistent as Member States do not always have the same definition of criminal risk. Consequently, a certain proportion of communications received by the Commission does 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”<sup>10</sup> 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 in the document 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. The findings *can not be considered as empirical evidence of the level of fraud and irregularity*.

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<sup>10</sup> 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.

## PART II - REVENUES

### 4. TRADITIONAL OWN RESOURCES (ANNEXES 3-13)

#### 4.1. Management of Traditional Own Resources (TOR)

The Community must have access to Traditional Own Resources ('TOR')<sup>11</sup> under the best possible conditions. In conformity with Regulation (EC, EURATOM) No 1150/2000<sup>12</sup> Member States are responsible for making TOR available to the Commission, within the deadlines set, that they have established. Established amounts of customs or agricultural duties, that have been recovered, and debts, that are guaranteed and not under appeal, are to be made available via the *A-account*. However, if TOR have been established by a Member State but not yet recovered and if 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 made available until actually recovered. Most fraud and irregularity cases relate to B-account items.

##### 4.1.1. *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 any 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 recovered. In its capacity as Authorising Officer responsible for executing the EU budget, the Commission (DG Budget as delegated Authorising Officer) monitors Member State activity concerning establishing and recovering TOR.

The following three methods are used:

- Overall monitoring of recovery of TOR via the write-off procedure;
- Regular inspection in Member States of the establishment and recovery of TOR, and B-account entries;
- Specific monitoring (in close cooperation with OLAF, DG TAXUD and DG AGRI) of Member States' follow-up of recovery in individual cases, which have a significant financial impact and usually involve Mutual Administrative Assistance.

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<sup>11</sup> These are mainly customs and agricultural duties but also include anti-dumping duties and sugar levies

<sup>12</sup> Regulation No 1150/2000 of 22 May 2000.

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

#### 4.1.2. Procedure for managing Member States' reports for write-off

Member States must take all requisite measures to ensure that established amounts of TOR are made available to the Commission. This requirement, mentioned in Article 17(1) of Regulation No 1150/2000, also implies that a Member State is only released from its obligation to make available TOR if it can prove that the debt is irrecoverable either:

- (1) for reasons of *force majeure*; or
- (2) for other reasons, which cannot be attributed to that Member State.

Amounts of TOR 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 debt was established, or in the event of an administrative or judicial appeal, the final decision was given, or the last part-payment to the debt was made, whichever is the later. If the amount of the written-off debt is less than EUR 50°000, Member States do not have to communicate the case to the Commission, unless the Commission makes a specific request. However, if the irrecoverable amount of TOR exceeds EUR 50°000, the write-off must be reported to the Commission which has to decide whether the necessary conditions are fulfilled in order to release the Member State from the obligation to make the TOR available.

A 2004 amendment to Regulation No 1150/2000<sup>13</sup> introduced certain timeframes within which a Member State has to provide the Commission with information on amounts of established entitlements of TOR declared or deemed irrecoverable where these exceed EUR 50°000. Consequently, the reports by Member States to write off established TOR amounts deemed irrecoverable increased significantly to 589 in 2008 compared with 100 reports in 2007. In 2009 the quantity of new reports was 168. The increase in 2008 primarily consisted of old cases not yet reported to the Commission.

A new IT application called WOMIS<sup>14</sup> was introduced in January 2010 to support Member States and the Commission in managing write-off reports.

In 2009 168 write-off reports amounting to EUR 108 016 054.15 were communicated to the Commission by 11 Member States. In total, 527 reports were processed in 2009<sup>15</sup> with the following result<sup>16</sup>:

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<sup>13</sup> Regulation No 2028/2004, amending Regulation No 1150/2000.

<sup>14</sup> WOMIS: **W**rite-**O**ff **M**anagement and **I**nformation **S**ystem.

<sup>15</sup> Origin of the cases: 4 from Austria, 2 from Belgium, 1 from the Czech Republic, 243 from Germany, 9 from Denmark, 1 from Greece, 61 from Spain, 4 from France, 4 from Finland, 1 from Ireland, 60 from Italy, 106 from the Netherlands, 2 from Portugal, 3 from Sweden and 26 from the UK.

Table ORI: Write-off reports treated in 2009

Commission position	cases	% cases	EUR	% amount
NON- ADMISSIBLE WRITE-OFF CASES	4	0.1%	330°889.10	0.13%
WRITE-OFF CASES ACCEPTED	218	41.7%	91°055°286.24	37.06%
ADDITIONAL INFORMATION REQUIRED	244	46.5%	142°767°541.03	58.11%
WRITE-OFF CASES REFUSED	61	11.7%	11°521°494.31	4.69%
<b>TOTAL</b>	<b>527</b>	<b>100%</b>	<b>245°675°210.68</b>	<b>100%</b>

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 step up the regularity, efficiency and effectiveness of their recovery activity, since any lack of diligence leading to failure to recover, results in individual Member States having to foot the bill.

#### 4.1.3. Particular cases of Member State failure to recover TOR

If TOR are not established because of an administrative error by a Member State, the Commission applies the principle of financial liability<sup>17</sup>. In 2009 Member States have been held financially liable for over EUR 9 million and new cases are being given appropriate follow-up.

Altogether all cases up until the end of 2009 total nearly EUR 280 million. The main objective of these procedures is to encourage individual Member States to improve their administrative performance and to address weaknesses leading to a loss of TOR. Payments for these cases are made available via the A-account and they reduce in effect the contribution of the Member States via the GNI resource in proportion to their contribution to the EU budget.

## 4.2. Reporting discipline

Under Article 6(5) of Regulation No 1150/2000, Member States are required to communicate to the Commission, via the OWNRES system<sup>18</sup>, cases of fraud and irregularity, if 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

<sup>16</sup> 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.

<sup>17</sup> 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, 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.

<sup>18</sup> OWNRES is an abbreviation for **O**wn **R**esources.

stakeholders of the importance of prompt, accurate and complete reporting. The OWNRES database is a key tool for obtaining data for global analyses of fraud and irregularities, and presents valuable information to the Budgetary Authority.

Because all TOR amounts exceeding EUR 10 000 in the B-account normally represent an irregularity (fraud included) by definition, therefore the match between the two - from the standpoint of the B-account - should be 100%<sup>19</sup>. This match is checked during the regular inspections in the Member States; however, no significant shortcomings have been found in recent years<sup>20</sup>.

#### 4.2.1. *Year of discovery 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 2008 in last year's report was 5 344 cases, whereas the number of cases now shown for 2008 is 6 075 cases<sup>21</sup>. This continuing development is inherent to the system.

### 4.3. **General trends**

The number of cases communicated to OWNRES for 2009 is currently 23% *lower* in comparison with 2008 (from 6 075 to 4 684). The amount of TOR involved is likewise 8.5% smaller (from EUR 375 million to EUR 343 million)<sup>22</sup>. The trend for the number of belatedly discharged Community Transit operations to decrease continued<sup>23</sup> whereas the amount involved remained stable. In the case of Transit practice shows that up to 90% of the initially established debts are ultimately cancelled, because of proof of regular discharge after all.

The number of communications from the *ten new Member States* showed continued growth since their accession in 2004 until 2007. In 2008 the growth stopped and 2009 shows 2% less communicated cases compared with 2008 although the amount of TOR increased by 20% from 2008 to 2009.

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<sup>19</sup> Items registered in OWNRES are not necessarily also in the B-account. If 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.

<sup>20</sup> At the end of 2009 the total amount that is still to be recovered according to OWNRES is higher than the amount of not yet recovered TOR in the B-account. This difference can mostly be explained by the fact that OWNRES is updated with a regulatory delay, as recovery actions should be registered that have taken place. Other explanations are cases seized and confiscated cigarettes and – unfortunately – undue delays.

<sup>21</sup> The information generated by OWNRES to produce the figures in this chapter was all obtained from queries made on 5 March 2010.

<sup>22</sup> See Annex 3 (table) and Annex 4 (chart).

<sup>23</sup> In 2005 the number of cases of belatedly discharged Transit was 2 374, being 38.2% of the total number of cases registered and 27.9% of the total amount initially established. In 2006 there were 1 479 cases (24.2% of cases and 19.5% of the total amount) and in 2007 there were 1 395 cases (22.2% of cases and 16.5% of the amount), in 2008 there were 1 136 (18.7% of cases and 13.8% of the amount). In 2009 the figures are respectively 738 (15.8% of cases and 13.8% of the amount).

The OWNRES database now contains 57 183 cases in total (1989-2009) and shows an increase of nearly 11% during 2009<sup>24</sup>. Significant changes in the *number* of registrations in 2009 compared with 2008 can be seen for Greece (- 68%), Estonia (- 35%), Austria (+ 61%), Bulgaria (+ 79%) and Slovenia (+ 92%). , and Significant changes of *amounts* can be seen in Estonia (- 69%), Portugal (- 60%), Austria (+ 39%), Denmark (+ 121%), Bulgaria (+ 146%), Slovakia (+ 375%) and Malta (+ 467%)<sup>25</sup>.

#### 4.3.1. *Types of irregularity and fraud*

A breakdown of frauds and irregularities by *customs procedure* and by *mechanism type* confirms that most cases of irregularity or fraud relate to the procedure of *release for free circulation* (73% of cases<sup>26</sup>). False declarations (false description, incorrect value, origin and preferential arrangements) and formal shortcomings (failure to fulfil obligations or commitments) are the mechanisms most frequently mentioned, but also smuggling is highly placed.

The goods (defined by the first two numbers of the CN code<sup>27</sup>) most affected by fraud and irregularities in 2009, as in previous years, are TVs/monitors etc. (CN 85), Clothing (CN 61) and Tobacco products (CN 24). Cars/motors (CN 87) increased in importance when compared to 2008, as did Food (CN 16), Chemical products (CN 29) and Articles of iron and steel (CN 73)<sup>28</sup>.

*Chart OR1: Fraud and irregularities breakdown by good in 2009 (in million EUR)*<sup>29</sup>

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<sup>24</sup> This percentage will gradually decrease since the cumulative number of existing cases in OWNRES will exceed the number of new cases added every new reporting year (last year this percentage was 14%).

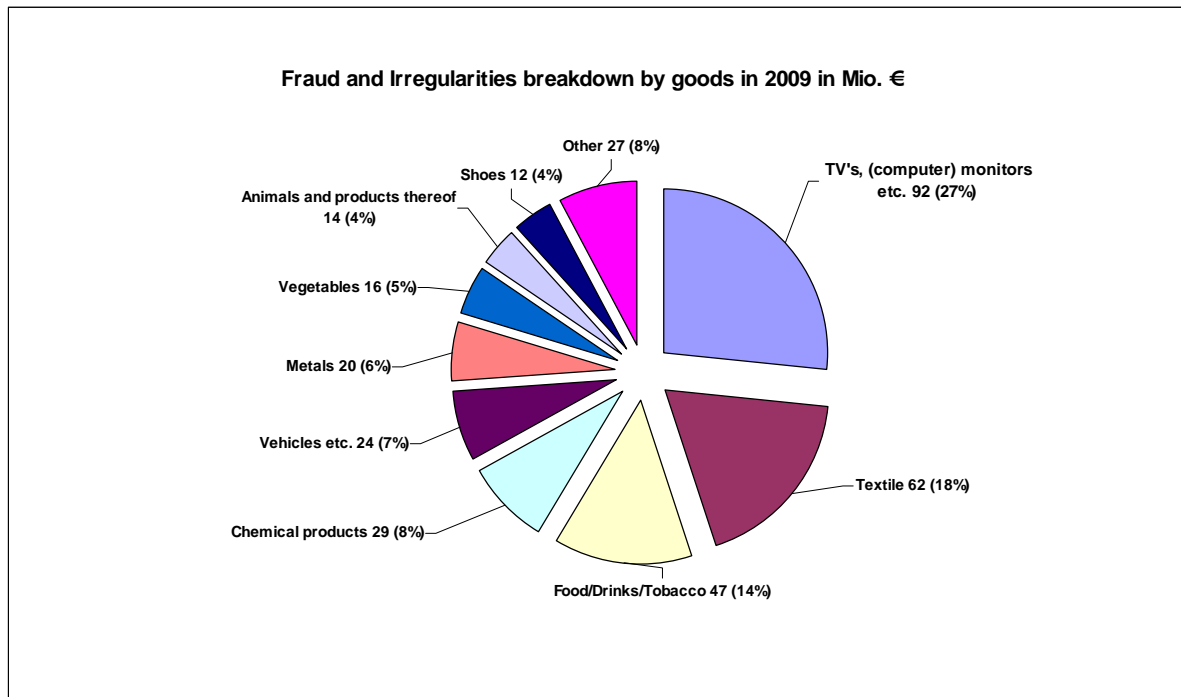
<sup>25</sup> Significant changes in amounts involved generally relate to one or a few (very) big cases, e.g. Austria: 5 cases totalling to €14.8 million (involving Clothing from China, CN 61); Denmark: 2 cases totalling €5.4 million (involving Clothing from China, CN 62 and Chemical Products from China, CN 29).

<sup>26</sup> See Annex 5. In 2005 there was a decrease in importance of the customs procedure *release for free circulation* (53% of cases) which was linked to an improvement in registering those cases.

<sup>27</sup> Combined nomenclature or CN — nomenclature of the Common Customs Tariff.

<sup>28</sup> See Annexes 4 and 5.

<sup>29</sup> The product description in the chart is a generic description of the goods involved. See Annexes 4 and 5 for detailed analysis.



Evaluation of the *origin* of goods subject to fraud and irregularity<sup>30</sup> reveals that, just as in 2008, goods originating from China, the US, Japan, South Korea and Bangladesh remain very much affected. The number of cases originating from Hong Kong, Vietnam and Argentina increased.

#### 4.3.2. TOR and cigarettes

In 2009 there were 204 cases registered of seized and confiscated cigarettes (CN code 24 02 20 90) involving estimated TOR of over EUR 19 million. In 2008 the number of registered cases concerning seized and confiscated goods was 312, totalling over EUR 23 million. The decrease of the number of cases is related to the EUR-15, of which the UK shows the most significant decrease, from 152 cases in 2008 down to 82 cases in 2009.

#### 4.3.3. Data main sectors TOR

See Annexes 3-12.

### 4.4. Recovery

- Member States have to recover established amounts including those they register in OWNRES. 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.

<sup>30</sup> See Annex 8.

- Amounts established may change because of additional information or judicial procedures when, for instance, revision shows that there was no customs debt after all or the value or origin of the goods is different than initially thought.

OWNRES shows that approximately 45% of the initially established amount is corrected (cancelled). For closed cases related to Community Transit this may reach up to 90%. As a consequence, Belgium and the Netherlands show more corrections than average, because establishments related to Community Transit occur more frequently. This is due to the ports of Antwerp and Rotterdam.

#### 4.4.1. Recovery rate

Differences in recovery results arise from factors such as the type of fraud or irregularity or the type of debtor involved. The recovery rate for all years (1989-2009) is 45.1%<sup>31</sup>.

The overall recovery rate for 2008 recorded in last year's report was 38%, although it has since then climbed to 52%. At present the recovery rate for 2009 is 44%<sup>32</sup>. In other words, of every €10 000 of duties initially established in 2009 in OWNRES, approximately EUR 4 400 is actually paid. Because recovery is ongoing, the recovery rate is constantly changing (payments are obtained, new establishments are made and corrections are taken into account).

## 4.5. Detection of fraud and irregularities

### OWNRES uses the following definitions for fraud and irregularity:

**Fraud** is defined<sup>33</sup> as any intentional act (also cases of organised crime) or omission

relating to:

- the use or presentation of false, incorrect or incomplete declarations or documents or non-disclosure of information, which has as its effect the illegal reduction of Traditional Own Resources (TOR),
- misapplication of a legally obtained benefit, with the same effect.

**Irregularity** is defined<sup>34</sup> as:

- any breach of a provision of Community law (also unintentional),
- resulting from an act or omission by an economic operator
- which has, or would have, the effect of reduction or a loss of own resources (e.g. customs duties).

Irregularity includes negligence, errors, mistakes etc.

Of all the cases registered in OWNRES in 2009 19% (893 out of 4 684 registered cases) are categorised as fraud, which is the same proportion as in 2008<sup>35</sup>. However,

<sup>31</sup> This calculation is based on 57 183 cases, an established amount of €4.3 billion (after corrections) and a recovered amount of €1.9 billion.

<sup>32</sup> See Annex 9.

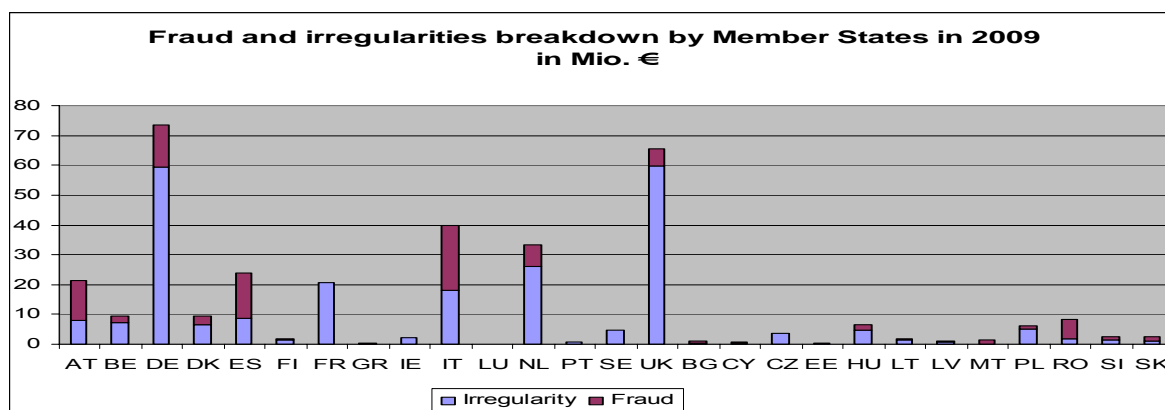
<sup>33</sup> Source: Article 1 of the *Convention* (Council Act of 26 July 1995) drawn up on the basis of Article 235 (protection of the Communities' financial interests) of the Treaty establishing the European Community.

<sup>34</sup> Source: Council Regulation n° 2988/95 on the protection of the European Communities financial interests.



like in previous years, the differences between Member States are relatively large. In 2009 most of the Member States categorised between 10-50% of all cases as fraud. However, six Member States categorised less than 10%<sup>36</sup> of the cases as fraud, whereas four Member States registered more than 50%<sup>37</sup> of the cases as fraud. These figures demonstrate that the categorisation of irregularity and fraud in OWNRES may still not be fully reliable because of differences in the interpretation of the definition of fraud and irregularities.

Chart OR2: Fraud and irregularities breakdown by Member States in 2009 (in million EUR)



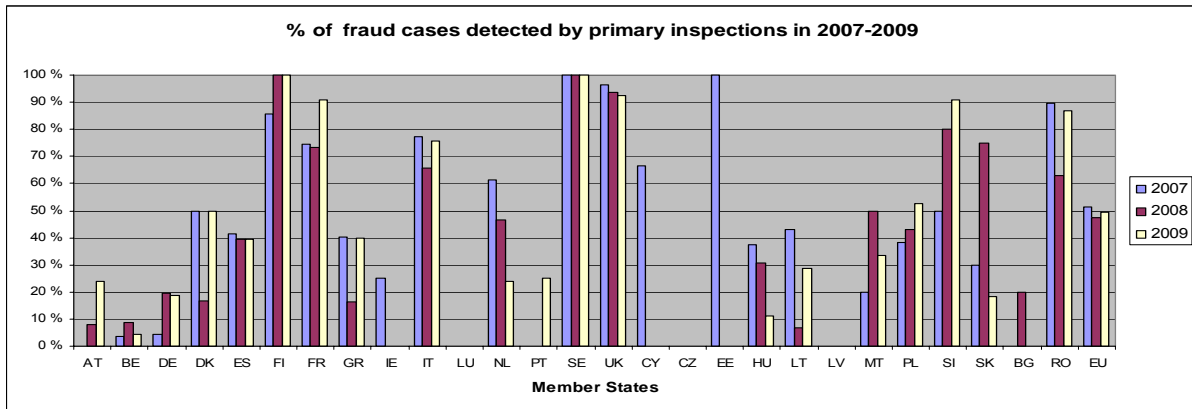
According to OWNRES the moment of discovery is an indicator for classifying a case as fraud, since primary inspections more often result in classifying cases as fraud than post-clearance inspections.

<sup>35</sup> See Annexes 11 and 12.

<sup>36</sup> Germany (5%), France (8%), Sweden (9%), Czech Republic (3%), Estonia (0%) and Latvia (5%). Luxembourg reported no cases of fraud and irregularity in 2009.

<sup>37</sup> Greece (83%), Italy (58%), Bulgaria (65%) and Malta (100%).

Chart OR3: Percentage of fraud cases detected by primary inspection – 2007-2009



OWNRES is not a fully reliable source of data on fraud alone, isolated from irregularity. This is because (until a court judgment is obtained) the distinction between fraud and irregularity is usually made on subjective grounds, and, these grounds vary between national administrations.

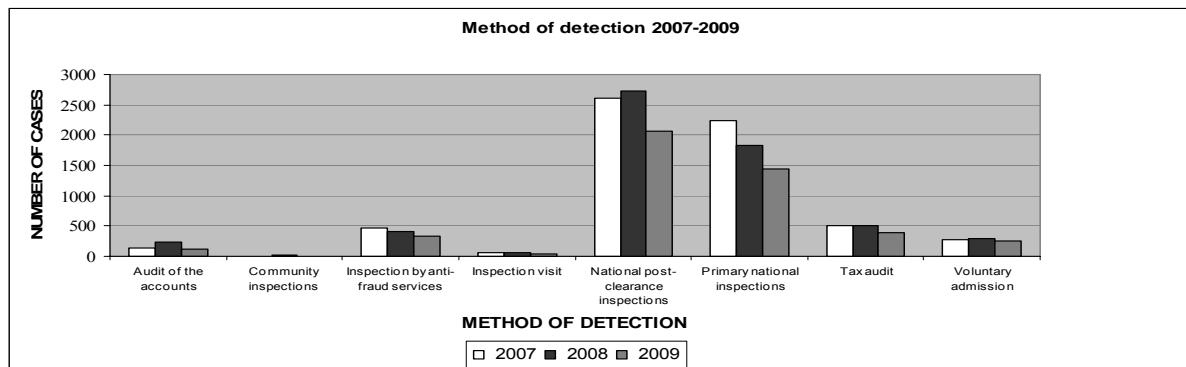
#### 4.5.1. Member States' control systems

The methods of detection of irregularities or fraud cases registered vary between Member States. There are several possible explanations for these differences, for instance the customs control strategies applied, the way of classifying a method, the reporting authorities involved or the relative presence or absence of type of customs procedures.

A range of detection methods can reveal irregularity or fraud. Judging from the 2009 data *national post-clearance inspections* and *primary national inspections* (either physical inspections or inspections of documents — the latter category featuring most frequently) are detection methods that have revealed most cases. Post-clearance inspections feature in 44% of the cases discovered, whereas primary national inspections cover 31%. All in all, the vast majority of cases (75%) were detected in 2009 by means of either primary national inspections or post-clearance control audits.

It is clear that the shift from primary to post-clearance inspections, which could already be seen in previous years, continued in 2009. The relative importance of inspections by anti-fraud services was stable with 7% in 2009. Since the final results of such inspections take more time than regular inspections, a (slight) increase in the percentage for 2009 may be expected in future registrations.

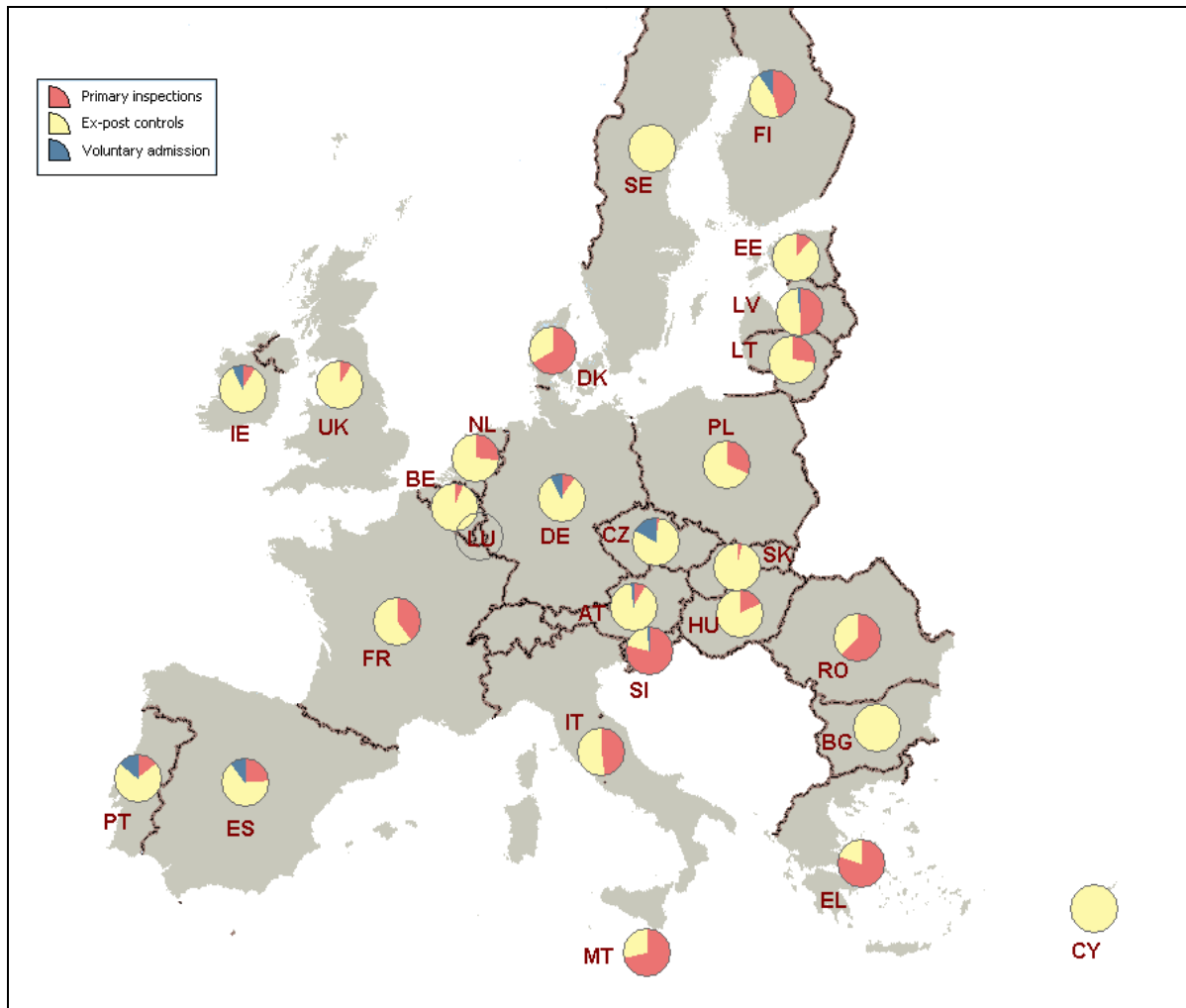
Chart OR4: Method of detection – 2007-2009



The map below illustrates by which methods OWNRES cases - in amounts - have been discovered by the Member States<sup>38</sup> in 2009. For reasons of presentation the following methods are included in the term "ex-post controls": audit of the accounts, Community inspections, inspections by anti-fraud services, inspection visits, national post-clearance audits and tax audits.

38 For details see annex 13. Luxembourg did not register any OWNRES case in 2009

Map ORI: Detection methods by Member State - 2009



#### 4.6. Conclusions

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

- (1) 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. Regarding the reliability of information in OWNRES, making a distinction between irregularity and fraud or analysing fraud separately is risky and the outcome 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 this out clearly. OWNRES can only be used for global analysis and monitoring.

- (2) The goods involved in irregularities and frauds demanding Member States' attention are very diverse. TVs and monitors, clothing and of course tobacco keep their relevance in 2009 and are like in previous years the most important goods involved in registered cases of irregularity or fraud. The origin of the goods concerned is likewise varied, although some countries remain continuously at the top of the rankings (such as China, the US, Japan). Irregularity or fraud are mostly discovered by a Member State in the customs procedure of release for free circulation (false declarations, formal shortcomings or simply smuggling), as in previous years.
- (3) The amounts of TOR at stake in irregularity and fraud are, according to OWNRES, up to €343 million in 2009. Of the amounts initially established, approximately 45% is later cancelled and in the case of establishments related to Community Transit up to 90% of the established amount may be cancelled later. And payment is required only for the part which is not cancelled. The initial recovery figures for 2009 are comparable to those of previous years.
- (4) The methods of detection vary between Member States, however, in 2009 post-clearance inspections and primary controls (during the clearance) are creating 75 % of all OWNRES cases. The Commission encourages Member States to continue their activities in the field of recovery and to provide required statistical information. The Budgetary Authority is entitled to have available the best possible information when monitoring TOR and recovery issues.

## PART II - EXPENDITURE

### 5. AGRICULTURAL EXPENDITURE (ANNEXES 14-15)

#### 5.1. Introduction

The Common Agricultural Policy (CAP) has been one of the most important common policies over the years, as a large part<sup>39</sup> of the European Union's (EU) budget is spent in the agricultural sector.

The agricultural expenditure is financed by 2 funds:

- EAGF
- EAFRD

The European Agricultural Guarantee Fund (EAGF) finances direct payments to farmers and measures to regulate agricultural markets such as intervention and export refunds, while the European Agricultural Fund for Rural Development (EAFRD) co-finances the rural development programmes of Member States.

The EU-budget for the year 2009 was about EUR 137 billion. More than EUR 52 billion<sup>40</sup> was spent in the agricultural sector, of which EAFRD expenditure accounts for about EUR 8.2 billion.

The basic rules for the financial management of the CAP can be found in Reg. 1290/2005.

The Commission retains overall responsibility for the management of EAGF and EAFRD but does not make payments to the beneficiaries. Member States make the payments to the beneficiaries. This takes place under the principle of shared management. Member States are not only responsible for making payments to the beneficiaries. Member States are also obliged to prevent and deal with irregularities and to recover amounts unduly paid. Granting subsidies, setting up audit strategies, performing audits, reporting irregularities and recovery of unduly paid amounts go hand in hand.

Commission Regulation (EC) No 1848/2006 obliges Member States to report irregularities to OLAF. Member States report irregularities via Module 1848. A web based application which facilitates reporting in digital format.

Module 1848 was introduced in 2008 and is used by all Member States. It concerns a web based application that can be accessed directly via internet. Accessing Module

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<sup>39</sup> Almost 40% of the total 2009-budget was spent in the agricultural sector.

<sup>40</sup> The amounts include "assigned revenue" of EUR 1.6 billion negative expenditure, representing amounts recovered for cases of irregularities (including fraud), superlevy from milk producers and temporary restructuring amounts.

1848 via internet is only possible since 16 May 2009 due to the later approval of the security protocols. Till that moment, Member States had to use the old-fashioned CCN -gateway (ISDN-line) to get access to Module 1848.

Access via internet led to an enormous increase of the number of users of Module 1848. In the past, only 1 or 2 persons per Member State could submit communications in electronic format. That changed with the introduction of "access via internet". The number of users became in principle "unlimited". Having access to internet means that access to Module 1848 can be obtained.

The year 2009 should therefore again be seen as a transition year for irregularity reporting due to the introduction of access via internet, the introduction of the cascaded reporting structure and the enormous increase of the number of users.

The introduction of the cascaded reporting structure made it possible to have reporting authorities and users on different levels. The total number of users increased from less than 50 to more than 800. Germany for instance has now 40 reporting authorities and 237 users. The increase of the number of users of Module 1848 has also led to an increase of the number of cases reported, higher data quality and a higher compliance rate. Many hands make lighter and better work!

2009 was also the year in which the 1848-liaison-officer was introduced. The 1848-liaison-officer is the linking-pin between OLAF and the Member States. All information concerning Module 1848 is communicated via the 1848-liaison-officer. The 1848-liaison-officer is also responsible for the reporting structure of a Member State. Only the 1848-liaison-officer can modify a reporting structure and grant or revoke access to Module 1848. The 1848-liaison-officers play also an important role in the process of quality checks. Before a communication is submitted to OLAF, a quality check is performed and necessary corrections are made.

Member States reported 1°621 new irregularities under Reg. 1848/2006 compared with 1°133 irregularities in 2008. The total amount affected in 2009 was about EUR 125 million, as against approximately EUR 102 million in 2008. Luxembourg and Slovenia did not report any irregularity in 2009. Irregularities notified in this sector represent 0.24% of the agricultural budget.

Annex 13 provides an overview of the financial impact for the period 2000 – 2009 as annex 14 gives an overview per Member State of the number of irregularities, the amounts involved and the percentage of agricultural expenditure.

The analysis of the reported cases is a descriptive analysis based on the communications forwarded by Member States under Reg. 1848/2006. It should be noted that not all irregularities have to be reported. 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. Reg. 1848/2006 replaced Reg. 595/91, which had a threshold of 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 reports of years before 2007. The number of reported irregularities in 2009 is about half (1/2) the number of reported

irregularities before 2007. The descriptive analysis of this report therefore, cannot be right away compared with the results of previous years.

## 5.2. Reporting discipline

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 will be on those obligations that are crucial for (strategic) analysis and can be summarised with the typical questions that are used in every (fraud) investigation: who, what, when, where, why and how.

The main purpose of forwarding information is to enable the Commission to perform risk analyses<sup>41</sup>. For that purpose, OLAF needs to receive reliable, consistent and complete data and as early as possible (timely!).

Table AG1 provides an overview of the compliance rate per reporting obligation. Member States are ranked in order of their overall 2009 compliance rate.

*Table AG1: compliance per Member State year 2009*

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<sup>41</sup> Art. 10 Reg. 1848/2006: Without prejudice to Article 11, the Commission may use any information of a general or operational nature communicated by Member States in accordance with this Regulation to **perform risk analyses**, using information technology support, and may, on the basis of the information obtained, produce reports and develop systems serving to identify risks more effectively.



table AG1 COMPLIANCE FINANCIAL YEAR 2009										
MS	timely reporting	personal data (who) l	measure affected (what) a	date committed (when) i	practices employed (how) e, f	financial impact (why) n	compliance			MS
							2009	2008	2007	
LU								83%		LU
SI								100%	96%	SI
LV	100%	100%	100%	100%	100%	100%	100%	100%	85%	LV
LT	100%	100%	93%	100%	100%	100%	99%	87%	81%	LT
EE	100%	100%	92%	100%	100%	100%	99%	95%	81%	EE
PT	95%	100%	99%	98%	100%	100%	99%	97%	72%	PT
BG	91%	100%	100%	100%	100%	100%	99%	94%		BG
CZ	94%	100%	96%	100%	100%	100%	98%	94%	90%	CZ
ES	99%	93%	99%	100%	99%	99%	98%	98%	49%	ES
IE	83%	100%	100%	100%	100%	99%	97%	98%	64%	IE
DK	78%	100%	89%	100%	100%	100%	94%	92%	85%	DK
RO	100%	94%	70%	100%	100%	100%	94%			RO
IT	64%	100%	98%	100%	100%	100%	93%	92%	77%	IT
DE	96%	90%	85%	96%	91%	100%	93%	79%	39%	DE
EL	98%	83%	82%	100%	96%	98%	93%	86%	73%	EL
BE	78%	100%	96%	100%	96%	85%	93%	96%	74%	BE
HU	89%	100%	66%	100%	100%	100%	93%	81%	85%	HU
FR	85%	99%	100%	80%	100%	91%	93%	96%	90%	FR
CY	50%	100%	100%	100%	100%	100%	92%		97%	CY
SE	81%	100%	78%	100%	90%	100%	91%	84%	83%	SE
SK	52%	99%	95%	98%	98%	100%	90%	74%	83%	SK
NL	62%	97%	76%	100%	88%	100%	87%	86%	63%	NL
PL	95%	18%	97%	100%	100%	99%	85%	97%	83%	PL
MT	100%	75%	58%	75%	100%	100%	85%	100%		MT
AT	33%	100%	67%	100%	89%	100%	81%	84%	85%	AT
UK	0%	100%	75%	100%	100%	100%	79%	94%	88%	UK
FI	63%	16%	66%	100%	82%	95%	70%	78%	67%	FI
total	86%	91%	95%	98%	99%	99%	95%	92%	78%	total

Art. 3 (1) a - p Reg. 1848/2006  
key elements for (performing) risk analysis  
download 21 January 2010 (updated 14 April 2010)

Luxembourg and Slovenia had no irregularities to report and are therefore considered to be 100% compliant and are put on top of the table.

Table AG1 focuses on reporting obligations that have a high added value for analysis purposes. The letters above the columns refer to the reporting obligations of Art. 3(1) of Reg. 1848/2006. The fourth column from the right hand side shows the compliance rate per Member State for the financial year 2009. The second and third column from the right hand side contain the compliance rates for the years 2007 and 2008 in order to make it possible to compare 2009 with previous years.

A first conclusion is that the overall reporting discipline improved. This is thanks to a positive attitude of all Member States, the introduction of a new reporting system and the enormous increase of the number of users of Module 1848.

19 Member States have a compliance rate above 90%. 4 Member States (NL, PL, MT and AT) have a compliance rate between 80% and 90% as 2 Member States (UK and FI) have a compliance rate below 80%. Luxembourg and Slovenia did not report irregularities, therefore, are not taken into consideration.

Latvia is the Member State with the highest compliance rate: 100%.

Finland has the lowest compliance rate: 70%.

It is clear that Finland should pay more attention to the reporting obligations of Reg. 1848/2006. Other Member States that should pay more attention to the reporting obligations are Austria, Malta, the Netherlands, Poland and the United Kingdom.

Finland, Malta and Poland could improve their compliance rate by reporting personal data. The non-reporting of personal data led to a relatively low compliance rate. Finland<sup>42</sup> and Poland<sup>43</sup> informed the Commission that due to national data protection legislation no personal data could be submitted. The obligation to report personal data is based on EU-regulations. By granting subsidies, Member States also accepted the reporting obligations of Reg. 1848/2006, including the reporting of personal data.

Timely reporting is still a concern for Austria, Finland, the Netherlands, Slovakia and the United Kingdom.

For all Member States count that the reporting of the measure affected deserves some extra attention. Some Member States still use a budget line of the running year in stead of indicating the budget line that was really affected by the irregularity. A simple example: a budget line of 2009 is used for a payment made in 2004.

The overall compliance improved strongly since 2007. It went up from 78% to 95%. Member States that made a big step forward are Germany (↑54%) and Spain (↑49%). This enormous improvement can be explained by the fact that both started to report in electronic format. Some Member States had a small setback and need to pay some extra attention to their compliance.

Overall compliance rate is 95%<sup>44</sup>.

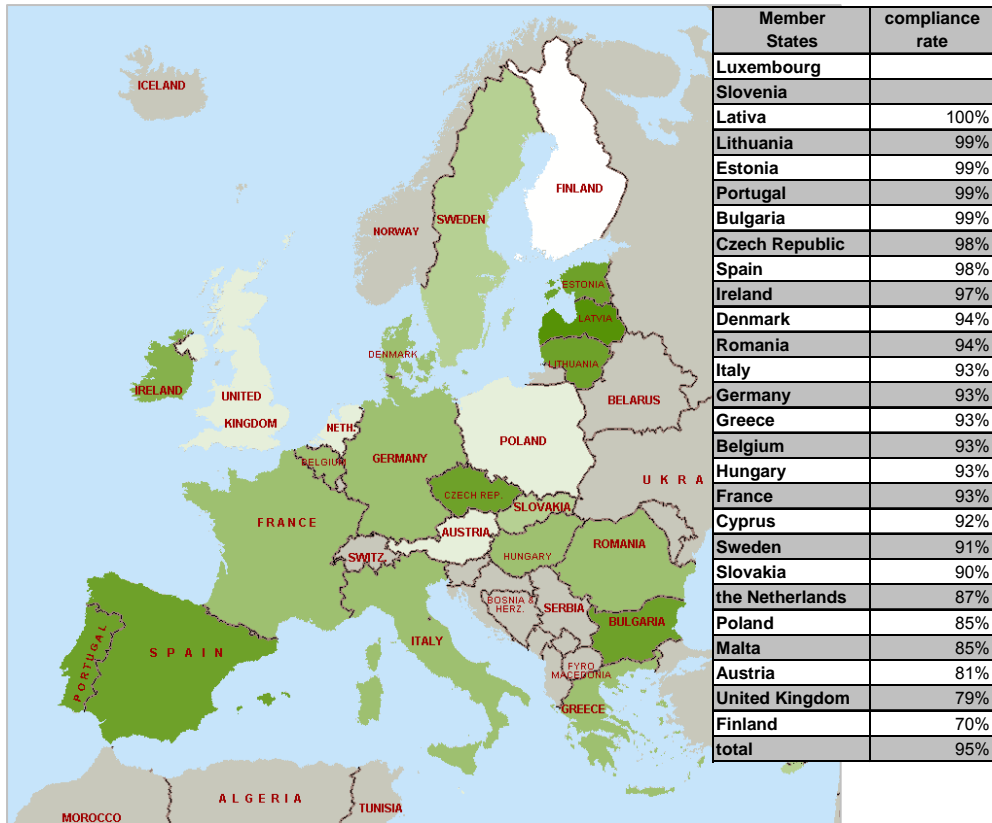
The map on the next page provides an overview of Member States' compliance.

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<sup>42</sup> Finland reports personal data for irregularities concerning structural funds.

<sup>43</sup> Poland used to report personal data but stopped doing that in 2008.

<sup>44</sup> The compliance rate is based on a quantitative analysis of data provided by Member States. A Member State is being considered as compliant as soon as information has been provided. The quality of the information is not relevant. That will change in 2010. The quality of the information provided will also be taken into account to determine the compliance level.



The map indicates Member States' compliance. The darker the colour, the higher the compliance. Especially the Member States that are coloured light need to work on their compliance. It concerns Finland, United Kingdom, Austria, Malta, Poland and the Netherlands. As already mentioned in the introduction, granting subsidies, setting up audit strategies, performing audits, reporting irregularities and recovery of unduly paid amounts go hand in hand.

### 5.3. General trends

In previous years, the statistical annex provided overviews of the expenditure of that financial year and the irregularities that were reported during that financial year. These irregularities however, did not necessarily refer to the expenditure of that year. Irregularities are normally detected and reported 3 - 5 years after expenditures have taken place. In order to bring expenditure and cases of irregularities in line with each other, the statistical annex will contain from this year on analyses of expenditures and irregularities related to these expenditures.

In order to make it possible to make a comparison with reports of previous years, an overview of the irregularities reported during the financial year 2009 (FY2009) will be provided. That overview can be found in paragraph 5.3.1. and table AG2.

It is good to keep in mind that the analysis a descriptive analysis is. The aim of the analysis is to provide feedback to the Member States on the communications that were received by the Commission in the financial year 2009 and to give an overall view for the period 1971 - 2009.

It is also good to bear in mind that Member States must only inform the Commission of irregularities involving more than EUR 10°000.

#### 5.3.1. *Irregularities in perspective – cases reported in 2009*

Table AG2 provides an overview per Member State of the irregularities reported in the period 2006 - 2009.

*Table AG2: Irregularities reported in the financial year 2009*

table AG2								
IRREGULARITIES								
reported in the financial years 2006 - 2009 and concerning expenditure financial years 1991 - 2009								
MS	amounts in €				cases			
	2009	2008	2007	2006	2009	2008	2007	2006
AT	87 322	311 608	401 511	1 040 985	3	20	27	93
BE	858 665	1 605 690	13 866 333	1 258 191	27	31	34	57
BG	1 848 338	119 470			23	2	0	0
CY	234 476		83 362	77 582	2	0	6	7
CZ	793 364	764 680	103 168	160 915	35	22	10	9
DE	2 797 903	3 816 771	2 854 876	7 319 843	68	111	94	489
DK	202 892	445 241	15 257 984	1 186 901	9	10	20	33
EE	736 057	278 131	83 985	99 319	12	13	16	10
EL	1 817 050	4 010 046	4 185 084	1 305 913	44	39	86	111
ES	27 834 613	14 924 635	23 609 346	25 937 479	404	245	335	683
FI	941 541	983 842	338 508	454 657	19	8	20	33
FR	9 142 421	11 763 441	32 637 233	11 689 252	127	129	147	548
HU	2 082 316	747 522	233 052	10 387	19	6	12	3
IE	1 793 216	397 497	490 043	857 391	72	22	26	94
IT	54 480 766	53 969 740	43 063 210	20 003 064	288	211	237	140
LT	897 251	803 754	232 242	308 661	45	24	10	30
LU	0	13 375		13 062		1		3
LV	297 150	208 144	141 835	13 176	13	13	11	1
MT	139 439	37 814			8	1	0	0
NL	1 978 235	1 183 639	4 349 283	5 701 975	37	30	64	87
PL	2 374 202	1 126 137	1 099 347	841 681	87	46	62	67
PT	3 440 974	3 629 928	5 570 368	3 744 628	121	120	190	359
RO	2 235 958				82			
SE	449 519	214 065	284 714	858 560	16	10	14	80
SI	0	38 808	232 894			1	9	1
SK	7 541 131	639 613	1 707 309		58	11	23	0
UK	21 153	225 775	4 167 640	3 941 146	2	7	95	311
<b>total</b>	<b>125 025 951</b>	<b>102 259 365</b>	<b>154 993 326</b>	<b>86 824 768</b>	<b>1 621</b>	<b>1 133</b>	<b>1 548</b>	<b>3 249</b>

Art. 3 (1) m Reg. 1848/2006  
download 21 January 2010

These irregularities concern expenditures for the financial years 1991 – 2009 and were first reported in the period 2006 – 2009.

Member States reported 1,621 cases during the financial year 2009. These 1,621 cases amount to approximately EUR 125 million.

In the period 2002 – 2006, Member States reported about 3°200 cases per year. In 2007, a new threshold, under which no irregularities have to be reported, was introduced. The threshold increased from EUR 4°000 to EUR 10°000 and led to a strong decrease of the number of cases in 2007 and 2008, respectively 1°548 and 1°133.

The number of irregularities increased in 2009 with almost 500 cases ( $\pm$  43%). A reason for this remarkable increase is the becoming operational of IMS<sup>45</sup>, which made it possible to access Module 1848 directly via internet. Till 2009 it was only possible for Member States to process communications on a central level, which implies that only a limited number of users had access to the electronic reporting system. That changed with the introduction of IMS. Module 1848 can be accessed directly via internet. This made it possible to have an unlimited number of reporting authorities and users. Having access to internet means also that access to Module 1848 can be obtained. In 2009, the number of users increased from less than 50 to more than 800. This implies that far more users were able to process communications, which had a direct impact on the number of cases reported.

Member States reported 30 cases with an amount affected below the reporting threshold of EUR 10°000. Cases below the threshold of EUR 10°000 should only be reported if there is a specific reason to report these cases, as for instance fraud or a clear link with other cases. For another 24 cases counts that Member States indicated

<sup>45</sup> IMS = irregularity management system

a zero as amount affected by the irregularity. For almost all these cases counts that no specific reasons were given why these cases were reported. Only Belgium and Romania indicated that it concerned "suspected-fraud-cases".

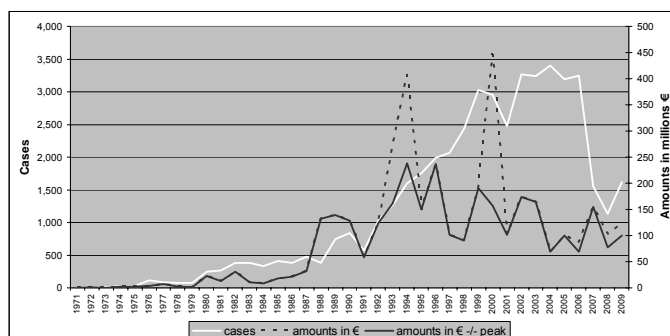
Spain and Italy were the Member States that reported the highest number of cases with 404 and 288 cases respectively. Portugal reported as usual a relatively high number of cases (121) considering the fact that the total Portuguese expenditure is relatively low, about 2% of the total expenditure (EU-27). Austria reported a relatively low number of cases: 3.

In monetary terms, Italy reported the highest amounts affected by irregularities, more than EUR 54 million, followed by Spain which reported a total amount of approximately EUR 28 million.

Member States reported in total 11 cases in which the total amount affected by irregularities was higher than EUR 1 million. Italy reported 2 cases for which the total amount affected was even more than EUR 10 million.

The amounts affected by irregularities increased with about 23% to approximately EUR 125 million (see also annex 14 and annex 15).

The chart on the right hand side reflects the trends for the period 1971 – 2009.



### 5.3.2. Impact on the budget – cases reported for the financial years 2006 - 2009

Table AG3 provides an overview of the expenditure<sup>46</sup> of the financial years 2006 – 2009 and the cases of irregularities related to this expenditure. Experience learns that Member States submit cases of irregularities in the first 3-5 years after expenditures have been made. This means that more cases of irregularities can still be expected for the financial years 2006 – 2009. There are also still ex-post audits going on which findings can lead to more cases of irregularities. These figures therefore, cannot be considered as final figures but need to be seen as half-time-result.

Table AG3: Expenditure and irregularities per budget chapter

table AG3								
FINANCIAL IMPACT IRREGULARITIES								
financial years 2006 - 2009								
MS	expenditure <sup>1)</sup>		cases of irregularities reported <sup>2)</sup>					
	amount in €	in % of total expenditure	cases	irregularities amount in €	IrR	of which suspected fraud <sup>3)</sup>		
						cases	amounts in €	FrR
FR	39 873 055 647	19.85%	249	11 761 063	0.03%	11	2 429 720	0.01%
DE	26 351 609 648	13.12%	232	5 840 467	0.02%	7	152 202	0.00%
ES	25 936 800 566	12.92%	377	13 973 530	0.05%	5	144 482	0.00%
IT	21 877 814 663	10.89%	108	14 157 282	0.06%	10	1 326 697	0.01%
UK	16 390 010 933	8.16%	59	842 227	0.01%	1	13 127	0.00%
EL	11 649 011 397	5.80%	29	3 186 745	0.03%	2	86 916	0.00%
PL	9 829 632 964	4.89%	183	4 332 523	0.04%	140	3 446 735	0.04%
IE	6 942 213 847	3.46%	127	2 278 026	0.03%			
NL	4 640 844 084	2.31%	63	2 393 744	0.05%	1	12 479	0.00%
AT	4 634 677 352	2.31%	6	86 799	0.00%			
DK	4 532 090 550	2.26%	21	474 489	0.01%			
HU	3 817 823 217	1.90%	23	2 669 475	0.07%			
PT	3 746 075 275	1.87%	155	3 658 080	0.10%	2	182 383	0.00%
SE	3 720 832 346	1.85%	27	652 787	0.02%	1	28 818	0.00%
BE	3 696 290 771	1.84%	44	13 891 387	0.38%	3	63 983	0.00%
FI	3 261 981 385	1.62%	19	512 605	0.02%			
CZ	2 569 429 030	1.28%	58	1 355 912	0.05%	1	65 828	0.00%
RO	1 647 474 452	0.82%	82	2 235 958	0.14%	75	2 136 159	0.13%
SK	1 432 878 798	0.71%	63	8 250 928	0.58%			
LT	1 428 072 944	0.71%	74	1 429 164	0.10%			
LV	715 787 670	0.36%	29	549 267	0.08%	2	33 196	0.00%
SI	714 277 882	0.36%	1	10 195	0.00%			
BG	591 507 477	0.29%	25	1 940 428	0.33%	25	1 940 428	0.33%
EE	395 785 749	0.20%	14	158 311	0.04%	1	17 473	0.00%
CY	214 225 849	0.11%	9	356 934	0.17%	1	39 125	0.02%
LU	187 923 293	0.09%	0	0	0.00%			
MT	25 340 521	0.01%	9	177 253	0.70%			
<b>total</b>	<b>200 823 468 310</b>	<b>100.00%</b>	<b>2 086</b>	<b>97 175 581</b>	<b>0.05%</b>	<b>288</b>	<b>12 119 753</b>	<b>0.01%</b>

<sup>1)</sup> based on a CATS-download of 26 May 2010  
<sup>2)</sup> based on a Module 1848-download of 21 January 2010  
<sup>3)</sup> Poland reported 1 case of "established fraud"

Member States are ranked on basis of the total expenditure. The total expenditure in the period 2006 - 2009 was almost EUR 201 billion. France spent, with almost EUR 40 billion, the highest amount and can be found on top of the table. Malta had an expenditure of about EUR 25 million and can be found at the bottom of the table.

The third column on the left hand side indicates the relation between a Member State's expenditure and the total expenditure (EU-27). France spent about 20% as Germany and Spain spent about 13%.

<sup>46</sup> Expenditure is based on DG AGRI's database CATS - table 106 (download 26 May 2010)

In column 5 an overview is given of the number of cases reported by Member States. Member States reported in total 2,086 cases for the financial years 2006 – 2009. The highest number of cases is reported by Spain: 377 cases. Some Member States reported a rather low number of cases. Luxembourg, Slovenia and Austria reported 0, 1 and 6 cases respectively.

Column 6 indicates the amounts affected by the irregularities. The total amount affected is about EUR 97 million. The highest amount is reported by Italy. Italy reported a total amount affected by irregularities of about EUR 14.2 million. It concerns 108 cases. Remarkable is the high amount affected by irregularities already reported by Belgium: EUR 13.9 million. As mentioned, these irregularity figures relate to the 2006-2009-expenditure, which implies that more cases can be expected.

Column 7 provides the so called irregularity rate (IrR)<sup>47,48</sup>. It is the total amount affected by irregularities divided by the total expenditure (e.g. for France 0.03% = EUR 11°761°063 / EUR 39°873°055°647). The overall average is 0.05%. These figures should however be interpreted cautiously. As indicated at the beginning of this chapter, this should be seen as a "half-time-result". There are still ex-post audits going on which means that more cases of irregularities can be expected. Big spenders like Poland, Ireland, France, Greece, Germany and United Kingdom have an irregularity rate that is below the average of 0.05%. The other 2 big spenders, Spain and Italy, have an irregularity rate just above the average, respectively 0.06% and 0.07%. The 3 Scandinavian countries (DK, FI and SE) have a comparable and rather low irregularity rate: < 0.02%.

The number of cases reported does not necessarily mean that more irregularities are committed in a Member State. A more developed audit strategy, tailor made audits, higher number of performed audits and so forth will normally lead to a higher number of detected irregularities. In other words, it could be possible that Member States with a higher irregularity rate perform better than Member States with a lower irregularity rate.

A higher expenditure leads normally to a higher number of cases. The figures in table AG3 confirm this hypothesis. The Member States with the highest expenditure (Spain, France, Germany and Poland) reported the highest number of cases. Portugal is the exception on the rule. It reports traditionally a higher number of cases. Portugal reported for the period 2006 – 2009 already 155 cases. The number of cases reported by France, Italy, United Kingdom, Greece and Austria is relatively low. It concerns however a "half-time-result" therefore it is possible that more cases will be reported in the near future. It indicates however, that these Member States detect and/or report their cases later than other Member States. The United Kingdom informed the Commission that due to technical problems not all cases were submitted. Also here counts that more cases can be expected in the near future. The Reports on the Protection of EU Financial Interests of previous years mentioned that Austria is

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<sup>47</sup> See also chapter 5.4. Specific analysis

<sup>48</sup> See for a more in depth explanation paragraph 1.2.4.



rather late with the reporting of irregularities<sup>49</sup>. This could be the explanation for the rather low number of cases reported by Austria.

### 5.3.3. Impact on the budget – overview per budget chapter financial years 2006 - 2009

Table AG4 provides an overview per budget chapter of the expenditure and irregularities reported for the financial years 2006 - 2009. The budget chapters are ranked on basis of the expenditure. It still counts that this should be seen as a "half-time-result". Audits are still ongoing, therefore, more irregularities will be reported.

Table AG4: Amounts affected per budget chapter

table AG4					
AMOUNTS AFFECTED PER BUDGET CHAPTER					
financial years 2006 - 2009					
budget chapter	description	expenditure amounts in €	irregular		
			amounts in €	IrR	cases
050301	Decoupled direct aids	110 414 178 271	14 821 476	0.01%	585
050302	Other direct aid	35 516 817 348	3 604 367	0.01%	135
050405	Rural development (EAFRD) (2007-2013)	16 806 203 217	8 225 234	0.05%	140
050401	Rural development (EAGGF) (2000-2006)	6 108 918 043	17 569 139	0.29%	468
050209	Products of the wine-growing sector	5 091 548 992	5 415 433	0.11%	144
050216	Sugar restructuring fund	4 850 093 112			
050404	Rural development (EAGGF) (2004-2006) transitional instrument new MS	4 720 777 646	8 317 762	0.18%	245
050208	Fruit and vegetables	4 558 886 603	12 143 621	0.27%	141
050205	Sugar	2 621 242 341	18 715 280	0.71%	38
050212	Milk and milk products	2 243 830 444	1 729 683	0.08%	79
050303	Additional amounts of aid	1 818 731 223	286 842	0.02%	5
050211	Other plant products/measures	1 402 377 789	2 268 537	0.16%	31
050204	Food programmes	1 065 398 838	142 006	0.01%	4
050207	Textile plants	997 150 960			
050215	Pigmeat, eggs and poultry, bee-keeping and other animal products	715 367 053	3 674 212	0.51%	91
050203	Non-Annex 1 products	667 183 810	528 950	0.08%	19
050213	Beef and veal	451 774 536	336 298	0.07%	21
050201	Cereals	387 240 850	717 842	0.19%	21
050206	Olive oil	182 612 526	173 602	0.10%	7
050210	Promotion	177 999 061	402 329	0.23%	16
110203	Fisheries programme for the outermost regions	13 184 824	20 619	0.16%	1
110201	Intervention in fishery products	11 950 824			
other			≈	≈	≈
<b>total</b>		<b>200 823 468 310</b>	<b>99 093 233</b>	<b>0.05%</b>	

The highest expenditure concerns budget chapter 050301 "decoupled direct aids". The total expenditure is about EUR 110 billion, which is 55% of the total expenditure. It can be assumed that a sector that "consumes" already 55% of the total agricultural budget will get more attention of the authorities. Member States reported also the highest number of irregularities for this sector: 585 cases. The total amount affected was about EUR 14.8 million.

Budget chapter 050302 "other direct aid" can be found on the second place. An amount of about € 35 billion has been spent for this sector. That is about 18% of the total expenditure. These 2 sectors consume together already more than 70% of the total 2006-2009 expenditure. For both sectors count that the amounts affected by irregularities are rather low. Both sectors have an irregularity rate of 0.01%

Sectors that have a rather high irregularity rate are:

- 050205: sugar 0.71%

<sup>49</sup> See OLAF's website: [http://ec.europa.eu/anti\\_fraud/reports/](http://ec.europa.eu/anti_fraud/reports/)

- 050215: pigmeat, eggs and poultry etc. 0.51%
- 050401: rural development 0.29%
- 050208: fruits and vegetables 0.27%
- 050210: promotion 0.23%

No cases of irregularities were reported for the sectors "sugar restructuring fund" (050216) and "textile plants" (050207) although there was a substantial expenditure. The latter counts especially for the sector sugar restructuring fund now the total expenditure was almost EUR 4.9 billion.

#### 050301 decoupled direct aids

As mentioned, about 55% of the expenditure concerns "decoupled direct aids" which justifies a closer look at this sector. The overall irregularity rate for "decoupled direct aids", which is controlled through the Integrated Administration and Control System (IACS), is rather low. It differs however strongly per Member State. Table AG5 provides an overview.

Remarkable is that a rather large number of Member States with a relatively low expenditure reported a relatively high number of cases.

Germany reported the highest number and the highest amounts: 107 cases and a total amount affected of more than EUR 2.5 billion. The latter seems to be logic as Germany is the Member State with the highest expenditure: ± EUR 21.1 billion.

France spent the second highest amount for this sector: ± EUR 17.2 billion. It did not report any irregularity. It has to be noted that decoupled direct aid payments started in France only in 2007.

Other Member States that had a rather high expenditure and reported a relatively low number of cases are the United Kingdom, Italy and Greece. The United Kingdom spent almost EUR 13.9 billion and reported 8 cases with a total amount affected of EUR 106°481, which is

0.001% of the total expenditure. As already mentioned, the United Kingdom has some (IT-related) problems with forwarding cases in electronic format, therefore, it is possible that the United Kingdom still has some cases in the pipeline. Italy spent an amount that is more or less comparable with the United Kingdom: ± EUR 11.9 billion. Italy reported 26 cases with a total amount affected of about EUR 1.1

AG5 DECOUPLLED DIRECT AID financial years 2006 - 2009				
MS	expenditure amounts in €	cases	irregular	
			amounts in €	IrR
DE	21 056 414 986	107	2 527 340	0.012%
FR	17 164 402 944			
UK	13 857 498 263	8	106 481	0.001%
IT	11 917 159 175	26	1 113 686	0.009%
ES	9 957 549 909	99	2 303 902	0.023%
EL	5 876 129 921	7	200 205	0.003%
IE	4 937 527 999	104	1 939 591	0.039%
PL	4 581 919 055	70	1 726 467	0.038%
DK	3 644 856 740	12	202 232	0.006%
SE	2 493 028 556	3	73 389	0.003%
AT	2 208 925 929			
HU	2 036 913 308			
BE	1 656 077 231	6	88 425	0.005%
NL	1 644 364 526	21	765 393	0.047%
FI	1 473 454 738	4	63 671	0.004%
CZ	1 436 031 424	1	18 115	0.001%
PT	1 278 052 134	5	91 259	0.007%
RO	951 513 453	66	1 882 507	0.198%
SK	588 210 795	6	578 250	0.098%
LT	578 522 638	25	434 261	0.075%
BG	374 772 422	15	706 303	0.188%
LV	222 976 006			
EE	154 030 188			
LU	135 090 195			
SI	109 636 770			
CY	74 830 506			
MT	4 288 461			
<b>total</b>	<b>110 414 178 271</b>	<b>585</b>	<b>14 821 476</b>	<b>0.013%</b>

million. Greece spent almost EUR 5.8 billion and reported 7 cases with a total amount affected of EUR 202°232. The irregularity rates for the United Kingdom, Greece and Italy are respectively 0.001%, 0.003% and 0.009%.

Ireland, Romania and Bulgaria reported a relatively high number of irregularities for the sector "decoupled direct aids". The Irish expenditure was about EUR 4.9 billion, which is less than one quarter of the total German expenditure but the number of reported cases is almost the same. Romania and Bulgaria have a comparable irregularity rate, respectively 0.198% and 0.188%.

Austria and Hungary had also a substantial expenditure, respectively EUR 2.2 billion and EUR 2.0 billion, but did not (yet) report any irregularities.

Reporting may also be effected by the EUR 10°000 reporting threshold, given that most payments concern smaller amounts.

#### 5.3.4. *Financial follow up of irregularity cases*<sup>50</sup>

##### 5.3.4.1. Method of detection – Controls by national authorities

Under the common agricultural policy, according to the principle of shared management the Member States are responsible for paying the agricultural subsidies to the final beneficiaries through *paying agencies*<sup>51</sup>, accredited by the competent authorities of the Member States. They are responsible in particular for checking the admissibility of claims and compliance with EU rules before payment.

For each aid scheme, the relevant sector regulations lay down detailed rules on checks to be carried out by the paying agencies or by delegated bodies operating under their supervision.

All aid applications are subject to *administrative checks* before any payment is made. *On-the-spot checks* are carried out on a sample basis which normally ranges between 5% and 100%, depending on the risk in the sector concerned.

The most important control system is the Integrated Administration and Control System (IACS). It covers all direct payments to farmers. IACS includes a computerised database, an identification system for farmers, for agricultural parcels and for animals in case of payments linked to animals, and a system for identification and registration of payment entitlements and aid applications. For aid schemes which do not fall under the IACS such as storage of products or export refunds, complementary checks must be carried out after the payment to the beneficiary has been made.

At the end of each financial year, the certification body draws up a certificate stating whether it has gained reasonable assurance that the accounts transmitted to the

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<sup>50</sup> The text, analysis and table of paragraph 5.3.4. is provided by DG AGRI. Under Reg. 1848/2006 Member States are not required to indicate the amounts to recover to OLAF.

<sup>51</sup> Regulation (EC) No 1290/2005 (OJ L 209, 11.8.2005)

Commission are true, complete and accurate and that the internal control procedures have operated satisfactorily.

Member States must send to the Commission the annual accounts of each paying agency, accompanied by a statement of assurance signed by the paying agency's director. The statement of assurance may be qualified by reservations, which must quantify their financial impact. In that case, it must include a remedial action plan and a precise timetable for its implementation. The statement of assurance must be based on an effective supervision of the management and control system in place throughout the year and is subject to an opinion of the certification bodies.

Member States with more than one paying agency must also draw up at the end of the financial year an annual summary report (synthesis) covering the statements of assurance and certificates issued by the certification bodies. Coming on the top of the statements of assurance and certification, this is designed to strengthen the chain of responsibility between the Member States and the Commission.

#### 5.3.4.2. Method of detection - Controls by the Commission

The Commission firstly clears the accounts of the paying agencies on an annual basis as regards their completeness, accuracy and veracity and, secondly, mostly by means of on-the-spot audits, verifies whether the expenditure has been effected by Member States in conformity with the EU rules. Where this is not the case, it excludes the expenditure concerned from EU financing (financial corrections). This latter mechanism, called "conformity clearance", has over the years proven to be a very effective means of protecting the EU's financial interest.

Conformity clearance shields the EU budget from expenditure which should not be charged to it. It is not a mechanism by which irregular payments to final beneficiaries are recovered, something which, according to the principle of shared management, is the sole responsibility of the Member States. Financial corrections are determined on the basis of the nature and gravity of the infringement and the financial damage caused to the EU. The amount is calculated on the basis of the loss actually caused or on the basis of an extrapolation. Where this is not possible, flat-rates are used which take account of the severity of the deficiencies in order to reflect the financial risk for the EU. In financial year 2009 the Commission excluded EUR 655 million from EU financing under the EAGF and the EAFRD<sup>52</sup> on grounds of its non-compliance with EU rules.

Where individual irregular payments are or can be identified as a result of the conformity clearance procedures, Member States are required to follow them up by recovery actions against the final beneficiaries. However, even where this is not possible because the financial correction relates exclusively to deficiencies in the Member State's management and control system, the correction remains an important means of improving the functioning of that system and thus of preventing or detecting and recovering irregular payments to final beneficiaries. The conformity clearance thereby contributes to the legality and regularity of transactions at the level of the final beneficiaries.

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<sup>52</sup> Decisions 2008/960/EC (OJ L 340, 19.12.2008) and 2009/253/EC (OJ L 75, 21.3.2009)

#### 5.3.4.3. Recovery

Article 32 of Council Regulation (EC) No 1290/2005 provides for an automatic clearance mechanism for unsuccessful recoveries of unduly paid amounts. If a Member State fails to recover an unduly paid amount from the beneficiary within four years of the primary administrative or judicial finding (or, in the case of proceedings before national courts, within eight years), 50% of the non-recovered amount is charged to the budget of the Member State concerned within the framework of the annual financial clearance of the EAGF and EAFRD accounts. Even after the application of this mechanism, Member States are obliged to pursue their recovery procedures and to credit 50% of the amounts effectively recovered to the EU budget. If they fail to do so with the necessary diligence, the Commission may decide to charge the entire outstanding amounts to the Member State concerned.

Undue payments that are the result of administrative errors committed by the national authorities have to be deducted from the annual accounts of the paying agencies concerned and, thus, excluded from EU financing.

In the year 2009, the 50/50 mechanism was applied by the financial clearance decision for the financial year 2008<sup>53</sup> on all pending non-recovered cases dating from 2004 or 2000 (cases that were four or eight years old respectively). EUR 31.4 million was charged to the Member States in this way and EUR 20.1 million was borne by the EU budget for reasons of irrecoverability. A further EUR 0.8 million was charged to the Member States by a subsequent decision<sup>54</sup> that cleared the accounts for financial year 2008 of those paying agencies that were disjoined in April 2009.

During financial year 2009 Member States recovered EUR 167.3 million and the outstanding amount still to be recovered from the beneficiaries at the end of that financial year was EUR 1 136.2 million. Table AG6 provides an overview of the recovered, irrecoverable and outstanding amounts at the level of beneficiaries at the end of financial year 2009.

*Table AG6: financial information on recovery (EAGF, EAFRD, TRDI)*

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<sup>53</sup> Commission Decision 2009/367/EC (OJ L 111, 5.5.2009)

<sup>54</sup> Commission Decision 2010/56/EU (OJ L 32, 4.2.2010)

table AG6 FINANCIAL INFORMATION ON RECOVERY CASES financial year 2009				
MS	during 2009		outstanding at the end of FY2009	in % of total
	recovered	declared irrecoverable		
AT	20 031 814	184 050	4 952 763	0.44%
BE	2 001 322	30 538	53 609 855	4.72%
BG	0	0	108 891	0.01%
CY	610 217	0	0	0.00%
CZ	528 504	42 995	457 252	0.04%
DE	14 054 259	744 278	55 859 633	4.92%
DK	18 522 156	56 122	13 783 176	1.21%
EE	460 074	1 848	379 992	0.03%
ES	33 639 713	35 220 073	150 285 663	13.23%
FI	1 317 297	63 508	756 934	0.07%
FR	20 837 296	15 960 035	156 906 284	13.81%
GB	3 036 750	3 274 714	8 725 074	0.77%
GR	3 001 283	263	52 002 613	4.58%
HU	2 830 435	2 970	1 674 036	0.15%
IE	5 633 179	122 269	11 370 241	1.00%
IT	10 262 855	3 841 402	542 061 150	47.71%
LT	996 945	65	648 456	0.06%
LU	42 363	0	92 350	0.01%
LV	1 264 663	4 383	847 138	0.07%
MT	200 066	20 305	822 891	0.07%
NL	6 854 119	3 909 946	12 633 750	1.11%
PL	9 994 066	33 363	3 458 633	0.30%
PT	5 699 055	350 617	54 178 272	4.77%
RO	557 150	0	1 991 091	0.18%
SE	1 891 692	10 962	1 746 408	0.15%
SI	2 909 658	1 660	707 702	0.06%
SK	87 033	559 018	6 114 955	0.54%
<b>Total</b>	<b>167 263 961</b>	<b>64 435 383</b>	<b>1 136 175 204</b>	<b>100.00%</b>

updated 10 May 2010

The financial consequences of non recovery for cases dating from 2005 or 2001 was determined in accordance with the 50/50 rule mentioned above by charging EUR 22.8 million to the Member States concerned<sup>55</sup>. Moreover, EUR 20.3 million was borne by the EU budget for cases reported irrecoverable during financial year 2009. For those paying agencies for which the 2009 accounts were disjoined from the financial clearance decision, a further EUR 11.9 million will be charged by subsequent Commission Decisions.

Due the application of the 50/50 mechanism since its introduction in 2006 the amount outstanding from the Member States towards the EU budget was reduced to EUR 830 million<sup>56</sup>.

During the years 2007-2009 the Commission was auditing the correct application of the new clearance mechanism through 15 on the spot controls covering 14 paying agencies in 11 Member States. In general the Member States' authorities have adequate procedures in place to protect the financial interest of the European Union. Deficiencies found during these on the spot controls are being followed up in the context of conformity clearance procedures.

<sup>55</sup> Commission Decision 2010/258/EU (OJ L 112, 5.5.2010)

<sup>56</sup> Amount includes updated financial information provided by Member States for Financial Year 2009.

## 5.4. Specific analysis

### 5.4.1. Introduction

The statistical annex introduces this year some new rates and levels. The rates and levels that are used are the Irregularity Rate (IrR), Fraud Rate (FrR), Fraud Amount Level and Fraud Frequency Level (FFL)<sup>57</sup>.

To calculate reliable rates and levels, a time frame should be used that can be considered as "finalised". The financial year 2009 cannot yet be used to calculate rates and levels as a large number of irregularities concerning the financial year 2009 will be reported in the coming 3 – 5 years. The same counts for the period 2006 – 2009. Member States still need to finalise audits and to report detected irregularities.

To determine reliable rates and levels, a financial year should be selected that can be considered, from an irregularity reporting point of view, as "closed" or "finalised".

The financial year 2004 can be considered, from an irregularity reporting point of view, as finalised<sup>58</sup>. Member States had set up audit strategies and audit plans and performed audits on basis of these strategies and plans. Audit findings have become definitive and irregularities have been reported. Tables AG7, AG8 and AG9 also support the assumption that the financial year 2004 can be considered as finalised. Most of the cases were reported in the first 2-3 years after the expenditure. Almost no cases were reported in the last 2 years.

The total 2004-expenditure was about EUR 43 billion. Member States reported 2°216 cases of irregularities with a total amount affected of about EUR 99 million, which implies an overall irregularity rate of 0.23%. Member States classified 73% of these cases as "irregularity" or as "suspicion of fraud". 608 cases were not classified. The largest part of these "non-classified-cases" was reported by Germany and Spain. Both were not using the electronic reporting system at that time and did not yet update all their 2004-cases.

9 Member States (EU-25) classified 37 cases as "suspicion of fraud", which is 1.67% of the total number of reported cases and 2.30% of the total number of classified cases. More than 60% of the suspected-fraud-cases were reported by Italy. The total amount affected by suspected-fraud-cases is about EUR 14.9 million, which would imply an overall fraud rate of 0.03%. The fact that more than 60% of the cases were reported by only 1 Member State makes already clear that one cannot speak about an overall fraud rate or EU-25-rate.

Approximately 70% of the 2004-expenditure concerns 3 sectors:

1. budget chapter 050203 : direct payments for arable crops ± EUR 17 billion
2. budget chapter 050302 : beef and veal ± EUR 7.8 billion

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<sup>57</sup> IrR, FrR, FAL and FLL are explained in paragraphs 1.24 – 1.2.5.

<sup>58</sup> In next years report, the financial year 2005 will be used to determine the different rates and levels.

3. budget chapter 050401 : rural development ± EUR 4.7 billion

These 3 sectors will be used to make a more precise estimate of the different rates and levels.

Member States reported 1,471 cases for these 3 sectors, which is ± 66% of the total number of cases reported for the financial year 2004. In ± 82% of these cases, Member States classified a case as "irregularity" or as "suspicion of fraud".

#### 5.4.2. Sector 050203: direct payments for arable crops

Table AG7 provides an overview of the cases that have been reported by Member States concerning the 2004-expenditure for the sector "direct payments for arable crops" (budget chapter 050203).

Table AG7: direct payments for arable crops – rate and levels

table AG7															
FY-2004: RATES AND LEVELS															
(16 October 2003 - 15 October 2004)															
050203 = direct payment for arable crops															
MS	expenditure amounts in €	irregular			suspected fraud					irregularity cases reported in					
		amounts in €	IrR	cases	amounts in €	FrR	cases	FAL	FFL	2004	2005	2006	2007	2008	2009
AT	363 636 980		0.00%												
BE	167 927 450	63 401	0.04%	5								4	1		
DE	3 533 040 156	902 570	0.03%	46						28	16	2			
DK	659 683 499	16 456	0.00%	1									1		
EL	499 370 006	85 473	0.02%	11							11				
ES	1 821 875 111		0.00%												
FI	342 514 998	7 042	0.00%	1						1					
FR	5 146 143 982	644 286	0.01%	70							69	1			
IE	132 047 645	284 586	0.22%	37						1	36				
IT	1 868 523 214	6 768 158	0.36%	8	6 613 059	0.35%	4	97.71%	50.00%		1	3	2	1	1
LU	10 718 752		0.00%												
NL	169 196 973	437 835	0.26%	74						56	18				
PT	181 499 772	118 791	0.07%	11						1		9	1		
SE	441 454 187	215 905	0.05%	22						9	7	5			1
UK	1 652 862 749	221 998	0.01%	21						10	10		1		
<b>total</b>	<b>16 990 495 474</b>	<b>9 766 501</b>	<b>0.06%</b>	<b>307</b>	<b>6 613 059</b>	<b>0.04%</b>	<b>4</b>	<b>67.71%</b>	<b>1.30%</b>	<b>106</b>	<b>172</b>	<b>21</b>	<b>5</b>	<b>1</b>	<b>2</b>

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The second column of the left hand side provides an overview of the 2004-expenditure per Member State. Only those Member States that had a 2004-expenditure are shown. The total expenditure was about EUR 17 million. In the third column the total amount affected by irregularities can be found.

The irregularity rates (IrR) can be found in the fourth column of the left hand side. The overall rate is 0.06%. Italy has the highest rate: 0.36%. Austria, Spain and Luxembourg did not report any cases of irregularities for this sector, therefore, their irregularity rates are 0%.

The right hand side part of the table provides an overview of the years in which the irregularities concerning the 2004-expenditure have been reported. Member States reported in total 307 cases of irregularities. 106 of these cases were already reported in 2004. The highest number was reported in 2005: 172 cases.

A downfall of the number of reported cases can be seen in the period 2006 – 2009. This is also logic. Irregularities are normally reported in the first years after the discovery of an irregularity. The sharp downfall of cases in the period 2006 – 2009 confirms, from an irregularity reporting point of view, that the financial year 2004 can be considered as finalised.



France had the highest expenditure, e.g. more than EUR 5.1 billion, and reported a total amount affected by irregularities of about EUR 0.6 million. This leads to an irregularity rate of 0.01%. Almost all cases were reported in 2005. Only 1 case was reported in 2006. No more cases were reported in the period 2007 – 2009, therefore, it can be expected that no cases of irregularities will be reported anymore.

Germany reported in the years 2004, 2005 and 2006 respectively 28, 16 and 2 cases. No cases were reported after 2006. Germany reported a total amount affected by irregularities of about EUR 0.9 million. This means an irregularity rate of 0.03%.

Rather high are the irregularity rates of Italy, the Netherlands and Ireland, respectively 0.36%, 0.26% and 0.22%.

No irregularities were reported by Austria, Spain and Luxembourg.

The middle part of table AG7 contains the rates and levels linked to suspected fraud.

Only 1 Member State reported suspected-fraud-cases: Italy. It reported 4 cases with a total amount affected of about EUR 6.6 million. The fraud rate for Italy is 0.35%.

The EU-25 FrR would be 0.04%. Be aware that only 1 Member State reported suspected-fraud-cases. This makes immediately clear that it is hard to speak about an EU-25 fraud rate. It is better to speak about the Italian fraud rate or even better of the fraud rates of the regions or provinces that reported the suspected-fraud-cases.

The FAL is almost 98% now almost the total irregular amount was linked to suspected-fraud-cases. The FFL is 50% now 4 out of 8 cases were classified as suspected-fraud-cases.

#### 5.4.3. *Sector 050302: beef and veal*

The total 2004-expenditure for "beef and veal" was almost EUR 7.8 billion as the total amount affected by irregularities was about EUR 10.7 million. This implies an overall irregularity rate of 0.14%. Member States reported in total 264 cases. Table AG8 provides an overview.

Table AG8: beef and veal – rates and levels

table AG8																	
financial year 2004																	
(16 October 2003 - 15 October 2004)																	
050302 = beef and veal																	
MS	expenditure amounts in €	irregular			suspected fraud					irregularity cases reported in							
		amounts in €	IrR	cases	amounts in €	FrR	cases	FAL	FFL	2003	2004	2005	2006	2007	2008	2009	
AT	234 698 430	197 230	0.08%	22							12	9	1				
BE	242 065 802	190 478	0.08%	18	31 740	0.01%	1	16.66%	5.56%			13	5				
DE	954 798 283	390 055	0.04%	48							16	30	2				
DK	142 704 367	71 005	0.05%	5							1	3	1				
EL	95 368 478		0.00%	0													
ES	830 112 661	4 866 614	0.59%	34							16	7	6	4	1		
FI	93 827 739	4 400	0.00%	1								1					
FR	1 793 306 418	52 499	0.00%	3									1		1	1	
HU	59 762		0.00%	0													
IE	927 491 670	50 369	0.01%	3							1	2					
IT	540 275 603	3 945 825	0.73%	19	3 058 460	0.57%	5	77.51%	26.32%					4		6	9
LT	52 409		0.00%	0													
LU	12 249 401		0.00%	0													
NL	164 847 789	15 871	0.01%	2								1			1		
PL	506 010	36 332	7.18%	2								1	1				
PT	178 797 511	81 747	0.05%	8							2	1	2	3			
SE	161 906 276	279 703	0.17%	34								29	5				
SI	17 729		0.00%	0													
UK	1 394 353 024	484 182	0.03%	65							32	18	15				
<b>total</b>	<b>7 767 439 362</b>	<b>10 666 310</b>	<b>0.14%</b>	<b>264</b>	<b>3 090 200</b>	<b>0.04%</b>	<b>6</b>	<b>28.97%</b>	<b>2.27%</b>	<b>2</b>	<b>79</b>	<b>116</b>	<b>44</b>	<b>5</b>	<b>8</b>	<b>10</b>	

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The total amount affected by irregularities is higher for the sector "beef and veal" than for the sector "direct payments for arable crops" although the expenditure for the sector "beef and veal" is far lower.

The Member State with the highest expenditure was France, it spent almost EUR 1.8 billion. France reported 3 cases of irregularities which were reported in 2006, 2008 and 2009. It concerned in all 3 cases export of beef and veal. The export took place in 2004. The irregularity rate is low: 0.003%.

The highest amounts affected by irregularities are reported by Spain and Italy.

Spain spent about EUR 830 million and reported 34 cases with a total amount affected by irregularities of about EUR 4.9 million. This means an irregularity rate of 0.59%. The highest number of cases was reported in the year of expenditure: 16 cases. In the following years, the number of cases decreased slowly.

Italy spent a bit more than EUR 540 million. The total amount affected by irregularities was almost EUR 4 million. It concerned 19 cases, which were reported in 2006, 2008 and 2009. The Italian irregularity rate is 0.73%.

Poland is the Member State with the highest irregularity rate: 7.18%. That is high but it should be taken into account that the Polish expenditure was rather low: EUR 506 010. This means that 2 cases with a total amount affected by irregularities of EUR 36.332 have a rather high impact on the irregularity rate.

No irregularities were reported by Greece, Hungary, Lithuania, Luxembourg and Slovenia. These countries had a relatively low expenditure.

The key-figures concerning suspected-fraud-cases can also here be found in the middle of the table.

Member States classified 6 out of 264 cases as suspected-fraud-cases. Italy reported 5 of these cases as Belgium reported 1 case. Italy has a fraud rate 0.57% as the fraud rate for Belgium is 0.01%.

The EU-25-fraud rate would be 0.04% which is equal to the rate for the sector "direct payments for arable crops".

It has to be mentioned again that these figures need to be interpreted very cautiously now only 2 Member States reported suspected-fraud-cases. It is better to speak about the Italian and Belgium fraud rate.

The same counts for fraud amount level (FAL) and fraud frequency level (FFL). Italy has a FAL of 77.51% and a FFL of 26.32% as Belgium has a FAL of 16.66% and a FFL of 5.56%.

#### 5.4.4. *Sector 050401: rural development*

The 2004-expenditure for rural development was almost EUR 4.8 billion. Member States reported 900 cases of irregularities with a total amount affected of almost EUR 17.8 million. This makes an irregularity rate of 0.37%.

In comparison with the other 2 sectors, "direct payments for arable crops" and "beef and veal", is the irregularity rate rather high for "rural development".

The number of reported irregularities is also rather high. Member States reported the highest number of cases for the sector "rural development". Member States as France, Portugal, Italy and Germany reported a relatively high number of cases for this sector.

The Netherlands and Portugal have the highest irregularity rates, respectively 2.66% and 1.25%.

Belgium did not report any irregularity.

Table AG9 shows that only 2 Member States reported suspected-fraud-cases. France reported 1 case with a total amount affected of EUR 131°065 as Italy reported 8 cases with a total amount affected of EUR 550°695. Also for this sector counts that Italy is responsible for the reporting of almost all suspected-fraud-cases.

*Table AG9: rural development – rates and levels*

MS	expenditure amounts in €	irregular			suspected fraud					irregularity cases reported in					
		amounts in €	IrR	cases	amounts in €	FrR	cases	FAL	FFL	2004	2005	2006	2007	2008	2009
AT	468 583 807	141 368	0.03%	4											1
BE	49 069 679														
DE	813 215 028	1 876 473	0.23%	95						20	38	22	11	3	1
DK	43 196 842	372 134	0.86%	28						12	8	4	2	1	1
EL	125 603 860	450 180	0.36%	29							6	10		7	6
ES	513 519 817	2 876 082	0.56%	63						17	8	7	3	19	9
FI	329 773 213	47 690	0.01%	5							3		2		
FR	839 154 266	2 817 429	0.34%	262	131 065	0.02%	1	4.65%	0.38%	163	41	19	25	4	10
IE	351 411 146	400 842	0.11%	43							23		3	8	9
IT	635 259 264	4 183 035	0.66%	112	550 696	0.09%	8	13.16%	7.14%	6	23	31	11	28	13
LU	16 236 831	13 375	0.08%	1										1	
NL	67 644 813	1 797 420	2.66%	22						4	2	8	7	1	
PT	193 322 532	2 424 108	1.25%	191						7	83	63	1	34	3
SE	163 073 061	123 437	0.08%	10						4	5			1	
UK	151 226 913	259 814	0.17%	35						17	13	3	2		
<b>total</b>	<b>4 760 291 072</b>	<b>17 783 388</b>	<b>0.37%</b>	<b>900</b>	<b>681 761</b>	<b>0.01%</b>	<b>9</b>	<b>3.83%</b>	<b>1.00%</b>	<b>250</b>	<b>253</b>	<b>170</b>	<b>67</b>	<b>108</b>	<b>52</b>

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The fraud rates (FrR) for France and Italy are respectively 0.02% and 0.09%. The EU-25 fraud rate would be 0.01%. Once again, be aware that only 2 Member States reported suspected-fraud-cases, therefore, it is more correct to speak about the rates and levels of France and Italy.

France has a FAL of 4.65% and a FFL of 0.38%. The Italian levels are 13.16% for the FAL and 7.14% for the FFL.

#### 5.4.5. Other sectors: fraud rates

As already mentioned, it is hard to speak about an "overall fraud rate" now only a limited number of regions of a limited number of Member States reported suspected-fraud-cases. The fraud rates for the 2004-expenditures therefore are low. The overall fraud rate is 0.03% as the rates for the 3 above discussed sectors are 0.04%, 0.04% and 0.01% respectively.

Budget chapter	description	2004 expenditure	amount affected	fraud cases	fraud rate
050208	fruits and vegetables	€ 1.6 billion	6 613 059	8	0.24%
050302	beef and veal	€ 7.8 billion	3 823 662	6	0.04%
050203	direct payment for arable crops	€ 17.0 billion	3 090 200	4	0.04%
050304	pigmeat, eggs and poultry	€ 0.2 billion	681 761	3	0.03%
050301	milk and milk products	€ 2.3 billion	495 086	2	0.02%
050401	rural development	€ 4.7 billion	91 019	9	0.01%
050209	wine-growing sector	€ 1.1 billion	46 949	4	0.01%
050303	sheepmeat and goatmeat	€ 1.5 billion	14 252	1	0.00%
other	=	=	=	=	=
<b>total</b>		<b>€ 43 billion</b>	<b>14 855 988</b>	<b>37</b>	<b>0.03%</b>

The question arises if there would be any sectors where the fraud rate would be rather high. Table AG10 provides an overview of all sectors for which suspected-fraud-cases were reported. The sector fruits and vegetables (chapter 050208) has, in comparison with all other sectors, a rather high fraud rate: 0.24%. The 8 suspected-fraud-cases together, amount to EUR 6.6 million. All other sectors have a fraud rate of 0.04% or lower.

#### 5.4.6. Patchy reporting

Most Member States reported "patchy". The sector "rural development" is a good example of patchy reporting. The total expenditure for this sector was about EUR 4.8 billion and these expenditures were spread across all regions of all Member States. Member States reported 900 cases of irregularities with a total amount affected of about EUR 17.8 million. These irregularities are not spread across all Member States and within a Member State not across all regions. 2 examples will be given to

visualise patchy reporting. Austria and Spain will be used as example now the total expenditures of these 2 Member States are more or less comparable. What counts for Austria and Spain, counts for almost all Member States. Only Denmark and Portugal reported irregularities across almost all regions.

### Example Austria.

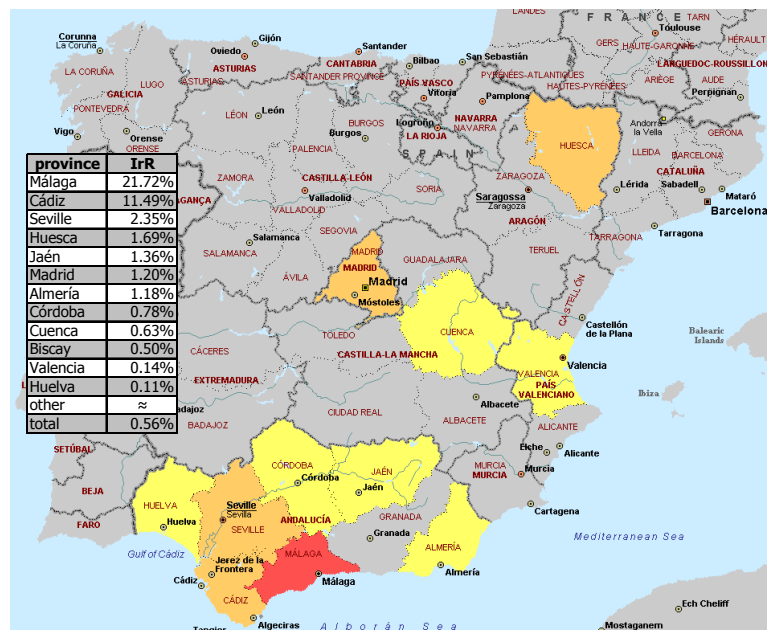
The total expenditure was about EUR 469 million. Austria reported 4 irregularities with a total amount affected of EUR 141'368. This would mean an irregularity rate of 0.03%. All irregularities were reported by 1 Bundesland: Steiermark. No irregularities were reported by the other 8 Bundesländer.



It would therefore be better to speak about the irregularity rate of Bundesland Steiermark and not about the Austrian irregularity rate. The irregularity rate of Bundesland Steiermark is 0.21%, which is far higher than an overall Austrian irregularity rate of 0.03%.

### Example Spain:

The Spanish map provides the same image. The total Spanish expenditure was about EUR 514 million. The expenditure was spread across all provinces. The irregularities however, are not spread across all provinces. Spain reported 63 cases with a total amount affected of about EUR 2.9 million. These irregularities were reported by 12 out of 50 provinces. The overall irregularity rate for Spain would be 0.56%. If the irregularity rate would be calculated per province, it would vary between 0.11% for Huelva and 21.72% for Malaga.



Remarkable is the huge difference in number of cases and amounts affected between Austria and Spain. Both have a comparable total expenditure but Austria reported 4 cases with a total amount affected of EUR 141'368 as Spain reported 63 cases with a total amount affected of EUR 2'876'082.

Again, what is said for Austria and Spain can be said for almost all Member States: irregularities are concentrated in a limited number of regions and not equally spread over all regions and Member States (see also table AG9).

Patchy reporting has also its impact on the classification of suspected-fraud-cases. The following map shows an overview of the suspected-fraud cases reported for the sector "rural development" concerning the financial year 2004.



Member States reported 900 cases of which 9 cases were classified as "suspected-fraud". That is exactly 1% of the total number of irregularities. France reported 1 case as Italy reported the other 8 cases. The total amount affected by these suspected-fraud-cases is almost EUR 0.7 million which is approximately 0.01% of the expenditure. The map provides an overview of the regions in which fraud took place.

Remarkable is that almost all suspected-fraud-cases can be found in the same area: Rhone-Alpes, Piemont, Liguria, Emilia-Romagna, Veneto and Marche. This implies

that no (suspected) fraud was committed in all other Member States. In other words, in almost all Member States no irregularities were committed intentionally.

The impression is that not all irregularities are reported and classified correctly. A cause could be the heavy workload for those persons that had to process the communications. In the past, communications had to be processed on a central level in a Member State. This meant in practice that only 1 or 2 persons per Member State could submit communications. That has changed with the introduction of Module 1848 and the cascaded reporting structure. The number of persons that can process a communication became in principle unlimited. Therefore, the number of users increased enormously during 2009. At the end of 2009, more than 800 persons were able to process communications via Module 1848. It can be expected that the quantity and quality of the data will improve. The increase of the number of cases in 2009 indicates already that more cases and a higher quality can be expected. Many hands make lighter and better work!

The patchy reporting and the limited number of suspected-fraud-cases makes however clear that no EU-27 rates or levels can be determined yet. Only rates and levels per region can be determined. The year 2010 should be used to check and, if necessary, update cases of irregularities in order to provide next year fraud rates and levels.

#### 5.4.7. *summary: 2004- rates and levels*

- number of suspected-fraud-cases is rather low: 37 on a total of 2°216 ( $\pm 1.67\%$ );
- 9 Member States (EU-25) reported suspected-fraud-cases;
- 16 Member States (EU-25) indicated that none of the reported irregularities were committed intentionally;
- suspected-fraud-cases are mainly reported by 1 Member State: Italy (> 60%);
- difficult to determine overall fraud rates and levels;
- sector "fruit and vegetables" has the highest fraud rate: 0.24%;
- fraud rates and levels need to be interpreted very cautiously!

## 5.5. Conclusions

- (1) 2009 was a transition year for irregularity reporting thanks to the introduction of access to Module 1848 via internet, the introduction of the cascaded reporting structure, the appointing of 1848-liaison-officers and the enormous increase of users.
- (2) The EU-27-compliance-2009 increased to 95% thanks to a positive attitude of all Member States, the introduction of a new reporting system and the enormous increase of the number users of the reporting module. All Member States used Module 1848 to submit communications. Member States that should pay extra attention to issues as timely reporting, personal data and measures affected are Austria, Finland, Malta, the Netherlands, Poland and the United Kingdom. Finland and Poland did not report personal data although there is a clear obligation to do so. Latvia has the highest compliance rate as Finland has the lowest.
- (3) In the Financial Year 2009, Member States reported 1°621 new cases with a total amount affected of about EUR 125 million. These cases concern expenditures for the Financial Years 1991 – 2009. The number of cases and the amounts affected are not equally spread over all Member States. Spain reported the highest number of cases (404) as Italy reported the highest amounts affected (EUR 54 million). Austria and the United Kingdom reported a relatively low number of cases as Luxembourg and Slovenia did not report any irregularity. 11 cases had a total amount affected of more than EUR 1 million.
- (4) Member States recovered during the Financial Year 2009 about EUR 167 million and declared irrecoverable about EUR 64 million. The overall outstanding amount at the end of Financial Year 2009 is about EUR 1.1 billion at final beneficiary level and EUR 830 million towards the EU-budget.
- (5) The figures concerning the financial years 2006 – 2009 can be used to identify trends. These figures should be considered as half-time-result now still cases of irregularities will be reported. Definitive figures can only be determined of financial years that can be considered, from an irregularity reporting point of view, as "finalised".
- (6) The total expenditure for the financial years 2006-2009 was about EUR 201 billion. The highest expenditure was made by France (20%) and the lowest by Malta (0.01%). Member States reported for these financial years 2°086 cases with a total amount affected of about EUR 97 million which means a provisional irregularity rate of 0.05%. The highest number of cases was reported by Spain (377) as the highest amounts affected by irregularities were reported by Italy (EUR 14 million). France, Italy, United Kingdom, Greece and Austria reported a relatively low number of irregularities.
- (7) 55% of the total 2006-2009 expenditure concerns the sector "decoupled direct aids". Member States reported for this sector 585 cases with a total amount affected of about EUR 109 million. The provisional irregularity rate for this sector is 0.01%. Sectors with a rather high irregularity rate are sugar (0.71%), pigmeat, eggs and poultry etc. (0.51%), rural development (0.29%), fruits and vegetables (0.27%) and promotion (0.23%).



- (8) The Financial Year 2004 can be considered as finalised now audit plans have been executed, recovery procedures have been started and irregularities have been reported. The total 2004-expenditure was about EUR 43 billion. Member States reported in total 2,216 cases with a total amount affected of about EUR 99 million, which implies an overall irregularity rate of 0.23%.
- (9) Member States classified 37 of the 2004-cases as suspected-fraud. 23 cases (62%) were reported by 1 Member State: Italy. The other 14 cases were reported by 8 Member States. All other Member States (16) did not classify any of their cases as fraud or suspected-fraud. An EU-25 fraud rate (FrR), fraud amount level (FAL), fraud frequency level (FFL) cannot be determined now only a very limited number of suspected-fraud-cases were reported by a limited number (of regions) of Member States. Rates and levels can only be determined for regions that reported (suspected-) fraud cases or submitted zero notifications.

## **6. EUROPEAN FISHERIES FUND**

Commission Regulation (EC) No 498/2007 of 26 March 2007<sup>59</sup> lays down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 which establishes the European Fisheries Fund (EFF) and defines the framework for Community support for the sustainable development of the fisheries sector, fisheries areas and inland fishing.

Chapter VIII of Regulation (EC) No 498/2007 contains the relevant provisions for the reporting of irregularities to the Commission, establishing a set of rules that are very similar to those foreseen for the Structural Funds.

During 2009, no irregularities have been reported by the Member States concerning this Fund. As indicated in Chapter 1 of this document, the reporting module for the EFF irregularities is currently under development.

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<sup>59</sup> OJ L120, 10.05.2007.

## 7. COHESION POLICY (ANNEXES 16-20)

The approach followed for the 2009 Statistical Annex changes in relation to previous years. The focus will be much less on yearly developments and will concentrate more on the Programming Period developments in order to reflect the real functioning and implementation of the Cohesion Policy measures.

In 2009, Member States reported 4°931 irregularities under the different regulations that cover the reporting obligation for the Cohesion Policy. 4°653 were reported under Regulation (EC) No 1681/94 which covers the four Structural Funds<sup>60</sup>; 92 under Regulation (EC) No 1831/94 (on the Cohesion Fund, with the exception of the period 2007-2013) and 186 irregularities under Regulation No 1828/2006, which covers the programming period 2007-2013. Annexes 18 to 20 provide more details about the irregularities reported under the different regulations.

The total amount affected by irregularities in 2009 was EUR 1.22 billion, EUR 1.15 billion of which was from the Structural Funds and EUR 67.3 million from the Cohesion Fund. Irregularities reported in this sector were equivalent to 2.53% of the resource allocations for 2009.

### 7.1. Reporting Discipline

In 2009 the new reporting system IMS was launched also for the Cohesion Policy area, following the Agricultural sector. Member States were involved at several stages (training, definition of the reporting structure and assistance during the migration).

In particular, Member States were requested to provide a description of the national reporting structure and provide assistance, if needed, for the migration of the data from the old system to the new.

To date, all Member States have communicated their reporting structures (or at least an interim structure) except France. Ireland has provided a reporting structure only for the European Social Fund (ESF). Sweden has indicated the reporting structure for the new programming period, but no responsible authorities has been indicated for previous periods. The Czech Republic and Spain have communicated their reporting structures, but they have not been implemented yet in the system due to some technical problems (for CZ) or their particular complexity (in the case of ES). OLAF

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<sup>60</sup>

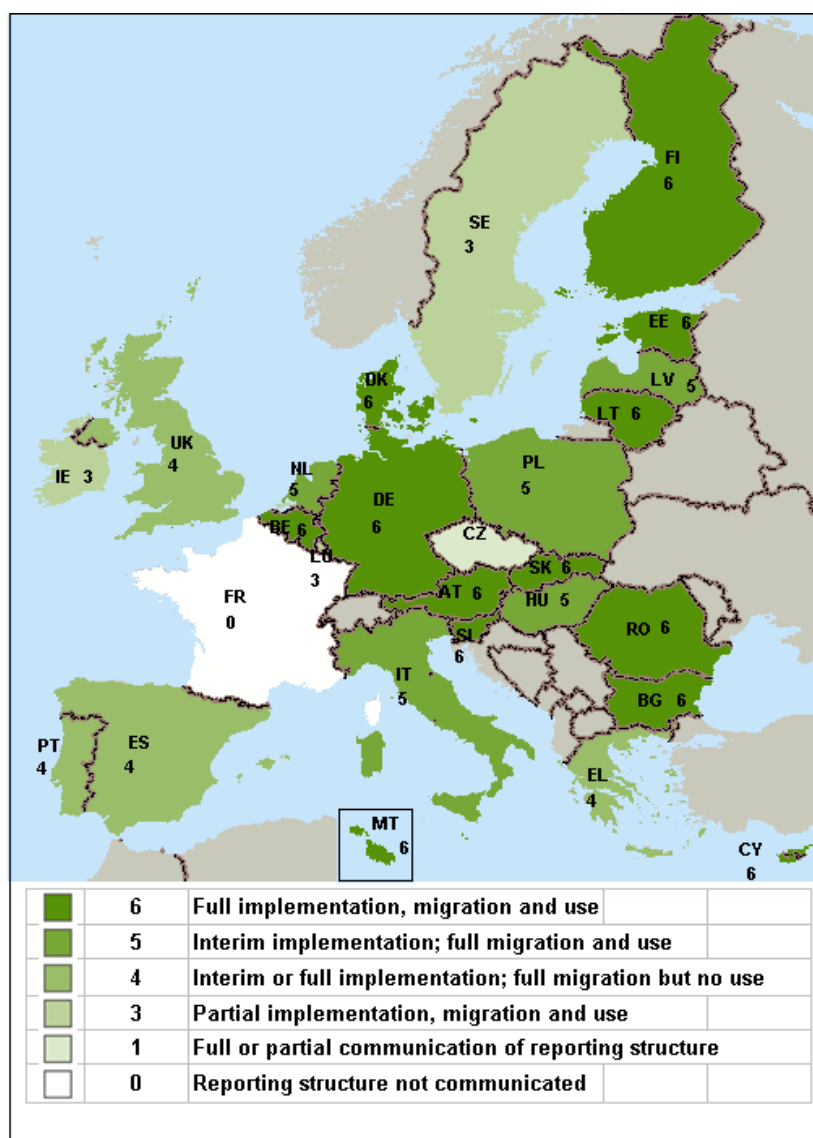
The four Structural Funds are:

- a) The European Regional Development Fund (ERDF), supporting primarily productive investment, infrastructure and development of SMEs;
- b) The European Social Fund (ESF), supporting measures to promote employment (education systems, vocational training and recruitment aids);
- c) The Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF-Guidance), supporting measures for the adjustment of agricultural structures and rural development;
- d) The Financial Instrument for Fisheries Guidance (FIFG), supporting measures for the adjustment of the fisheries sector and the ‘accompanying measures’ of the common fishery policy.

puts in place everything that is possible to solve these situations in the shortest possible delay, but in the absence of the necessary information this is not possible.

Map SF1 shows the situation of IMS implementation for each Member State.

*Map SF1: Implementation of IMS by Member State*



If a Member State has communicated an interim structure, it should be noted that the system is fully operational for the Member State concerned. All countries with a value of 4 or higher are to be considered at a satisfactory level of implementation. Problems still exist with the Member States presenting a value of 3 or less, with the exception of the Czech Republic for the reasons explained above.

As long as module 1828 is not fully deployed, module 1681 has been designed to temporarily accept irregularities concerning the programming period 2007-2013.

Given the complexity of the implementation of module 1681, module 1831 has suffered some delays of implementation and only few countries (presenting a less

complicated reporting structure) have received access to this module in 2009 as showed in Table SF 1. The full implementation of module 1831 is expected in 2010.

Table SF 1 IMS module 1831: status of implementation by beneficiary country

BG*	Y	<table border="1"> <thead> <tr> <th colspan="2">Legend</th> </tr> </thead> <tbody> <tr> <td>Y</td> <td>Implemented and used</td> </tr> <tr> <td>I</td> <td>Implemented but no irregularities received</td> </tr> <tr> <td>N</td> <td>Not implemented</td> </tr> </tbody> </table>	Legend		Y	Implemented and used	I	Implemented but no irregularities received	N	Not implemented
Legend										
Y	Implemented and used									
I	Implemented but no irregularities received									
N	Not implemented									
CY	I									
CZ**	N									
EE	Y									
EL	Y									
ES**	N									
HU	I									
IE	N									
LT	Y									
LV	I									
MT	Y									
PL	Y									
PT	Y									
SI	Y									
SK	I									

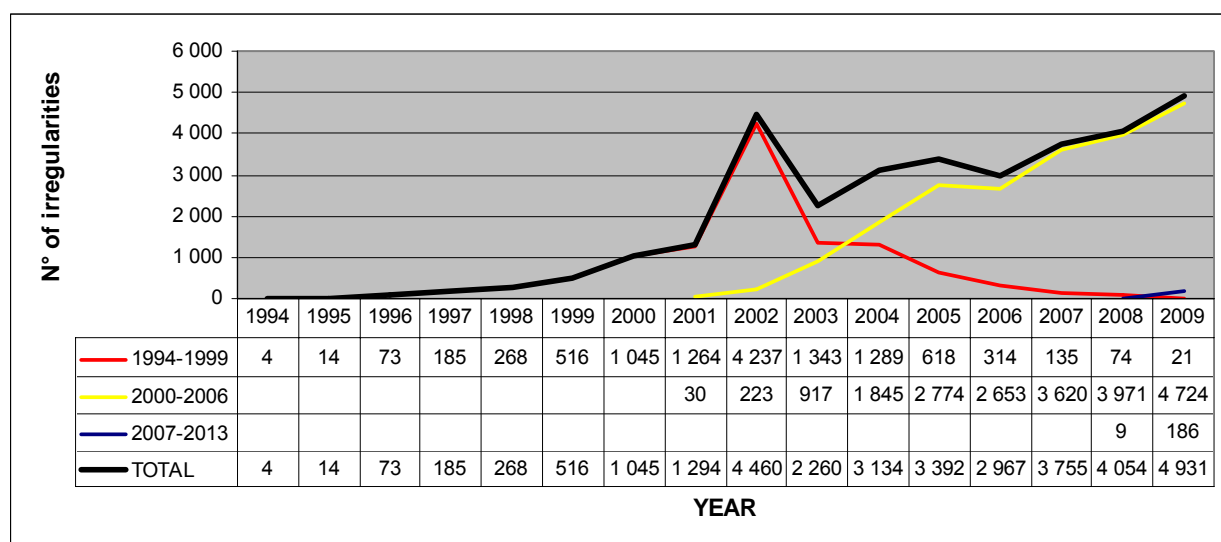
\* Irregularities temporarily accepted awaiting solution of some technical problems in Module 1681  
 \*\* Reporting structure has been received but not yet implemented

## 7.2. General Trends

### 7.2.1. Yearly trends

In 2009 the number of reported irregularities and related financial amounts involved increased in relation to 2008 and represent the highest peak registered so far in the Cohesion Policy. 4°931 irregularities were received throughout the year, involving an overall amount of EUR 1.22 billion, the highest ever. The number of irregularities increased by 23%, while the irregular amounts increased by 109%.

Chart SF 1: 1994-2009 trend concerning number of reported irregularities for the Cohesion Policy

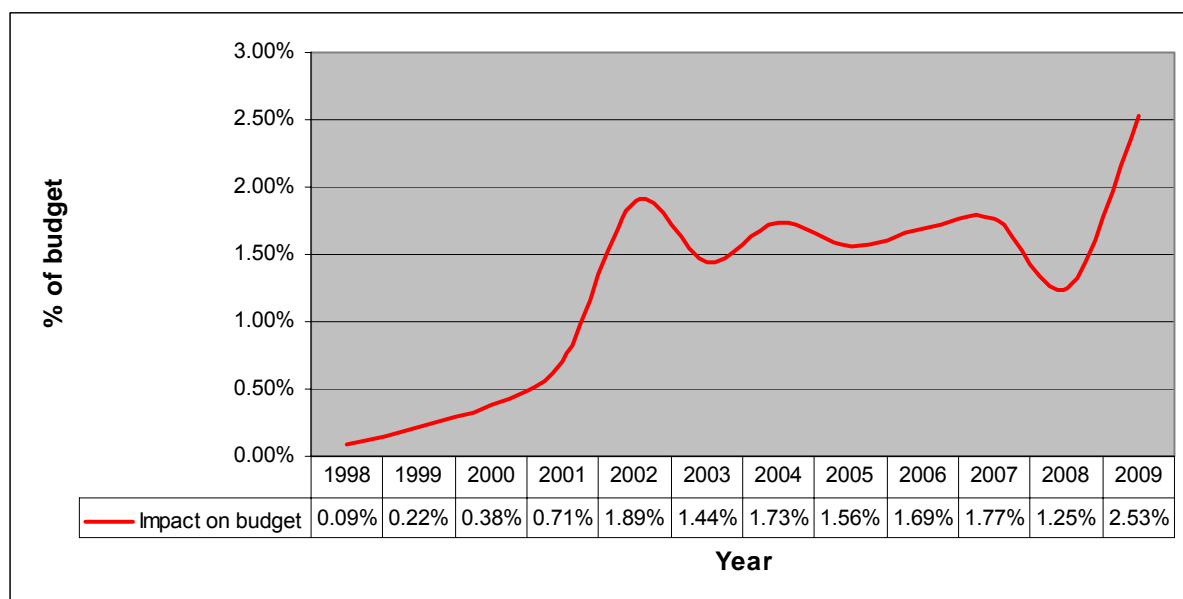


Three concurring elements contribute to explain this further increase:

- (1) Reported irregularities concern three programming periods, as highlighted in Chart SF 1;
- (2) The number of irregularities reported by the 2 new Member States (Bulgaria and Romania) is for the first time significant;
- (3) 2009 is the year before the closure of the majority of the programmes. Also for the closure of the previous programming period (1994-1999) a comparably significant increase was registered. Periods of programmes closures always coincides with increased checks, audits and reporting.

Since 1998, the impact of reported irregularities on the Cohesion Policy budget has showed two important increases, the first in 2002 and the second in 2009, as showed in Chart SF 2. In proportion, the increase in 2002 (more than doubled the value of 2001) has been higher than that in 2009 (almost the double of the value of 2008). In both cases, the explanation rests in the approaching closure of the corresponding programming period.

*Chart SF 2: Impact of irregularities on the Cohesion Policy budget*



The second interesting aspect is that, in the period between 2003 and 2007, the impact on the budget of the reported irregularities has remained rather stable supporting the impression that a certain consistency and continuity have been achieved in the reporting of irregularities by Member States. In general, the increased level of impact of reported irregularities on the Cohesion Policy budget should be interpreted positively, as increased controls and compliance with the reporting obligations.

However, on the other hand, figures showed in Chart SF2 are still difficult to interpret because the reported irregularities refer to programmes and projects that are of a multi-annual nature and, furthermore, as already indicated the reported

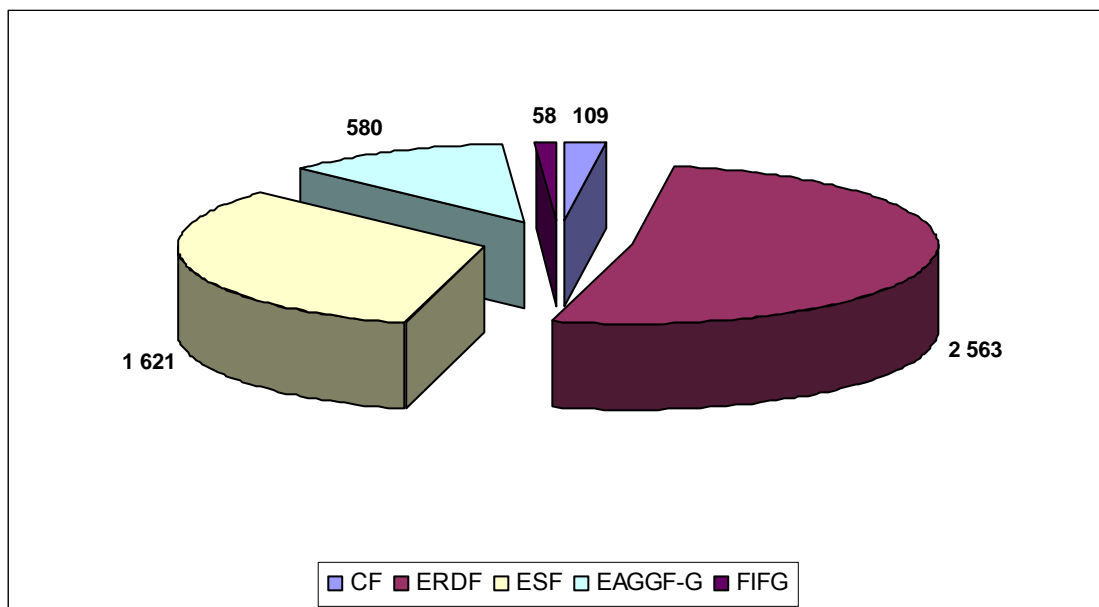
irregularities refer to three different programming periods<sup>61</sup>. Furthermore, the budget for the year 2009, on which the impact of irregularities reported by the Member States has been calculated, is indicating the resources allocated to the third year of the programming period 2007-2013, while only a very limited number of the reported irregularities are 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 irregularities by programming period. Paragraph 7.3 will deal with these specific issues.

### 7.2.2. Irregularities reported in 2009

Chart SF 3 shows the distribution among the Funds of the irregularities reported in 2009. As in previous years, the highest number of irregularities was reported in relation to ERDF.

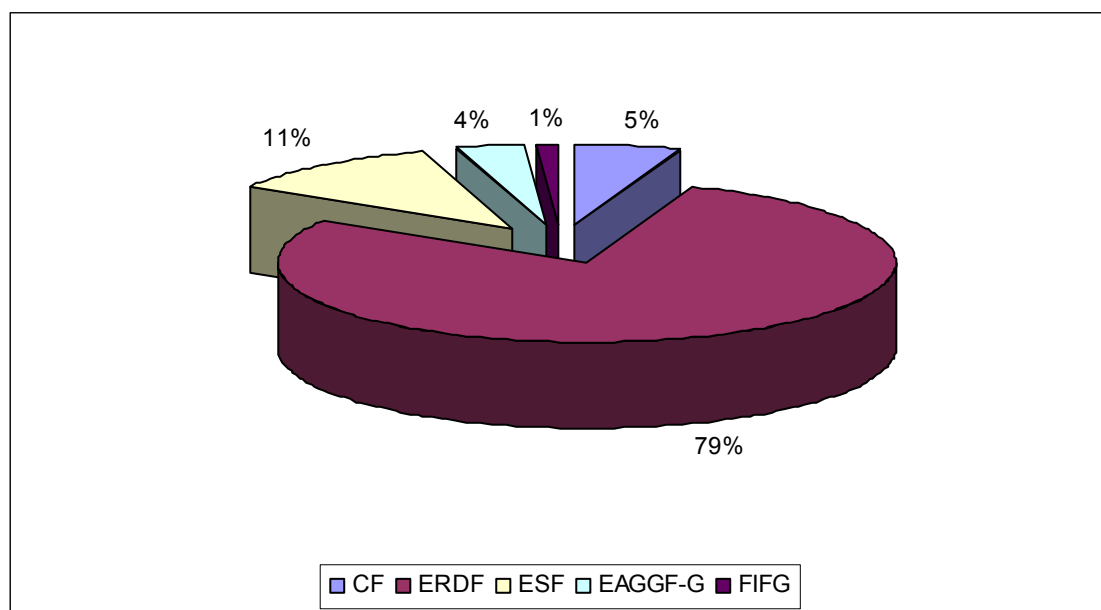
Chart SF 3: Distribution of irregularities by Fund - 2009



The predominance of ERDF is even more evident in relation to the amounts affected by irregularities, of which about 78% are related to it, as showed in Chart SF 4.

<sup>61</sup> In reality the programming periods (and the related irregularities) are four : 1989-1993 ; 1994-1999 ; 2000-2006 and 2007-2013, but the overlaps involve a maximum of three periods.

Chart SF 4: Distribution of irregular amounts by Fund - 2009



The countries having reported the highest number of irregularities in 2009 were Italy, the United Kingdom, Portugal and Germany. Annexes 18.1, 18.2, 19 and 20 detail the number of irregularities and related amounts reported by Member State.

### 7.2.3. Detection methods

Table SF1 shows the most frequent detection methods (TOP 10) and the related detected amounts.

Table SF1: detection methods

CODE	DESCRIPTION	FREQUENCY	SHARE OF TOTAL	INVOLVED AMOUNTS	SHARE OF TOTAL	AVERAGE AMOUNTS
		N	%	EUR	%	EUR
	National administrative or financial control	1 031	20.9%	240 359 499	19.6%	233 132
208	Documentary check	602	12.2%	36 657 940	3.0%	60 894
999	Other facts	563	11.4%	85 272 768	7.0%	151 461
230	On the spot checks	463	9.4%	80 196 910	6.5%	173 211
206	Control of documents	363	7.4%	63 662 639	5.2%	175 379
199	Other controls	230	4.7%	222 730 486	18.2%	968 393
	Control on the premises of the company	137	2.8%	50 781 510	4.1%	370 668
307	Routine	129	2.6%	17 898 296	1.5%	138 746
320	Ex post control	123	2.5%	7 081 180	0.6%	57 571
302	Informant	96	1.9%	5 917 166	0.5%	61 637
Sub-Total TOP 10		3 737	75.8%	810 558 394	66.2%	216 901
TOTAL		4 931	100.0%	1 224 427 269	100.0%	248 312

The “TOP 10” detection methods relate to 76% of the total reported irregularities and 66% of the irregular amounts. The main two types of controls emerging from the table are documentary checks and on-the-spot controls.



It should be emphasised the excessive use of generic codes such as "Other facts" and "Other controls". The lack of further information on these methods is particularly regrettable, as they concern about 30% of detected amounts. In comparison with 2008, the "National administrative or financial control has become the most frequently reported detection method.

#### 7.2.4. Types of irregularity

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. As a result, among the most frequent types of irregularity reported by Member States are the "not eligible expenditure" and "missing or incomplete supporting documents".

Table SF2 shows the most frequent types of irregularities together with the amounts involved and the indicative average amount:

Table SF2: Most frequent types of irregularities reported by Member States

CODE	DESCRIPTION	FREQUENCY	SHARE OF	INVOLVED	SHARE OF	AVERAGE
		N	TOTAL	AMOUNTS	TOTAL	AMOUNTS
			%	EUR	%	EUR
325	Not eligible expenditure	1 114	22.6%	244 766 736	20.0%	219 719
	Missing or incomplete					
210	supporting documents	530	10.7%	67 103 855	5.5%	126 611
	Infringement of rules concerned					
614	with public procurement	485	9.8%	262 973 678	21.5%	542 214
999	Other irregularities	416	8.4%	266 573 504	21.8%	640 802
	Failure to fulfill commitments					
741	entered into	332	6.7%	23 714 167	1.9%	71 428
	Missing or incomplete					
201	documents	268	5.4%	23 963 212	2.0%	89 415
	Failure to respect other					
612	regulations / contracts					
	provisions	188	3.8%	25 306 377	2.1%	134 608
	Action not carried out in					
812	accordance with rules	151	3.1%	20 205 732	1.7%	133 813
	False or falsified supporting					
213	documents	112	2.3%	44 200 982	3.6%	394 652
601	Failure to respect deadlines	111	2.3%	20 121 055	1.6%	181 271
Sub-Total TOP 10		3 707	75.2%	998 929 297	81.6%	269 471
TOTAL		4 931	100.0%	1 224 427 269	100.0%	248 312

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.

Unfortunately, the generic code "other irregularities" is still the second most used category and it is also the typology presenting the highest average amounts.

The "nature" of the detected and reported irregularities points at the fact that detected irregularities mainly are related to the "Implementation stage" of the project life cycle, while only a smaller part refers to the "Selection / Procurement Stage".

### 7.2.5. Suspected frauds

First estimations of which proportion of the reported irregularities could be defined as “suspected fraud” 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 status 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 “qualify” 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 fraudulent only after a sentence is issued by a competent court<sup>62</sup>.

Thanks to the introduction of the new reporting system IMS, Member States have classified (that is to say that they indicated whether the reported situation was evaluated as an administrative irregularity or a suspected fraud) 85% of the reported irregularities. It is a further encouraging progress in relation to the previous year, when 78% of the reported cases provided for this indication. France, Spain and partially Ireland are the only Member States that still do not comply with this obligation.

About 8.9% of the 4°128 irregularities for which qualification has been provided were qualified as “suspected fraud” or “established fraud”. This result is one percentage point higher than last year.

Furthermore, by applying the same analytical techniques of the previous years<sup>63</sup> 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. In fact, the results differ in only 2.3% of the cases. However, all these differences are related to cases that according to the analysis by the Commission should have been classified as cases of suspected frauds.

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<sup>64</sup>.

Despite this, still some caution is recommended in assessing the meaning of these figures. A 100% qualification (towards which the system is approaching every year)

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<sup>62</sup> The definition of **suspected fraud** is explained in Paragraph 1.2.3.

<sup>63</sup> 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 2000-2009 in order to produce Chart SF5.

<sup>64</sup> The descriptions provided by the Member States of the *modus operandi* linked to these communications of irregularity show that falsified documents, declarations of certificates were used. Under these circumstances, the Commission believes that those communications of irregularities should have been classified as “suspicion of fraud”.

from the Member States would remove this caution, but these results are, indeed, encouraging.

Chart SF5<sup>65</sup> presents the trend of FFL<sup>66</sup> and FAL<sup>67</sup> in the last nine years calculated according to the Commission's estimations.

Chart SF 5: FFL and FAL from 2000 to 2009

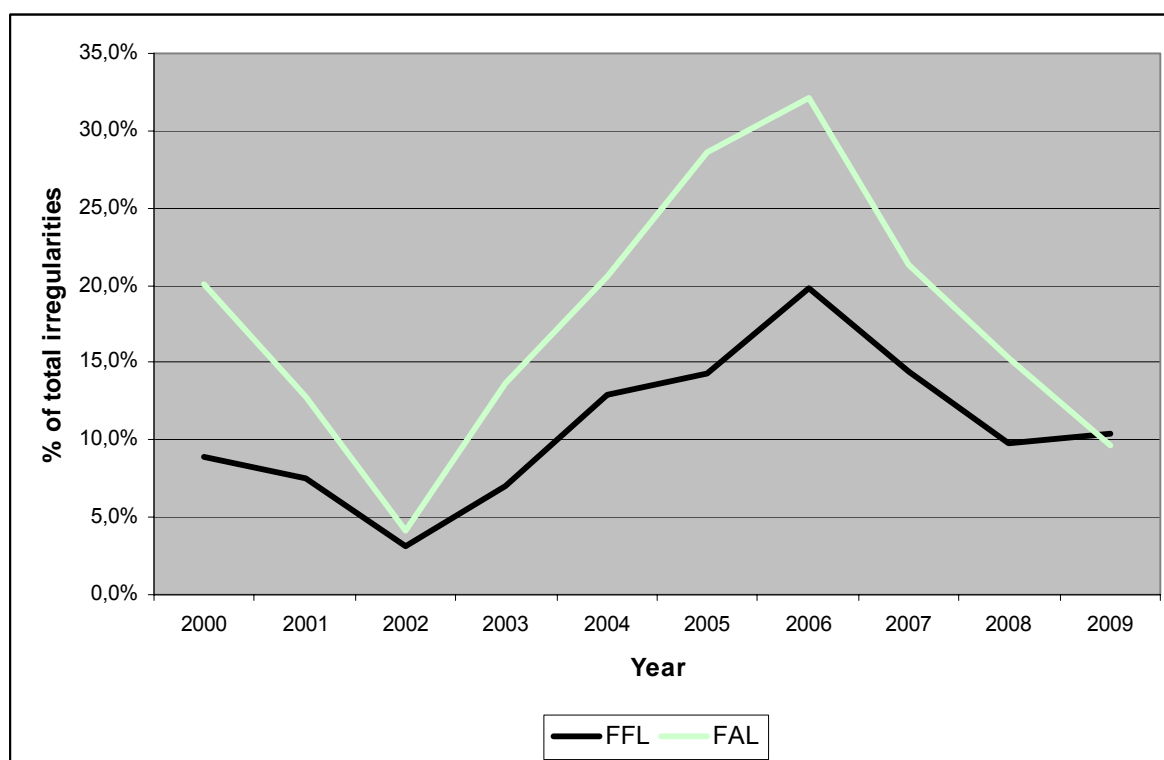


Table SF3: FFL and FAL from 2000 to 2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
FFL	8.9%	7.5%	3.2%	7.0%	12.9%	14.3%	19.9%	14.5%	9.8%	10.4%
FAL	20.1%	12.8%	4.1%	13.6%	20.5%	28.5%	32.2%	21.3%	15.3%	9.6%

The analysis of the Commission highlights a decreasing tendency of the reported suspicion of the amounts related to cases of suspicion of fraud (expressed as percentage of the total reported irregular amounts) from 2006 to 2009, while the FFL has been slightly increasing from 2008 to 2009, but its variation is not significant. It is premature to conclude about a diminution of fraud in the sector, as results may be easily influenced by the detection of cases of suspicion of fraud with bigger or smaller amounts involved.

<sup>65</sup> As data referred to the Cohesion fund are considered not entirely reliable for this type of estimation, they have been excluded from this chart. See also footnotes 62 and 63 for more details about data showed on this chart.

<sup>66</sup> FFL is defined in paragraph 1.2.4.

<sup>67</sup> FAL is defined in paragraph 1.2.5.

On the basis of this estimation, the FrR<sup>68</sup> for the annual budget 2009 of the Cohesion Policy is 0.23%.

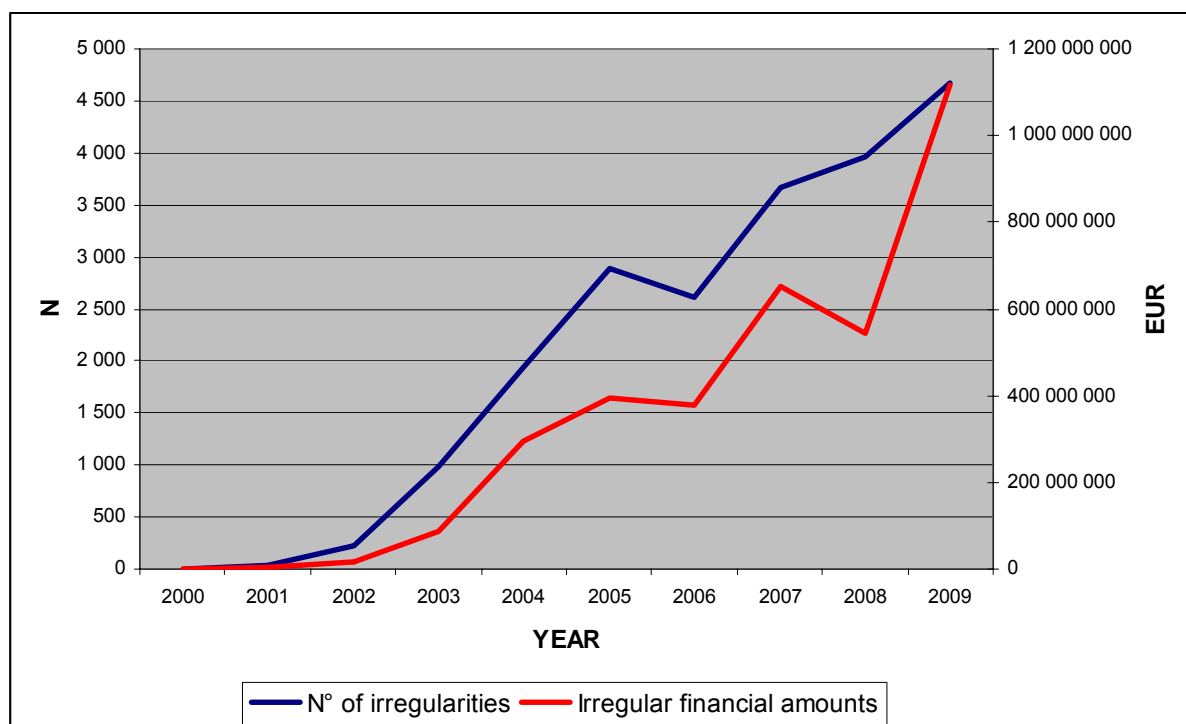
However, this does not necessarily mean that this amount turns out into a loss for the European budget. In fact, these amounts relate to suspected fraudulent behaviours that have been detected by national authorities and for which recovery procedures are ongoing. Moreover, when these situations were detected in early stages of the process, the “potential” loss is even decreased, because no payments or only interim payments have been granted. The amounts still to be recovered linked to cases of “suspected fraud” concern 0.11% of the EU budget.

### 7.3. Specific analysis – Irregularities related to the programming period 2000-2006

The specific analysis focuses on the programming period 2000-2006; the data set is composed of all the irregularities related to it reported until the fourth quarter 2009. In order to improve the comparability among the different Member States, the irregularities referred to the Cohesion Fund are not included and a specific subparagraph is dedicated to it at the end.

Chart SF6 shows the trend of reported irregularities (both in terms of numbers and financial amounts involved) referred to the programming period 2000-2006 as from the year 2000.

*Chart SF6: 2000-2009 trend concerning number of reported irregularities and irregular amounts – Programming Period 2000-2006*



<sup>68</sup> The definition of FrR is in paragraph 1.2.4.

Irregularities related to this 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. 2009 is the year approaching the final closure of the programmes and this explains the further increase in relation to the previous year in terms of reported irregularities.

Table SF 4 shows the data displayed on Chart SF 6 and also includes the amounts of annual payments from the Commission to the Member States indicating the related Irregularity Rate (IrR)<sup>69</sup>.

*Table SF 4: number of reported irregularities, irregular amounts, payments and irregularity rate – Programming Period 2000-2006*

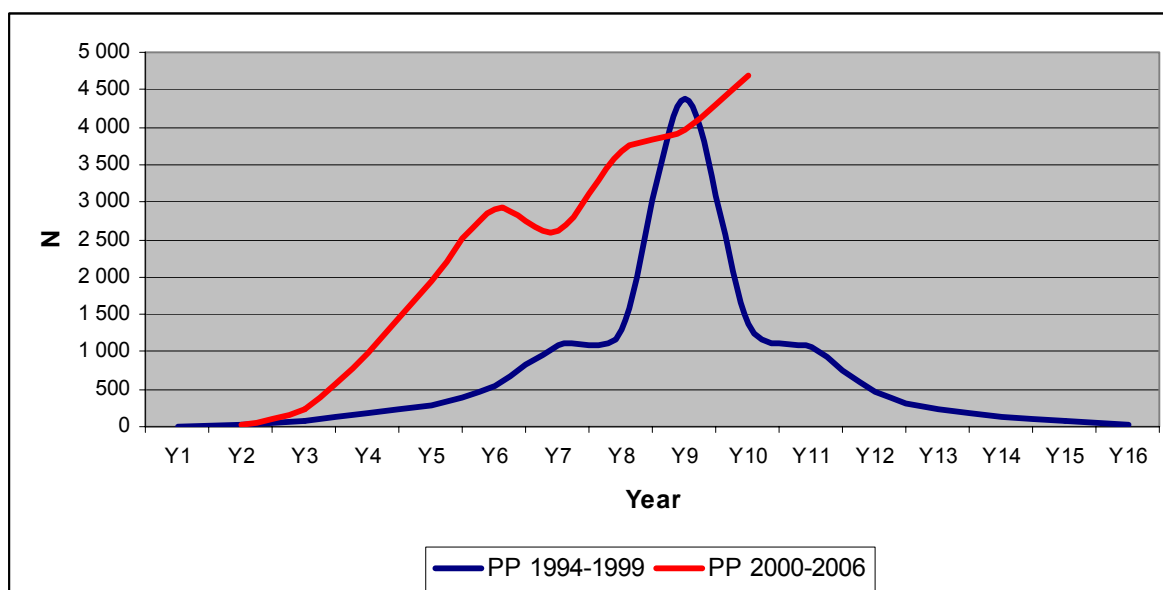
	N° of irregularities	Irregular financial amounts	Payments	IrR
YEAR	N	EUR	EUR	%
2000	0	0	5 896 617 764	0.00%
2001	30	2 448 674	14 637 640 421	0.02%
2002	223	17 452 085	19 012 125 217	0.09%
2003	923	86 944 516	22 614 405 912	0.38%
2004	1 847	265 271 318	27 843 965 869	0.95%
2005	2 737	346 524 005	29 492 375 271	1.17%
2006	2 546	374 195 974	29 006 976 704	1.29%
2007	3 560	639 022 056	31 253 098 906	2.04%
2008	3 857	496 002 260	23 777 411 214	2.09%
2009	4 632	1 111 971 171	6 184 649 596	17.98%
<b>TOTAL</b>	<b>20 355</b>	<b>3 339 832 060</b>	<b>209 719 266 874</b>	<b>1.59%</b>

The irregularity rate for the year 2009 should not induce any alarm. It was already predicted in the Annual Report 2008 that it would be increasing due to the decrease in the payments and the incoming of more irregularities. The interesting information in Table SF 4 is in particular the overall IrR for the whole programming period of 1.6%.

Chart SF7 puts in comparison the trend related to the programming period 2000-2006 with that of the previous round in terms of numbers of reported irregularities, in order to show that even after the year of closure of the period 1994-1999 (Year 9), irregularities keep on being communicated.

*Chart SF 7: Comparison between Programming Periods 1994-1999 and 2000-2006*

<sup>69</sup> The definition and calculation method for IrR is in paragraph 1.2.4.



The chart clearly shows that the number of irregularities related to the current programming period reported in the first 9 years from 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, increased checks in quality and quantity which result in more detected and reported irregularities.

### 7.3.1. Irregularities affecting the different funds

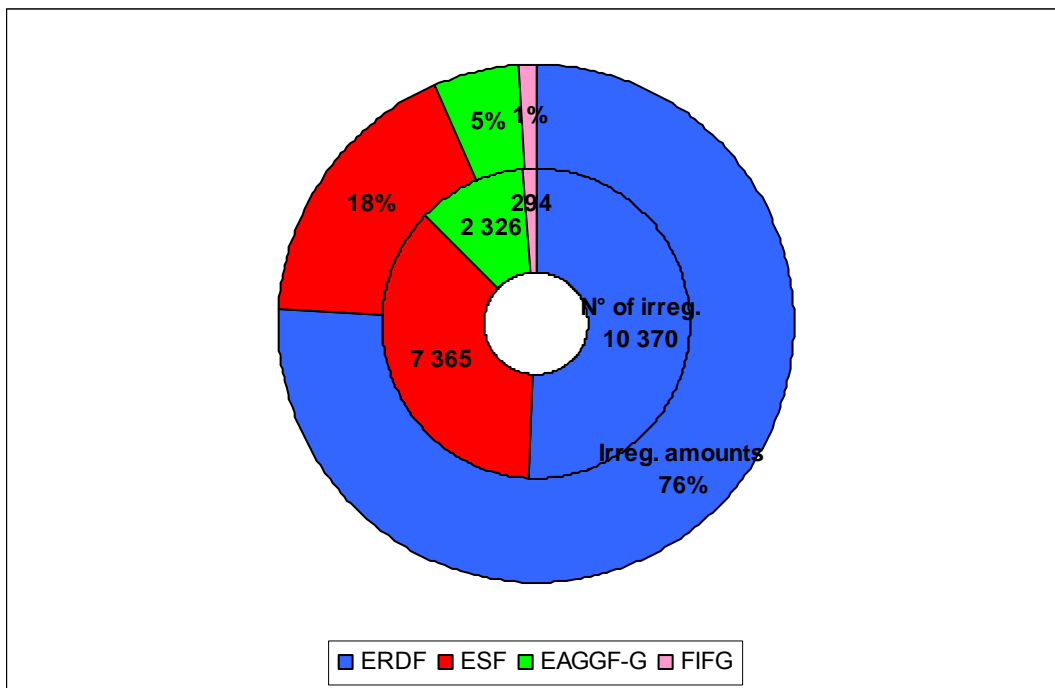
Table SF5 summarises, in relation to each of the Structural Funds, the number of irregularities, the related irregular financial amounts, the payments and the IrR.

Table SF5: Irregularities, payments and IrR by Fund

FUND	N° of irregularities	Irregular financial amounts	Payments	IrR
	N	EUR	EUR	%
ERDF	10 370	2 528 809 574	121 443 076 413	2.1%
ESF	7 365	596 105 817	63 795 358 611	0.9%
EAGGF-G	2 326	179 076 144	21 180 473 978	0.8%
FIFG	294	35 840 524	3 629 416 390	1.0%
<b>TOTAL</b>	<b>20 355</b>	<b>3 339 832 060</b>	<b>210 048 325 392</b>	<b>1.6%</b>

Chart SF 8 displays the distribution of the 21 028 irregularities and the related irregular financial amounts among the different Funds. The inner circle represents the distribution of irregularities by number, the outer by irregular financial amounts.

Chart SF8: Distribution of irregularities and related irregular financial amounts by Fund



While in terms of number of reported irregularities the ERDF seems slightly under-represented in comparison with its share of the payments (52%), the irregularities financial amounts related to it have a higher relative weight that is greatly exceeding its share of the payments (76% of the total irregular amounts against 58% of the total payments). This difference may be justified by the fact that the ERDF finances projects of a higher value and therefore irregularities tend also to have a greater amount.

It is interesting to note that in Table SF 5, the other three funds have an IrR that is very similar, while that of the ERDF is more than their double.

### 7.3.2. Irregularities by Objective

The Cohesion policy 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<sup>70</sup>.

<sup>70</sup>

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).

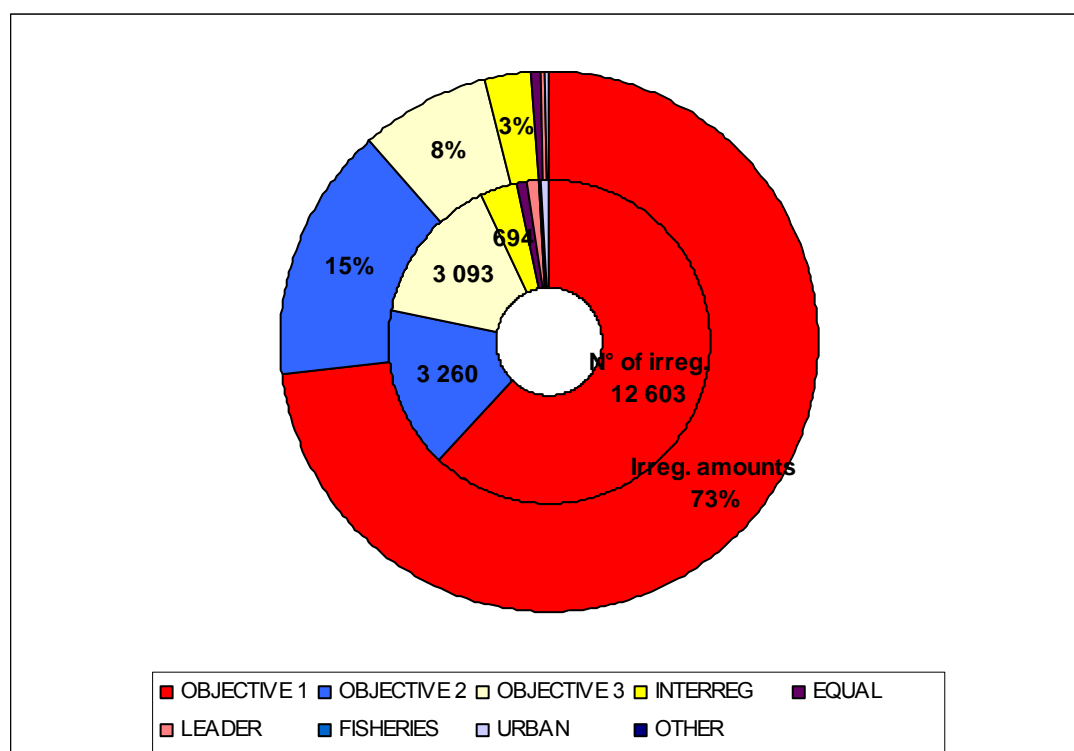
Table SF6 summarises, in relation to each of the Objective, the number of irregularities, the related irregular financial amounts, the payments and the IrR.

Table SF6: Irregularities, payments and IrR by Objective

OBJECTIVE	N° of irregularities	Irregular financial amounts	Payments	IrR
	N	EUR	EUR	%
OBJECTIVE 1	12 603	2 439 915 382	151 369 020 388	1.6%
OBJECTIVE 2	3 260	511 104 018	22 743 788 486	2.2%
OBJECTIVE 3	3 093	255 743 487	24 247 005 059	1.1%
INTERREG	694	93 782 299	5 208 992 564	1.8%
EQUAL	256	20 555 050	2 910 119 486	0.7%
LEADER	206	6 013 478	1 948 917 861	0.3%
FISHERIES out Obj.1	99	3 997 393	934 706 075	0.4%
URBAN	121	8 064 160	685 775 471	1.2%
OTHER	23	656 793	N/A	N/A
<b>TOTAL</b>	<b>20 355</b>	<b>3 339 832 060</b>	<b>210 048 325 390</b>	<b>1.6%</b>

Chart SF9 shows how the irregularities related to the programming period 2000-2006 were distributed among the different objectives.

Chart SF9: Distribution of irregularities and related irregular financial amounts by Objective



The distribution of the irregularities is to a certain extent in line with the allocation of the financial resources among the different objectives, with an over representation of irregularities related to objective 2 programmes and an under representation of irregularities affecting objective 3 programmes.



Furthermore, the IrR for the Objective 2 programmes is the highest (2.2% of the payments). The IrR for the Objective 1 equals the overall IrR (1.6%), while that for Objective 3 programmes, Fisheries out of Objective 1 regions, the Equal community initiative, and Leader+ are lower or significantly lower (respectively 1.1%, 0.4%, 0.7% and 0.3%).

These elements may imply some under-reporting in relation to programmes / initiatives presenting a very low IrR. The interpretation of the irregularity rate of Objective 2 programmes is more difficult as it may indicate a greater effectiveness of the control systems of these programmes in detecting the irregularities or denote some problematic aspects in the implementation of these programmes. Information currently available does not allow solving this dilemma.

### 7.3.3. *Irregularities by Member State*

Table SF7 summarises, in relation to each Member State, the number of irregularities, the related irregular financial amounts, the payments and the IrR. For convenience, irregularities related to INTERREG programmes have been grouped together and have not been related to a specific country.

The Initiative “PEACE” has been grouped together with the INTERREG programmes.

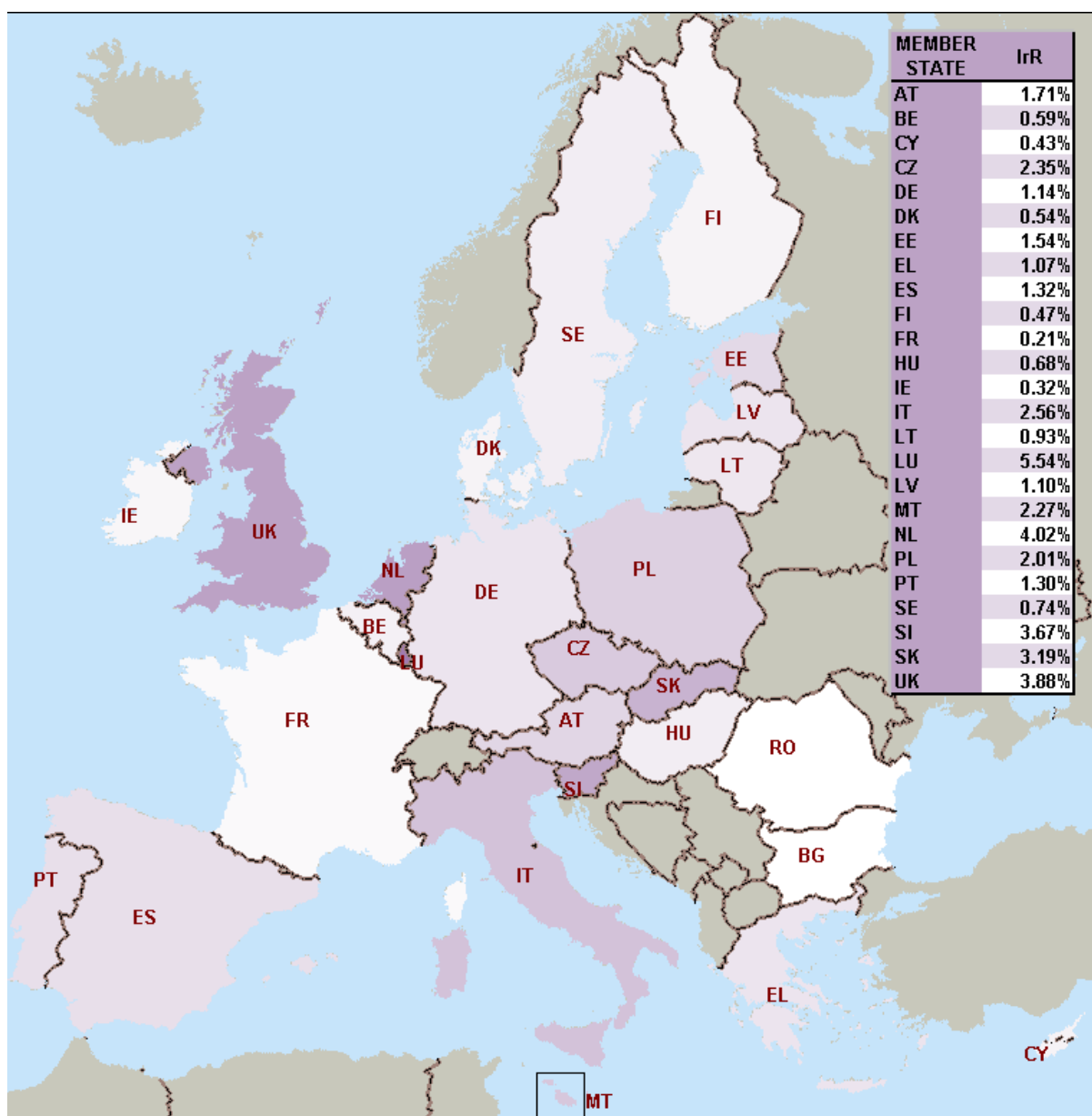
Table SF7: Irregularities, payments and IrR by Member State

	N° of irregularities	Irregular financial amounts	Payments	IrR
MEMBER STATE	N	EUR	EUR	%
AT	242	29 103 844	1 702 661 450	1.71%
BE	184	11 338 985	1 933 684 111	0.59%
CY	6	227 856	52 436 077	0.43%
CZ	202	36 066 387	1 535 632 697	2.35%
DE	3 851	336 172 206	29 604 565 775	1.14%
DK	79	3 827 212	706 191 858	0.54%
EE	102	5 500 133	356 488 895	1.54%
EL	588	233 480 537	21 834 733 635	1.07%
ES	2 411	589 354 340	44 738 634 478	1.32%
FI	223	9 359 522	2 011 004 334	0.47%
FR	694	32 936 550	15 487 658 548	0.21%
HU	210	12 918 989	1 907 061 151	0.68%
IE	73	9 954 454	3 090 675 422	0.32%
IT	3 252	722 891 377	28 217 042 730	2.56%
LT	78	8 025 906	861 687 124	0.93%
LU	29	4 060 846	73 332 652	5.54%
LV	73	6 626 632	601 914 879	1.10%
MT	10	1 387 088	61 212 112	2.27%
NL	819	103 270 997	2 571 095 397	4.02%
PL	1 103	160 100 408	7 975 310 919	2.01%
PT	2 283	256 151 349	19 675 703 749	1.30%
SE	621	15 215 229	2 062 489 376	0.74%
SI	20	8 456 158	230 630 890	3.67%
SK	169	34 338 781	1 077 631 944	3.19%
UK	2 339	615 283 975	15 875 026 600	3.88%
INTERREG	694	93 782 299	5 803 818 587	1.62%
<b>TOTAL</b>	<b>20 355</b>	<b>3 339 832 060</b>	<b>210 048 325 391</b>	<b>1.59%</b>

Map 2 displays the IrR by Member State highlighting the high values of Luxembourg, United Kingdom, the Netherlands and Slovenia and the low values of France and Ireland in particular. Low IrR does not necessarily imply that good management and control systems have been put in place. In general this is more the case for IrR around the average value of 1.6%.

The IrR of the Netherlands and of the United Kingdom could also explain the fact that Objective 2 programmes have the highest IR, as indicated in Table SF 6 and could also have its explanation in a higher percentage of the expenditure audited in these two countries. Unfortunately, at the moment of closing this document, data about audited expenditure were not available for all Member States and therefore did not allow for this type of analysis to be conducted.

Map SF2: IR by Member State



#### 7.3.4. Suspected frauds

On the basis of the method used for classifying the reported irregularities as illustrated in paragraph 7.2.6, it is possible to give an attempt of identifying the impact on the programming period 200-2006 of the suspicion of fraud calculated on the basis of the irregularities reported until the 4<sup>th</sup> quarter 2009.

Table SF8 shows an overview of the number of suspicions of fraud detected and reported and the related financial amounts, the payments and the FrR by Fund.

Table SF8: Fraud rate by Fund

	N° of suspected fraud cases	Irregular financial amounts	Payments	FrR
FUND	N	EUR	EUR	%
ERDF	938	354 656 944	121 443 076 413	0.29%
ESF	814	123 428 181	63 795 358 611	0.19%
EAGGF-G	429	42 123 776	21 180 473 978	0.20%
FIFG	53	9 402 900	3 629 416 390	0.26%
<b>TOTAL</b>	<b>2 234</b>	<b>529 611 801</b>	<b>210 048 325 392</b>	<b>0.25%</b>

ERDF shows the highest FrR, followed by FIFG. The overall FrR is 0.25%. This figure is exclusively the result of the detected and reported cases of suspected and established fraud and therefore is still far from a real estimation of how much fraud affects the Cohesion Policy budget.

In order to obtain a more accurate picture it would be necessary to establish the exact extension of audits or checks from which these results were obtained.

Table SF9 shows the number of detected and reported suspicions of fraud, the related financial amounts, the payments and the FrR by Objective

Table SF9: Suspicions of fraud, payments and FrR by Objective

	N° of suspected fraud cases	Irregular financial amounts	Payments	FrR
FUND	N	EUR	EUR	%
OBJECTIVE 1	1 518	459 612 197	151 369 020 388	0.30%
OBJECTIVE 2	236	21 970 385	22 743 788 486	0.10%
OBJECTIVE 3	392	42 041 673	24 247 005 059	0.17%
INTERREG	32	2 583 929	5 208 992 564	0.05%
EQUAL	18	1 369 708	2 910 119 486	0.05%
LEADER	22	884 069	1 948 917 861	0.05%
FISHERIES out Obj. 1	10	887 218	934 706 075	0.09%
URBAN	6	262 622	685 775 471	0.04%
<b>TOTAL</b>	<b>2 234</b>	<b>529 611 801</b>	<b>210 048 325 390</b>	<b>0.25%</b>

The analysis by Objective adds some further elements to establish the impact of suspicions of fraud on the budget. In particular, among the Objectives, programmes referred to the Objective 1 regions present the highest rate (0.30%), about the double than the second highest of the Objective 3 programmes (0.17%). The two Objectives represent, somehow, two extremes, as regions benefitting from Objective 1 programmes are those lagging behind, while those interested by the Objective 3 programmes are the richest. Objective 2 programmes present a lower rate (0.10%), especially in consideration of the fact that those programme presented the highest IrR. URBAN and EQUAL initiatives have the lowest FrR (0.04%).

Table SF 10 shows the number of detected and reported suspicions of fraud, the related financial amounts, the payments and the FrR by Member State. Again, suspicions of fraud related to INTERREG programmes have been grouped together and have not been related to a specific country, and the Initiative "PEACE" has been grouped together with INTERREG programmes.

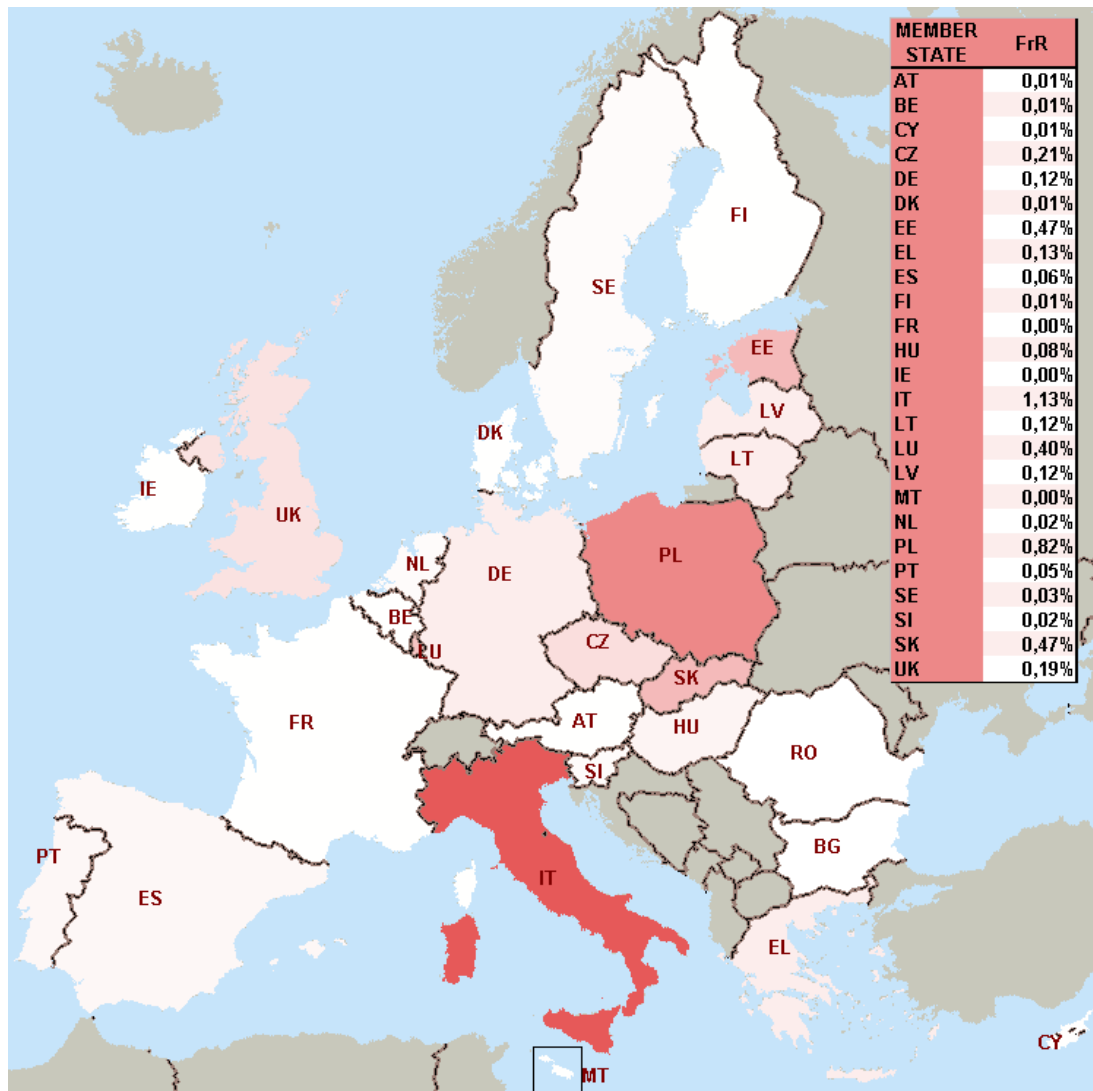
. Table SF10: Suspicions of fraud, payments and FrR by Member State

	N° of suspected fraud cases	Irregular financial amounts	Payments	FrR
MEMBER STATE	N	EUR	EUR	%
AT	4	103 586	1 702 661 450	0.01%
BE	5	186 187	1 933 684 111	0.01%
CY	2	3 601	52 436 077	0.01%
CZ	10	3 273 452	1 535 632 697	0.21%
DE	361	34 265 736	29 604 565 775	0.12%
DK	2	62 205	706 191 858	0.01%
EE	24	1 685 721	356 488 895	0.47%
EL	25	28 263 767	21 834 733 635	0.13%
ES	116	25 301 380	44 738 634 478	0.06%
FI	12	163 087	2 011 004 334	0.01%
FR	12	267 401	15 487 658 548	0.00%
HU	18	1 442 504	1 907 061 151	0.08%
IE	2	0	3 090 675 422	0.00%
IT	1 131	320 120 863	28 217 042 730	1.13%
LT	10	1 052 574	861 687 124	0.12%
LU	8	292 071	73 332 652	0.40%
LV	4	740 948	601 914 879	0.12%
MT	0	0	61 212 112	0.00%
NL	9	453 415	2 571 095 397	0.02%
PL	243	65 148 082	7 975 310 919	0.82%
PT	57	8 915 536	19 675 703 749	0.05%
SE	23	540 171	2 062 489 376	0.03%
SI	4	50 801	230 630 890	0.02%
SK	10	5 016 438	1 077 631 944	0.47%
UK	110	29 678 346	15 875 026 600	0.19%
INTERREG	32	2 583 929	5 803 818 587	0.04%
<b>TOTAL</b>	<b>2 234</b>	<b>529 611 801</b>	<b>210 048 325 391</b>	<b>0.25%</b>

Map 3 displays the FrR by Member State highlighting the high values, in particular, of Italy, Poland, Estonia and Slovakia. The high FrR of these two countries should be interpreted in a positive way, rather than negative.

Looking at the low values, among these are Malta (0%), Ireland, France, Austria, Belgium, Cyprus, Denmark, Spain, Finland, the Netherlands, Portugal, Slovenia and Sweden. If very low values are explainable especially in very small countries like Malta and Cyprus, they seem less realistic in larger Member States like, in particular, France and Spain. Their result could indicate either a lower detection capability or the non reporting of a part of eventually detected fraud. In the case of these two countries, it should also be emphasised that values displayed on the table are entirely the result of Commission estimation, as they failed to provide any qualification (see par. 7.2.5).

Map SF3: FrR by Member State



Good anti-fraud systems show, inevitably, bad figures. By good anti-fraud system it is meant a system that does not only detect fraud, putting in place adequate means and resources; but also duly reports it according to the existing rules.

### 7.3.5. Preventive action and Recovery

An interesting aspect to examine in the framework of the protection of the Communities' financial interests is how effective is the preventive action of national authorities and, when not prevented, what proportion of the detected irregular amounts is effectively recovered from the beneficiaries.

Table SF11 shows the irregular amounts reported by each Member State on the whole programming period 2000-2006 (column A); the part of these irregular amounts for which payments were made to beneficiary (column B); the balance that

still remain to be recovered<sup>71</sup> (column C); the percentage of the irregular amounts which was not paid to beneficiary (column D – prevention rate); and the percentage of the paid irregular amounts that remains to has been recovered (column E – recovery rate).

Table SF 11: Irregular amounts, prevention rate and recovery rate by Member State – Programming Period 2000-2006

MEMBER STATE	IRREGULAR AMOUNTS	OF WHICH PAID	BALANCE TO BE RECOVERED	PREVENTION RATE	RECOVERY RATE
	EUR	EUR	EUR	%	%
	A	B	C	D=(A-B)/A	E=(B-C)/B
AT	34 668 931	31 002 709	13 414 180	10.6%	56.7%
BE	11 751 758	9 176 294	1 825 351	21.9%	80.1%
CY	227 856	227 583	63 767	0.1%	72.0%
CZ	36 066 387	19 319 515	17 815 088	46.4%	7.8%
DE	350 311 937	283 013 793	212 738 939	19.2%	24.8%
DK	4 626 849	3 932 383	2 170 202	15.0%	44.8%
EE	5 574 521	3 947 496	2 531 665	29.2%	35.9%
EL	266 714 577	236 057 572	56 077 203	11.5%	76.2%
ES	600 410 423	597 116 386	130 610 359	0.5%	78.1%
FI	9 697 293	7 022 120	1 383 428	27.6%	80.3%
FR	33 449 900	30 040 281	13 231 190	10.2%	56.0%
HU	13 438 751	5 410 849	4 547 018	59.7%	16.0%
IE	10 036 556	4 628 898	195 943	53.9%	95.8%
IT	725 318 966	425 143 012	222 092 743	41.4%	47.8%
LT	8 037 982	4 728 794	4 502 613	41.2%	4.8%
LU	4 060 846	4 060 846	0	0.0%	100.0%
LV	6 646 330	6 493 041	3 771 447	2.3%	41.9%
MT	1 387 088	1 303 882	1 000 677	6.0%	23.3%
NL	104 112 995	16 870 300	9 010 760	83.8%	46.6%
PL	161 134 607	87 512 996	19 551 988	45.7%	77.7%
PT	256 579 932	221 072 513	79 727 139	13.8%	63.9%
SE	16 457 713	5 874 927	2 707 564	64.3%	53.9%
SI	8 998 462	8 896 355	7 292 480	1.1%	18.0%
SK	34 831 951	32 308 844	29 708 486	7.2%	8.0%
UK	635 289 449	581 103 646	403 043 175	8.5%	30.6%
<b>TOTAL</b>	<b>3 339 832 060</b>	<b>2 626 265 035</b>	<b>1 239 013 404</b>	<b>21.4%</b>	<b>52.8%</b>

Looking at column D, very high prevention rates emerge especially in the Netherlands, Sweden, Hungary, Poland, Italy, Czech Republic and Lithuania. Some caution is needed on these data, because some Member States may have not reported the irregularities they detected before payment.

Looking at column E, very high recovery rates are those of Luxembourg (100%), Ireland, Finland, Belgium, Spain, Poland and Greece. Also in this case some caution is due. In many Member States is a common practise to exclude projects found as irregular from the expenditure declaration to the Commission<sup>72</sup>. This implies that EU

<sup>71</sup> Member States continue to report the amounts recovered also after (partial) programme closure and must return the recovered amounts to the Commission. The Commission monitors the correctness of the financial follow-up given by the Member States to pending recoveries.

<sup>72</sup> In fact, in order to correct detected irregularities, Member States have two choices: they can choose to either immediately withdraw irregular expenditure by deducting it from the next payment claim or they can choose to deduct the irregular expenditure from a future payment claim only once recovery has been affected from the final beneficiary. This is a choice left to the Member States' discretion.

resources are somehow protected and those resources can be re-used to finance other eligible projects, but the full burden of recovery is shifted on national budgets. When this decision is taken, the Commission does not receive anymore data about recovery of those sums and therefore the picture presented here is only partial.

### 7.3.6. Cohesion Fund

A total of 499 cases were reported since 2003, concerning the Cohesion Fund for the programming period 2000-2006. A total amount of EUR 278 million was reported of which EUR 73 million remain to be recovered.

Table SF 12 details the information by Member State benefitting from this Fund.

*Table SF 12: N° of irregularities, related irregular amounts and amounts to be recovered – Cohesion Fund 2000-2006*

	N° of irregularities	Irregular financial amounts	Balance to be recovered
MEMBER STATE	N	EUR	EUR
CZ	16	2.143.552	33.947
EE	6	843.326	32.040
EL	57	50.931.138	15.404.266
ES	217	114.537.747	43.896.881
HU	27	20.783.728	1.782.404
IE	4	11.454.935	0
LT	16	13.187.135	280.690
LV	9	152.157	105.130
MT	1	39.133	39.133
PL	47	4.038.561	90.058
PT	95	56.485.250	10.731.364
SI	1	2.552.398	0
SK	3	1.048.487	1.004.063
<b>TOTAL</b>	<b>499</b>	<b>278.197.547</b>	<b>73.399.976</b>

This table presents great disparities that do not allow comparing the different Member States.

More interesting are the results of the analysis focusing on the typology of projects financed by the Cohesion Fund affected by irregularities.

As showed in Table SF 13, the majority of irregularities and related irregular amounts affect Environmental projects. However, the irregularities affecting Transport Projects are of a higher average value (more than double of the Environmental Projects).

*Table SF 13: N° of irregularities, related irregular amounts and amounts to be recovered by type of project – Cohesion Fund 2000-2006*



	N° of irregularities	Irregular financial amounts	Average irregular amount
TYPE OF PROJECT	N	EUR	EUR
Environment	389	162.765.212	418.420
Transport	91	113.372.294	1.245.849
Technical Assistance	18	868.924	48.274
Mixed	1	1.191.116	1.191.116
<b>TOTAL</b>	<b>499</b>	<b>278.197.547</b>	<b>557.510</b>

Table SF 14 shows the irregularity by category of project and highlights that Environmental Projects present an irregularity rate that is higher than all others.

*Table SF 14: Irregularity Rate by type of Cohesion Fund Project 2000-2006*

	N° of projects	Certified expenditure	Irregular financial amounts	IrR
TYPE OF PROJECT	N	EUR	EUR	%
Environment	763	15.407.362.160	162.765.212	1,1%
Transport	285	19.329.808.535	113.372.294	0,6%
Technical Assistance	60	140.881.647	868.924	0,6%
Mixed	4	251.441.351	1.191.116	0,5%
<b>TOTAL</b>	<b>1.112</b>	<b>35.129.493.693</b>	<b>278.197.547</b>	<b>0,8%</b>

#### 7.4. Conclusions

- (1) In 2009, 4 931 irregularities were reported, involving an overall amount of EUR 1.22 billion. Reported irregularities and related financial amounts have been increasing in relation to 2008. The increase has been significant both in terms of number of reported irregularities (+23%) and irregular amounts (+109%). A number of elements could explain these increases: reported irregularities concern three different programming periods (1994-1999, 2000-2006 and 2007-2013); Romania and Bulgaria have both reported irregularities; the approaching closure of the programming period 2000-2006 and an increase in checks and audits linked to this event.

In particular, the last seems the most relevant explanation also considering that a similar situation has been encountered (and with even higher differentials in relation to the preceding year) for the closure of the programming period 1994-1999.

- (2) Given the multi-annual nature of the programmes run under the Cohesion Policy, the analysis by Programming Period provides more interesting elements than an analysis based on yearly budgets.

Throughout the Programming Period 2000-2006, which is approaching its closure (2010), the overall Irregularity Rate is about 1.6%, while the Fraud Rate is about 0.25%. These rates exclusively represent the impact on the payments from the Commission to the Member States of, respectively, irregularities (including suspected and established fraud) and suspected and established fraud (alone). In both cases, therefore, these rates do fail to indicate what the real dimension of irregularities and fraud is. These rates represent the results of the checks and audits

of national competent authorities and no extrapolation is allowed unless the size of the audited and checked sample would be known.

- (3) The highest Irregularity Rates concern the ERDF (2.1%) and Objective 2 programmes (2.2%). For the ERDF the most plausible explanation is that this Fund finances projects of a higher value and therefore irregularities tend also to have a greater amount. For the Objective 2 programmes, the very high Irregularity Rates of the United Kingdom and the Netherlands which mainly benefit from this type of programmes may have influenced the overall rate.
- (4) In terms of Fraud Rate, looking at the funds, ERDF shows the highest rate of suspected fraud (0.29%), followed by the FIFG (0.26%); from the objectives perspective, Objective 1 programmes present the highest rate (0.30%), followed by the Objective 3 programmes with 0.17%. Given the fact that regions benefitting from the Objective 1 programmes are the less prosperous regions and those benefitting from Objective 3 programmes are the richest, *need* and *greed* seem the principal drivers behind fraud.
- (5) Italy, Poland, Estonia and Slovakia present the highest Fraud Rates among Member States. Higher Fraud Rates do not indicate countries where more fraud is committed, but are more likely to point at good anti-fraud systems (capable of detecting fraud and willing to report it), which always produce higher results.
- (6) Among the Member States with very low fraud rates emerge Spain and France (especially in relation to their size and to the financial support received) in particular, whose results could indicate either a lower fraud detection capability or the fact that a part of eventually detected fraud remains unreported.
- (7) Recovery rates throughout the Programming Period 2000-2006 are good (exceeding 50%) but may be heavily influenced by the practise of excluding projects found to be irregular from the expenditure declaration to the Commission. In this way EU resources can be re-used to finance other eligible projects and the burden of recovery is shifted on national budgets.
- (8) Data related to the Cohesion Fund remain too fragmented to provide a reliable picture, but highlight that Environmental projects present an irregularity rate higher than the others. The Commission is working on the full deployment of IMS also for the Cohesion Fund and this is expected to improve the quality ad reliability of available data in the coming years.

## 8. PRE-ACCESSION FUNDS (ANNEXES 21-23)

Descriptive statistical analysis presented hereinafter relates to the developments in the area of enlargement and assistance provided to enhance administrative capacities during the pre-accession period for candidate countries and to assist in the fulfilment of the Copenhagen criteria for EU membership.

The forthcoming analysis is limited to the programmes implemented under decentralised management subject to irregularity reporting obligation established by Financing Agreements and other relevant Community legislation. It covers programming period 2000-2006.

Agenda 2000<sup>73</sup> set up two financial mechanisms: a pre-accession structural instrument (ISPA) to support improved transport and environmental protection infrastructures and a pre-accession agricultural instrument (SAPARD) to facilitate the long-term adjustment of agriculture and the rural areas of the applicant countries. ISPA<sup>74</sup> and SAPARD<sup>75</sup> complement the actions of the PHARE<sup>76</sup> programme, which has been the EU aid programme for the current EU-12 since 1990.

The 10 Member States that joined the EU in 2004 received a Transition Facility in 2004-2006. Bulgaria and Romania received a Transition Facility in 2007 which is regarded as post-accession assistance.

Croatia benefits from several types of pre-accession assistance like Community Assistance for Reconstruction, Development and Stabilisation (CARDS) (2001-2004), PHARE and ISPA (2005-2006) as well as SAPARD (2006). It is the only country subject to reporting CARDS<sup>77</sup> irregularities since 2006<sup>78</sup>.

Turkey has been receiving pre-accession assistance since 2002<sup>79</sup>. The financial support provided falls under two periods: 2002-2006 - Turkish Pre-accession assistance (TPA) with a total allocation of EUR 1°249 million and 164 projects and 2007-2013 – Instrument for Pre-accession Assistance (five components) with a total allocation of EUR 4°873 million

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<sup>73</sup> On 26 March 1999, at the Berlin European Council, the Heads of Government or States concluded a political agreement on Agenda 2000

<sup>74</sup> ISPA programme dealt with large-scale environment and transport investment support in candidate countries.

<sup>75</sup> SAPARD programme has supported agricultural and rural development in candidate countries.

<sup>76</sup> PHARE programme applied to candidate countries, principally involving institution building measures (and associated investment) as well as measures designed to promote economic and social cohesion, including cross-border co-operation.

<sup>77</sup> Community Assistance for Reconstruction, Development and Stabilisation applied to Western Balkan countries

<sup>78</sup> Commission Decision PE/2006/148 of 07/02/2006 conferring management of aid provided under PHARE and CARDS to an Implementing Agency in Croatia

<sup>79</sup> Community financial contribution in the framework of pre-accession strategy was first granted to Turkey under Council Regulation 2500/2001.

Since 1 January 2007 EU pre-accession assistance has been channeled through a single Instrument for Pre-accession Assistance (IPA)<sup>80</sup> designed to deliver support for candidate and potential candidate countries. The preliminary allocation for IPA country programmes in the period 2007-2013 is EUR 8.4 billion (in 2009 – EUR 1.3 billion).

## **8.1. General overview**

In 2009 European Anti-Fraud Office (OLAF) received 2°607 reports on pre-accession funds (PHARE, SAPARD, ISPA, Transition Facility (TF), CARDS, Turkish pre-accession instrument (TPA)) from the Member states and Candidate countries. The received information consists of 706 new cases detected by the national authorities in 2009 and 1°901 follow-up reports on the previously reported cases. The number of new cases received on pre-accession assistance has reached another peak with an increase of 35% in the number of cases and 18% in the number of communications comparing to 2008 figures.

The first IPA cases were received (1 for Turkey, 2 for Croatia). All of them concern Technical Assistance component and were detected at the initial stages of tendering.

The total Community amount affected by irregularities in 2009 (programming period 2000-2006) was EUR 116°660°911 where PHARE accounts for EUR 13°283°054 (124 cases), SAPARD – EUR 88°015°555 (482 cases), ISPA – EUR 11°747°682 (55 cases), TF – EUR 1°065°499 (5 cases), TPA – EUR 2°378°737 (26 cases), CARDS – EUR 170°384 (14 cases).

## **8.2. IMS and reporting discipline**

In line with the developments in the area of Structural Funds on Irregularities Management System (IMS) a module for Pre-Accession Assistance (PAA Module) irregularity reporting is being finalised. This module addresses the need to shift from paper reporting to electronic reporting and allows OLAF to concentrate on quality checks and the analysis of the reported information. Reporting authorities get more responsibilities for correct filling of the reports as some of the fields are compulsory. Once the module becomes fully operational it will manifest a number of advantages like improved compliance, less technical nature mistakes, possibility for reporting authorities at different levels to access information on all the (open) irregularities already reported.

At the end of 2009 reporting authorities in 12 Member States and 2 Candidate countries were requested to send a reporting structure on the basis of which user rights are granted.

Bulgaria is the first reporting country that entered into a pilot phase for using PAA module. Fourth quarter irregularity notifications were received electronically.

In response to the need created by the Instrument for Pre-Accession Assistance – IPA for 2007-2013 period, IPA electronic reporting module is being developed. Croatia,

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<sup>80</sup> Council Regulation (EC) No 1085/2006

Turkey and FYROM are the target users for IPA components under DIS accreditation.

The obligation to report irregularities in the area of pre-accession assistance is established in the Financing Agreements/Memoranda signed between the acceding countries, Candidate countries and the European Community and is in accordance with the provisions of Commission Regulation (EC) 1681/1994<sup>81</sup> and 1828/2006<sup>82</sup>. This obligation is yet enhanced by the Commission decision granting conferral of management on extended decentralised basis (EDIS).

In contrast to the report from the previous years the current report focuses less on compliance issues. Intensive bilateral cooperation on the spotted mistakes, controversies and drawbacks is maintained throughout the year. More systematic administrative inefficiency on the recovery and follow-up side (failure to start administrative recovery procedures, report external audit findings on time) has led to returning the reports back for amendments. In general, reporting countries are well aware of the shortcomings and are willing to progress. The data quality is expected to considerably improve with the introduction of the electronic reporting module (see par 3.2.2).

The most common mistakes are incorrect or incomplete financial aspects of the reports, missing practices employed in committing irregularities, missing types of irregularities. Insufficient or obscure reported information still hampers an in depth analysis. Failure to comply with the requirement to classify reported cases as 'suspected fraud' or 'irregularity' limits the analysis carried out by OLAF.

Table PA 1 provides a rate of compliance with respect to classification of irregularity.

*Table PA 1: Compliance in 2009 - classification of irregularities*

Classification of cases by reporting countries - compliance					
Country	Blank	Suspected fraud	Irregularity	Total	Compliance %
BG		216	160	376	100.00%
CZ			2	2	100.00%
EE			2	2	100.00%
HR	1		24	25	96.00%
HU		1	10	11	100.00%
LT	2		1	3	33.33%
LV			2	2	100.00%
PL	10	1	42	53	81.13%
RO	13	18	165	196	93.37%
SI			1	1	100.00%
SK	2	3	4	9	77.78%
TR		7	19	26	100.00%
<b>Total</b>	<b>28</b>	<b>246</b>	<b>433</b>	<b>706</b>	<b>96.03%</b>

<sup>81</sup> As amended by Regulation (EC) No 2035/2005

<sup>82</sup> As amended by Regulation (EC) No 846/2009

Romania and Poland should pay more attention to providing classification in the notifications. On average 96% of cases were classified. There is a visible increase in compliance if compared with 2008. Admittedly, reporting countries are putting more efforts in fulfilling the necessary obligations.

As established by the regulatory requirements, within two months following the end of each quarter irregularities which have been the subject of initial administrative or judicial investigations need to be reported to the Commission. The date of the first written assessment by a competent authority<sup>83</sup> serves as a reference date to assess whether reporting countries fulfilled their obligations. The average time span between detection of an irregularity and reporting it to the Commission is 5.8 months. However, this figure needs to be interpreted with caution. Many reporting countries do not indicate dates when filling in reports so the analysis is limited to the ones provided. Yet, it is apparent that Slovakia was very late (34 months), followed by Turkey (7.7), Bulgaria (6.5), Poland and Check Republic (6.2).

The estimation of a time span to detect irregularities takes the date of first information and date of administrative and judicial finding as reference points. The overall average result of 2.5 years manifests that some cases were only traced at the end of the project cycle. To illustrate it, Check Republic took 4.2 years, Poland – 3.8, Estonia 2.7, Romania and Slovakia (2.5).

### **8.3. General Trends**

The intention of this descriptive analysis is to provide an overview of the reported irregularities in 2009 and to compare the reporting trends observed during the period 2002 -2008.

#### *8.3.1. Overall trend*

The number of cases reported (first communications) in 2009 increased by 35%, while the number of follow-up reports increased by 18% in comparison to 2008.

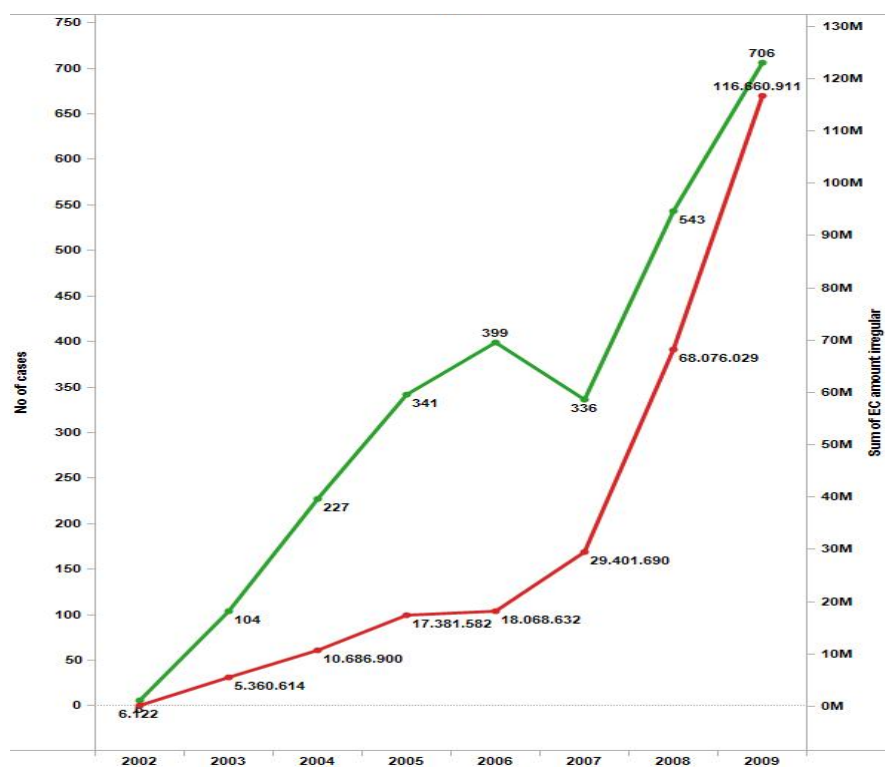
The reporting tendencies for 2009 require to limit generalized analysis on all 14 reporting countries as it does not reveal the precise picture in terms of irregularity prevention, detection, and reporting. There are several reasons behind this tendency. Firstly, a wider variety of pre-accession instruments is covered due to different programming periods. Secondly, ongoing enlargement process changes beneficiary countries. Thirdly, Member states and Candidate countries do not have the same approach towards reporting.

Reporting countries happen to be at different stages of the project cycle. EU-10 have finalized the projects and report very few new cases, the focus, however, remains on administrative and judicial follow-up. EU-2 report a considerable number of newly detected cases which certainly affect the overall tendency. Croatia and Turkey have become more active in reporting and increasing tendencies are expected in the coming years. Therefore, Chart PA 1 only presents an overview; further on the analysis attempts to show the situation behind the rising trends.

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<sup>83</sup> Primary administrative or judicial finding as defined in the Commission Regulation 2035/2005.

Chart PA 1: Irregularities communicated by reporting countries (2002-2009)



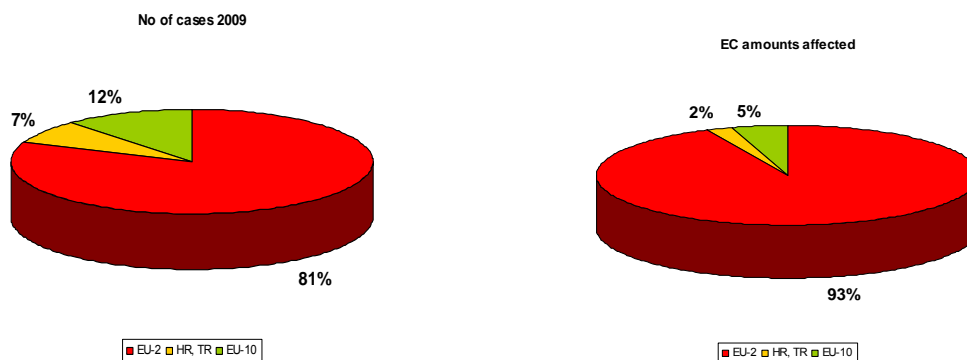
### 8.3.2. Trend related to Member States and Candidate countries 2009

Irregularities are not distributed equally among the reporting countries due to different periods of eligibility of expenditure, implementation phases, as well as varying types of support instruments.

Three groups of reporting countries can be distinguished, namely 2004 accession Member States, 2007 accession Member States, and Candidate countries – Croatia and Turkey.

In 2009 EU-10 account for 12%, Bulgaria and Romania – 81%, Croatia and Turkey – 7% of the total number of cases. Talking about the total EC affected amount as reported, EU-10 make 5%, Bulgaria and Romania - 93%, Croatia and Turkey – 2%.

Chart PA 2: Distribution of reported cases by groups of countries (2009)



The charts manifest that the greater part of the data set (irregularity reports received in 2009) analysed originates from Romania and Bulgaria. Consequently, the trends are highly influenced by their reporting patterns.

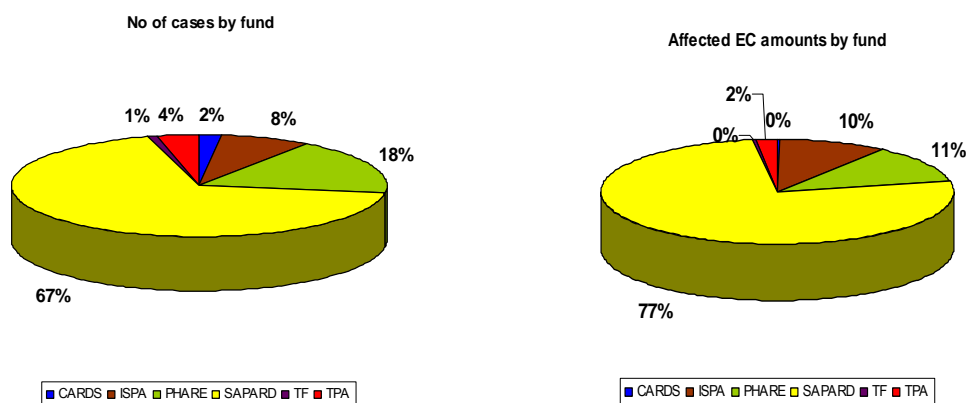
Comparing 2008 and 2009 figures a rising tendency in cases reported and EC affected amounts is observed for Bulgaria (134% for cases), Croatia (39%), Poland (15%), and Turkey (44%). The remaining countries disclose a falling tendency.

### 8.3.3. Irregularities affecting different funds

The total number of cases reported augmented in comparison to 2008 (by 30%). The biggest change observed in the reporting tendencies is the sharply rising number of SAPARD cases. 64% of those cases were detected in Bulgaria, 23% were discovered in Romania.

As demonstrated by Chart PA 3 the highest number of cases reported in 2009 concerned SAPARD and made more than half of the total cases reported in numbers (67%). The biggest share of irregular amount was also reported for SAPARD (77% of the total).

Chart PA 3: Distribution of communications per fund in 2009



### 8.3.4. Amounts involved

For the purposes of this report the term eligible amount stands for the amount committed to be paid when the contract is concluded under the condition that the expenditure incurred is justified and eligible.

With regard to the amounts involved in the irregularities reported to the Commission, the total irregular amounts went up by 71% and reached EUR 117 million, while the total eligible amount went down by 27% and stands at EUR 832 million.

The downfall of the eligible amount is explained by changes in ISPA (-41%) and PHARE (-45%) expenditure, whereas the rise of irregular amount is mainly affected by SAPARD (+109%) and by ISPA (+48%).

The overall figures have to be interpreted rather carefully. Pre-accession assistance funded projects run over several years while the affected amounts are calculated with



reference to the reporting year. So the closing years are becoming peak years. With the appearance of new instruments and new programmes also new irregularities are spotted on the field.

Furthermore, it is very important to differentiate between cases with potential financial impact detected before the payments and real financial impact resulting in recoveries (see Table PA 4).

A deeper analysis into the EC amount affected by irregularities for reporting period 2002-2009 demonstrates that the majority of cases for all the programmes accumulate within a range of EUR 10°000 to 40°000. There are some deviations from the overall pattern for TF and TPA. ISPA, PHARE, and SAPARD are spread throughout.

As for the total Community contribution in the cases that were found irregular, the range is around EUR 10°000 to 50°000. For SAPARD it is broader.

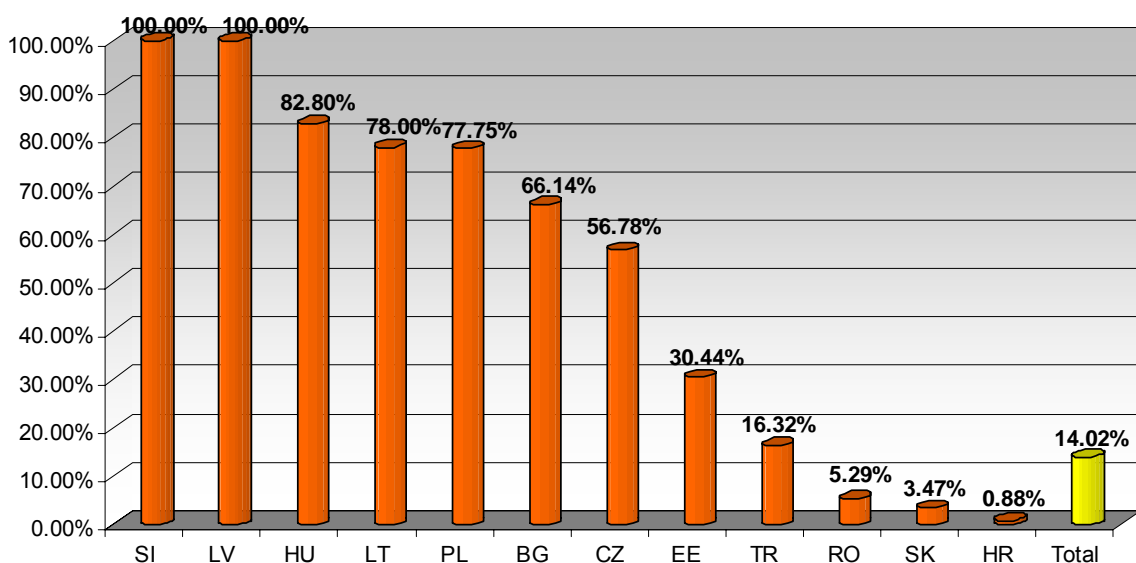
In general, one can observe that controls are well spread but mostly low value irregularities are found in high value projects or medium value projects are found almost fully ineligible (80-90% irregular).

8.3.5. *Impact on the budget and irregularity rate*

Estimation of the impact on the budget is based on the information provided in the irregularity reports and is totally linked to countries' approach to reporting and cooperating with the Commission.

While estimating the impact of pre-accession assistance irregularities on the budget one needs to take into account different groups of beneficiary countries benefitting from pre-accession assistance and varied periods of allocations.

Chart PA 4: *Share of irregular amount in eligible amount of reported cases*



The comparison is drawn between the total values of the projects reported and the total irregular amounts per country. The share of irregular amount reached 14% in 2009 while in 2008 it was 5%. Although the figure has increased, Chart PA 4 illustrates that the share of irregular amount in relation to the total value of expenditure is relatively little.

In comparison to the overall tendency, the share for Croatia and Slovakia is very low. Slovenia, Latvia, Hungary, Lithuania, and Poland report cases with rather high irregular share, which sometimes equals the total value of the project.

The impact of irregularities (irregularity rate) reported in 2009 on the payments made that year would be 14.49%. Nevertheless, irregularity rate on the budget for the same year becomes 9.75% if calculated on the payment appropriations (EUR 117 million irregular on EUR 1.2 billion of payment appropriations). However, this figure should be taken with great caution as irregularities are not necessarily from that payment year. In most cases irregularities have occurred earlier, but were only traced (or reported) in 2009. Moreover, irregular amounts keep rising, but the amounts for payments are declining each year; therefore, it is inevitable that irregularity rate has a rising tendency.

It would be more precise to calculate the impact of irregularities (irregularity rate) on the whole programming period (2000-2006) and the 'actual' beneficiary countries. Thus the result is 1.4% (EUR 266 million total irregular amount reported so far on the overall budget of roughly EUR 19 billion).

#### 8.3.6. *Method of detection*

Most of the irregularities and the highest irregular amounts in 2009 were detected by means of 'Control of documents' (EUR 24 million). The second most frequent method is audit which detected almost the same affected amounts (EUR 23 million). Control of documents and audit make key responsibilities of the national authorities implementing EU funds under decentralised and shared management modes. According to the dataset, the same methods seem to be used while detecting suspected fraud cases.

On the spot controls account for 6% of the detected irregular amount and were effectively used in Bulgaria, Croatia, Lithuania, Poland, Romania, and Turkey.

5 % of irregular amount were discovered by means of EC interventions and their role remains to be significant in Bulgaria, Croatia, and Romania.

Interestingly, the majority of Bulgarian suspected fraud cases were detected by audit (EC audit, external audit companies, and national internal audit). Fraud detection is not the main task of audit but rather part of due professional care.

In general, the most frequent methods of detection imply both ex-ante and ex-post controls. It is a natural outcome since the data set involves projects under different stages of implementation.

### 8.3.7. *Types of irregularities*

The most common type of irregularity by the number of received cases and amounts affected in 2009 was 'Falsified supporting documents' (33% of amounts) followed by 'Failure to respect other regulations/contract conditions' (13%) and 'Infringement of rules concerned with public procurement' (11%).

Although cases involving falsified supporting documents were detected in Romania, Poland, Slovakia, cases from Bulgaria are the most abundant (16% of the total number reported in 2009). Most of them affect SAPARD programme.

## 8.4. **Specific analysis**

### 8.4.1. *Suspected fraud*

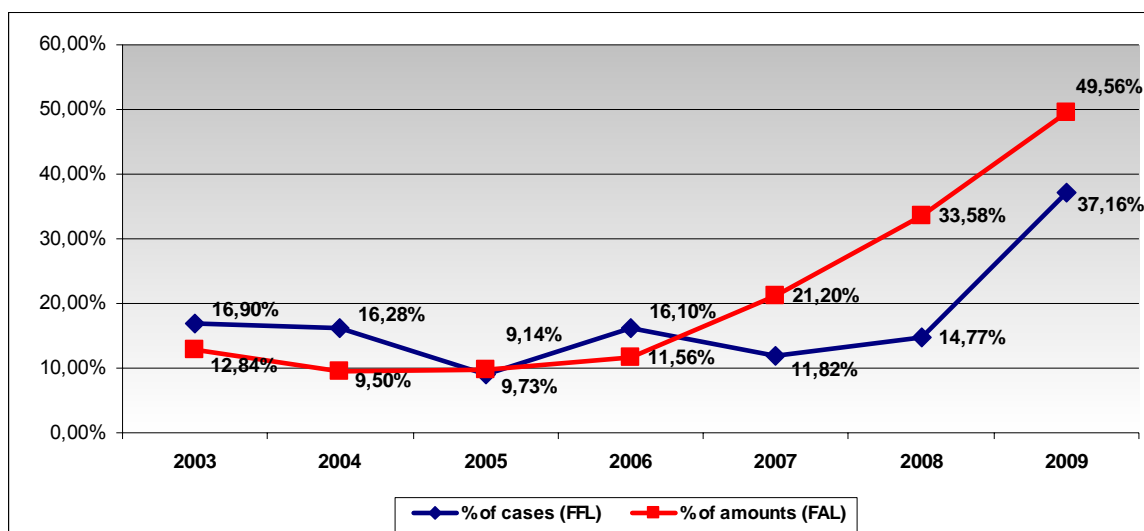
In 2009 cases classified as suspected fraud (fraud frequency level) made 37% (262) of irregularities and 50% of the EC affected amount (fraud amount level) (EUR 117 million). For the sake of transparency it is worth mentioning that OLAF reclassified 3% of cases into 'suspected frauds'.

In general, reporting countries do not classify only some 4% of the reported cases so there is a visible improvement in compliance which positively affects the analysis. However, some cases need to be reclassified before their closure. Countries reporting high numbers of cases (e.g. Bulgaria) so far have not done it. Once this exercise is accomplished the drastically rising share of suspected fraud is expected to stabilize.

Meanwhile, it is important to note that the analysed cases are just 'suspected frauds' and are undergoing investigation by the relevant national authorities. The final precise figures can only be presented on 'established frauds' when the court rulings are made. At the moment there are only two cases of established fraud reported by Romania on PHARE.

18.7% of cases reported in 2009 had an element of fraud i.e. falsified supporting documents, certificates, requests. In PHARE they make 2% while in SAPARD 27% of the reported cases. This has to be interpreted with caution as reporting countries sometimes classify the case as suspected fraud but indicate the modus operandi which is more likely to be an administrative infringement rather than criminal offence. An in depth analysis is necessary of a case basis.

Chart PA 5: *Share of suspected fraud in reported cases*

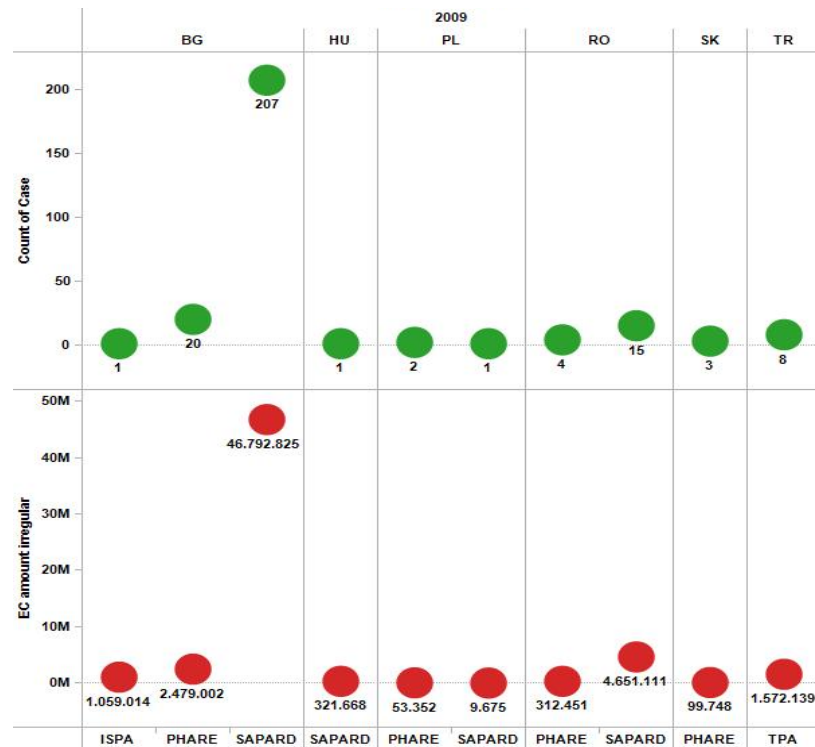


To illustrate the situation better and to show what looms behind the reporting trend lines a breakdown by country is presented. It appears that 6 out of 14 reporting countries reported suspected fraud cases in 2009. The highest number of suspected fraud cases was reported by Bulgaria. Suspected fraud cases detected in Bulgarian SAPARD clearly dominate the picture. They make 67% of all the cases from this country. Another observation is that Bulgarian SAPARD cases make 92% of all SAPARD suspected fraud in 2009 reported to OLAF. Nonetheless, this should not be surprising taking into account the number of ex-post and external audits and checks carried out by the Commission on SAPARD programme, audit findings and operational work undertaken by OLAF. The rising figures of SAPARD cases in the last years reveal a reactive approach by Bulgarian authorities. The greater part of suspected fraud cases were initiated by external controls/interventions rather than internal/national ones. However, in general, it needs to be mentioned that high pressure put on Bulgarian authorities by the Commission to enhance control systems, to carry out additional checks is reflected in the rising figures of detected and reported suspected fraud cases.

Romanian SAPARD suspected fraud cases account for 14% of the total reported. A new element in the picture is added by the Turkish instrument for pre-accession where suspected fraud makes 31%.

Looking at both amounts at stake and number of cases from various programmes, SAPARD appears to be mostly affected.

Chart PA 6: *Suspected fraud cases by country and fund in 2009*



Distribution of fraud cases across the funds is not adequate. The numbers of cases received since 2002 manifest predominance of SAPARD (348 out of which 224 for 2009). PHARE counts 151 for all years and 29 in 2009, while ISPA only 2 (1 in 2008 and 1 in 2009).

Due to a particular situation with SAPARD, OLAF carried out a pilot exercise to measure the fraud rate (FR) against payments made for this programme under the budget lines 05.050101 and 05.050102.

The total fraud rate for the whole programming period of SAPARD is at the level of 2.8%. However, looking at the individual reporting countries in Table PA 2, it becomes obvious that the rate is highly affected by a particular situation in Bulgaria. Bulgarian fraud rate for SAPARD is 20%, which is the highest rate seen by OLAF in all the funds analyzed (see chapters 6 and 7). Meanwhile, the Czech Republic, Estonia, Latvia, and Slovakia have zero fraud rate. Even though a few cases were reported by Estonia and Latvia their financial impact is rather small to be reflected in the fraud rate or no impact indicated at all. Taking into account the fact that SAPARD programme was prone to particular irregularities, and the same modus operandi for suspected fraud were identified in several countries, there are some doubts whether all the detected cases of suspected fraud were reported to OLAF.

Map PA 1. Fraud rate for SAPARD by reporting country

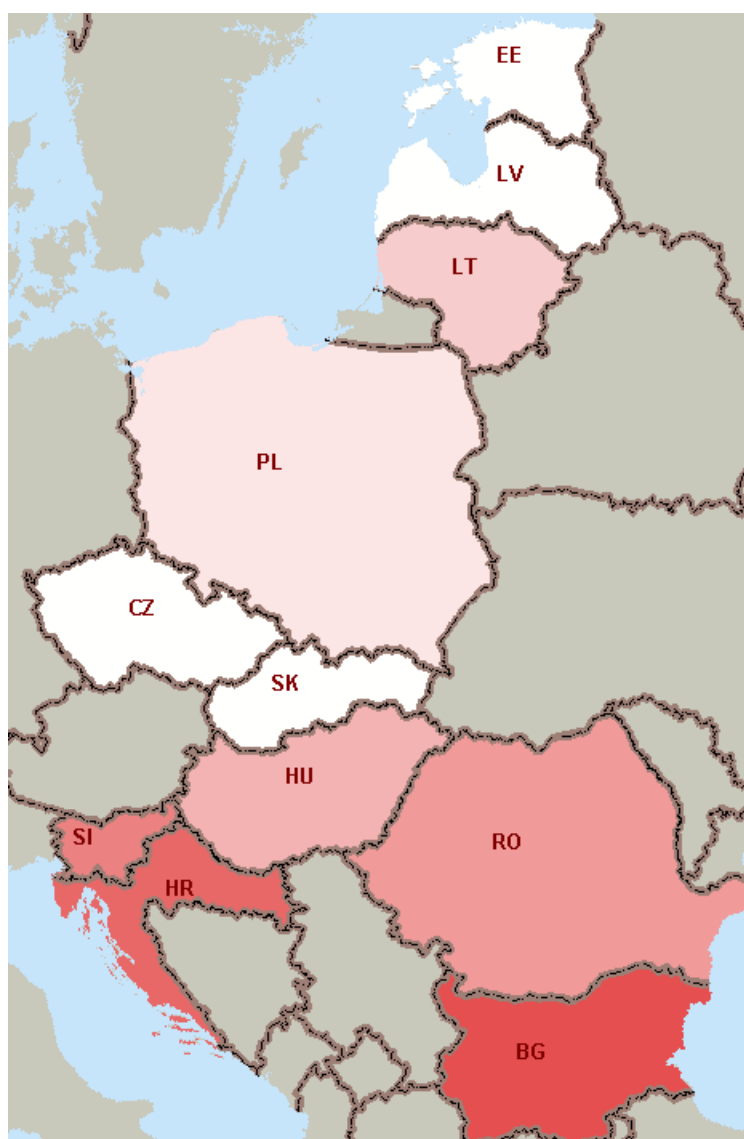


Table PA 2: SAPARD fraud rates by reporting country

Country	Commitments by AFAs	Payments made until 31.12.2009 since start	No of reported suspected fraud cases	EC amount affected by suspected fraud since start of reporting	FR%
Bulgaria	371.409.686	327.613.779	265	66.589.377	20,33%
Romania	1.159.785.692	1.030.733.816	30	5.901.649	0,57%
Croatia	25.000.000	13.960.233	2	659.549	4,72%
Czech Rep.	92.787.704	92.778.479	0	0	0,00%
Estonia	51.043.119	50.647.873	1	193	0,00%
Hungary	160.039.127	159.962.208	3	641.259	0,40%
Lithuania	125.448.234	125.338.243	9	247.671	0,20%
Latvia	91.883.502	87.289.326	6	0	0,00%
Poland	709.409.786	708.655.558	28	403.953	0,06%
Slovenia	26.650.758	26.648.593	5	241.621	0,91%
Slovakia	76.915.845	76.904.471	0	0	0,00%
<b>Total</b>	<b>2.890.373.453</b>	<b>2.700.532.579</b>	<b>349</b>	<b>74.685.079</b>	<b>2,77%</b>

SAPARD projects present a very broad range of EC contribution from EUR 10°000 to EUR 7 million, yet the higher the project value the lower the number of detections. It implies that big scale frauds are single instances, however medium scale frauds are spread around. Mostly that observation refers to Bulgaria being the country mostly affected by suspected fraud in SAPARD programme.

The majority of the projects affected by suspected fraud fall in a range of EUR 10°000 -70°000 while there appear single cases of high impact in all programmes except CARDS and TF.

In 2009 suspected fraud value in relation to the eligible value of the reported projects made a share of 6.89% (in 2008 it was 1.17%). The total irregular amount of all the reported projects in relation to the total eligible amount is 14%.

In 2009 fraud rate which stands for suspected fraud value divided by actual payments of 2009 accounts for 7.12%. If the rate is calculated on the payment appropriations for 2009 it becomes 4.70%. It needs to be emphasized here that this is a pilot attempt to estimate suspected fraud rate on payments. One needs to be very cautious to prevent far-fetched conclusions on this figure. Most suspected fraud cases appeared earlier but were only traced (or reported) in 2009. As already mentioned, the greater part of them is Bulgarian cases. The payments in 2009 were made to Bulgaria, Romania, Croatia and some remaining parts to EU-10. Part of these projects with allegations of suspected fraud has not been paid for or deductions were made before submitting payments requests to the Commission.

The percentage of the sum of suspected fraud in the total allocated amount for period 2002-2009 is respectively even lower – 0.48%. The figure, however, is much higher in comparison to 2008 report data. This outcome is explained by the fact that 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, a high number of new cases were detected in 2009.

In general, amounts involved in suspected fraud cases keep rising, but the amounts for payments are declining each year; therefore, it is inevitable that fraud rate has a rising tendency.

It needs to be taken into account, that the cases classified as suspected fraud do not imply actual losses for the EU budget. 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).

The summary table provides an overview of the rates which result at different stages of the analysis on pre-accession assistance for period 2000-2006.

Table PA 3: Summary table

Rates %	2009	Explanation	2000-2006	Explanation
Irregularity rate - IR	9.75% (14.49%)	The total value of irregularities reported for 2009 divided by payment appropriations 2009 (or by actual payments for 2009)	<b>1.4%</b>	The value of irregularities reported for the whole period by indicative allocation for the whole period
Fraud frequency level - FFL	37.16%	Total number of 2009 suspected fraud cases by the total number of reported cases	<b>20.08%</b>	Total number of suspected fraud cases divided by the total number of reported cases
Fraud amount level - FAL	49.56%	Total amount involved in 2009 suspected fraud cases divided by the total amount reported as irregular	<b>34.74%</b>	Total amount involved in suspected fraud cases divided by the total amount reported as irregular
Fraud rate - FR	4.70% (7.12%)	The total value of 2009 suspected fraud cases by payment appropriations 2009 (or by actual payments for 2009)	<b>0.48%</b>	Total amount of suspected fraud cases divided by indicative allocation for the whole period
Fraud rate SAPARD			<b>2.77%</b>	Total amount involved in suspected fraud SAPARD cases divided by actual payments for the whole period for SAPARD

#### 8.4.2. Recovery

Recovery becomes a topical issue when the project cycle is about to close. Administrative procedures (recoveries and sanctions) together with effective prosecution are the cornerstones of fraud prevention.

In 2009 the amounts reported to be recovered increased by 135%. Table PA 4 demonstrates the recovery situation per country. The table provides an overview for 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. Malta has the highest recovery rate, followed by Estonia.

The highest amount to be recovered in 2009 comes from SAPARD (EUR 61.6 million while EUR 41 million are due for Bulgaria). The amount to be recovered for PHARE is second highest – EUR 6.9 million. Romania and Bulgaria need to recover around EUR 3 million each for PHARE projects. ISPA amount to be recovered is yet lower - EUR 4 million.

In general, the recovery rate got worse in comparison to 2008 (36.16%) and reached only 27.22% in 2009.



Analysis on recovery rate for suspected fraud reveals a rate of only 4.6% for the whole programming period. It seemingly suggests that recovery process in cases undergoing prosecution is even more difficult. Frequently recoveries are not even initiated when the case is under pre-trial investigation or they are stopped waiting for the court ruling. Administrative procedures and criminal investigation in most countries do not go hand in hand, therefore recovery rates are influenced.

Table PA 4: *Recovery by reporting country*

Reporting country	EU amount irregular	EU amount to be recovered	EU amount recovered	Recovery rate %
BG	122 301 077	60 438 727	2 902 974	4.58%
CY	23 807	0	0	
CZ	2 868 759	1 334 968	756 843	36.18%
EE	6 649 147	857 717	2 868 086	76.98%
HR	5 049 419	716 719	101 664	12.42%
HU	7 960 936	2 959 658	1 412 873	32.31%
LT	4 893 815	4 269 347	475 568	10.02%
LV	1 101 128	900 700	173 825	16.18%
MT	112 620	0	112 620	100.00%
PL	7 708 168	2 846 716	2 099 176	42.44%
RO	93 734 219	41 936 064	32 784 980	43.88%
SI	1 586 859	53 374	13 473	20.15%
SK	8 592 891	3 410 914	1 764 201	34.09%
TR	3 059 637	2 121 944	116 110	5.19%
<b>TOTAL</b>	<b>265 642 481</b>	<b>121 846 848</b>	<b>45 582 392</b>	<b>27.22%</b>

The overview in Table PA 4 points out delays in the recovery process. There are some amounts to be recovered detected in 2003 where the risk of losses is high. Actually, the rate for 2003 increased only slightly. The highest recovery rate is for cases dated 2004. It might be influenced by a special procedure required by SAPARD Multiannual Financing Agreement.

The situation with respect to 2005 and 2006 shows that only half of the amounts due were recovered and more efforts need to be taken to speed up the process. 2007 reveals a substantial rate; however, the amounts might be written off or covered by the national funds. Reporting countries should undertake recovery measures soon after the detection of irregularities and inform the Commission about the deductions made. The figure for 2009 is very low.

Table PA 5: *Recovery rate by reporting year*

Year	EC amount irregular	EC amount to be recovered	EC amount recovered	Recovery rate %
2002	6 122	0	6 122	100.00%
2003	5 360 614	304 198	621 874	67.15%
2004	10 686 900	909 146	3 825 276	80.80%
2005	17 381 582	3 727 481	4 733 146	55.94%
2006	18 068 632	5 117 405	6 141 949	54.55%
2007	29 401 690	4 634 686	13 626 233	74.62%
2008	68 076 029	31 967 699	8 647 854	21.29%
2009	116 660 911	75 186 233	7 979 938	9.60%
<b>TOTAL</b>	<b>265 642 481</b>	<b>121 846 848</b>	<b>45 582 392</b>	<b>27.22%</b>

However, this figure reflect only the information provided in the irregularity reports, but does not take into account the recoveries and financial corrections made by the Commission.

## 8.5. Conclusions

- (1) In 2009 706 newly detected irregular cases with an affected amount of EUR 117 million were received from the national authorities in 14 reporting countries (EU-10, EU-2, Croatia and Turkey). An increase of 35% in the number of cases is recorded. It demonstrates that detections in the area of pre-accession assistance are not phasing out but rather shifting towards a smaller group of countries, i.e. EU – 2 and Candidate countries (Croatia and Turkey). Bulgarian and Romanian irregularities together make 81% of cases and 93% of irregular amounts reported in 2009. Yet, the rising tendency is only applicable to Bulgaria with an increase of 134% in cases. Consequently, the trends are highly influenced by their reporting patterns and thus the focus of analysis is narrowed down.
- (2) Controls seems to be well spread but mostly low value irregularities are found in high value projects as a result of desk controls or medium value projects are found almost fully ineligible after on-spot checks.
- (3) Control of documents and audit are the most frequently applied methods of detecting irregularities in 2009. The majority of suspected fraud cases in Bulgaria were detected by audit. The primary goal of audit is not related to fraud detection but assurance of the reliability and regularity of financial transactions. The exceptional situation in Bulgaria seemingly implies some weaknesses in the national anti-fraud system.
- (4) The affected EU amounts keep rising and thus accumulate with reference to the whole programming period, while allocations remain fixed and payments are gradually declining. As a consequence irregularity and suspected fraud rates (see Table PA 3 for rates) manifest a rising tendency.
- (5) 6 (Bulgaria, Hungary, Poland, Romania, Slovakia, and Turkey) out of 14 countries reported suspected fraud cases in 2009. The highest number of suspected fraud cases was reported by Bulgaria. Suspected fraud cases

detected in Bulgarian SAPARD clearly dominate the picture. They make 67% of all the cases from this country. In fact, Bulgarian SAPARD cases make 92% of all SAPARD suspected fraud in 2009 reported to OLAF. High pressure put on Bulgarian authorities by the Commission to enhance control systems, to carry out additional checks is reflected in the rising figures of detected and reported suspected fraud cases. The drastically rising share of suspected fraud is expected to decline following the finalisation of judicial procedures and communication of updated reports in the coming years.

- (6) The total fraud rate for the whole programming period of SAPARD is at the level of 2.8%. Bulgarian fraud rate for SAPARD is 20%, which is the highest rate seen in all analysed funds (Cohesion Policy and Agriculture). Meanwhile the Czech Republic, Estonia, Latvia, and Slovakia have zero fraud rate which puts in question the reliability of the reported information or the fraud detection capability in this specific sector
- (7) Analysis on recovery rate for suspected fraud reveals a rate of only 4.6% for the whole programming period. The recovery process in cases undergoing prosecution is complex and lengthy. Administrative procedures and criminal investigation in most countries do not go hand in hand, therefore recovery rates are influenced. Safeguarding/conservation measures should be put in place for suspected fraud cases to make sure that after final court ruling recovery can still take place (in the form of seizure of assets, suspension of payments, bank guarantees, *et cetera*).

## 9. DIRECT EXPENDITURE – CENTRALISED DIRECT MANAGEMENT

### 9.1. Methodology and scope

This chapter contains a descriptive analysis of the data on recovery orders issued by Commission services in relation to expenditures managed under ‘centralised direct management’<sup>84</sup>, which is one of the four implementation modes the Commission can use to implement the budget. This chapter is based on data retrieved from the ABAC system, which is a transversal, transactional information system allowing for the execution and monitoring of all budgetary and accounting operations by the Commission. The system was developed by the Commission to facilitate compliance with the requirements of the Financial Regulation and its implementing rules.

One of the functionalities of the ABAC system is the ‘Recovery Context’, which gathers detailed information on recovery orders issued by the Commission services and registered in ABAC. The information introduced into the recovery context relates, amongst others, to the *qualification* of the recovery order: financial officers have to indicate for each recovery order whether it relates to an error, an irregularity or a suspected fraud that has been identified in the implementation of a grant agreement or contract. In case the recovery order is qualified as ‘suspected fraud’, OLAF has to be notified. For each recovery order, information is given on the method of detection as well as the type of irregularity or suspected fraud that constitutes the basis for the recovery.

The recovery context is a relatively new functionality within ABAC. The collection of data from the Commission services only started recently and the current data available in ABAC refer to recovery orders issued since 2008. This first exercise conducted in 2008 revealed a number of practical problems, which are related to different interpretations throughout the Commission of definitions used in ABAC; the omission of certain information in the ‘Recovery Context’ and the link of the information with other data in ABAC. The Commission has tried to diminish the impact of these shortcomings to provide more accurate analysis of the irregularities in expenditures managed directly by the Commission. Nevertheless, the limitations of the data have not been removed completely and they might still influence the analysis which therefore should be treated extremely cautiously.

For the financial analyses in this chapter, the following data were used from ABAC:

- The number and corresponding financial amounts of recovery orders, which were registered *after validation* by the authorising officer, including information on the place of residence of the contract partner of the Commission and the budget line concerned; the method of detection; the type of irregularity identified and the time span between the approval of a budget commitment, the notification of a recovery order and the return payment of the undue funds to the Commission;

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<sup>84</sup> In accordance with Article 53a of the Council Regulation (EC, Euratom) No 1605/2002 (‘Financial Regulation’) and Commission Regulation (EC, Euratom) No 2342/2002 (‘Implementing Rules’).

- The amount of a **commitment** to which a recovery order is linked and for which a payment has been made to a beneficiary.
- In the remainder of this chapter, the term recovery refers to the recovery order and the financial amount involved, whereas the term qualification refers to the qualification of the recovery order: irregularity or suspected fraud.

## 9.2. General analysis

In 2009, the Commission services registered 705 recovery orders in ABAC that were qualified as irregularities or suspected fraud. The committed budget for these 705 recoveries was EUR 2.5 billion, of which EUR 27.5 million was identified as irregular<sup>85</sup>.

### 9.2.1. Financial amounts involved

The financial impact of the 705 recoveries registered in 2009 was EUR 27.5 million, which includes an amount of EUR 1.5 million for the 15 recoveries, qualified as suspected fraud and notified to OLAF. Table DE1 gives an overview of the aggregated financial commitments by policy domain as well as the number and financial amounts of recoveries. The classification into policy domain is provided for 'internal policies' and 'external actions'. Table DE2 gives a more detailed classification of the policy area to which the recovery orders relate. The recovery orders have been issued for commitments that relate to several budget exercises, some even dating back to the 1990s, during which different budget headings were used. The budget structure of 2008 was used for the table DE2. In cases where the budget title of a commitment from an earlier budget exercise does no longer exist, the most resembling budget title from the 2008 budget was used. In both tables the column 'commitments' contains the aggregate of all the commitments made during previous budget exercises for which recovery orders were issued in 2009. In the table DE1 the last column indicates the amount to be recovered (including suspected fraud) as percentage of the aggregated commitments.

Table DE 1: Commitments and Recoveries (number and amounts) by policy domain, 2009.

Area	Commitments			Recoveries					Recoveries as % of commitments
	€ 1,000	%	Average € 1 000	N	%	€ 1,000	%	Average € 1 000	
Internal policies	2°041°939	81.6	3°398	601	85.2	23°093	83.9	38.4	1.1
External actions	460°667	18.4	4°429	104	14.8	4°436	16.1	42.7	1.0
Total	2°502°606	100.0	3°550	705	100.0	27°529	100.0	39.0	1.1

The table shows that the irregular amounts only represent 1.1% of the value of the commitments *for which recovery orders were issued*. More recovery orders were

<sup>85</sup>

The financial impact of a case of suspected fraud can only be determined following the conclusion of an OLAF investigation. It is only at the end of judicial proceedings ('*res judicata*') that a case can be qualified as fraud and that the actual amount of fraud can be established.

issued for commitments made under the internal policies domain than the external assistance actions, but the relative share of recoveries in commitments for both policy domains remains at the same level.

Table DE2 further specifies the recoveries by budget title. It should be observed that there is not always a direct link between the budget title or budget line and the Directorate General dealing with its implementation, as several DGs can share the appropriations on a budget line. The information in this table *does not* refer to the number of irregularities or suspected fraud per Directorate General. In seven cases recovery orders were linked to commitments from more than one budget line; in order to calculate the number of recoveries per budget title, a recovery order was assigned to the budget title to which the highest irregular amount was linked. Therefore some budget titles make reference to an irregular amount for which there is no link to a specific recovery order.

Table DE 2: Recoveries (number and amounts) by qualification and budget title, 2009

Budget Title	Commitments € 1 000	Recoveries					
		Irregularity				Suspected Fraud	
		N	%	€1 000	%	N	€1 000
Economic and financial affairs	1°841	1	0.1	97	0.4		
Enterprise	117°419	13	1.9	483	1.9		
Competition	141	1	0.1	24	0.1		
Employment and social affairs	9°546	12	1.7	138	0.5		
Agriculture and rural development	1°288	2	0.3	8	0.0		4
Energy and transport	142°434	27	3.9	2°037	7.8	1	63
Environment	38°291	31	4.5	3°163	12.1		13
Research	903°686	109	15.8	4°589	17.6	1	369
Information society and media	716°102	115	16.7	5°181	19.9	3	463
Fisheries and maritime affairs	15°031	5	0.7	468	1.8		
Regional policy	367	1	0.1	8	0.0		68
Education and culture	35°811	192	27.8	3°053	11.7	1	25
Communication	849	6	0.9	112	0.4		
Health and consumer protection	5°979	1	0.1	143	0.5		
Area of freedom, security and justice	22°461	68	9.9	2°374	9.1		
External relations	407°947	61	8.8	1°593	6.1	3	237
Trade	451	2	0.3	1	0.0		
Development and relations with African, Caribbean and Pacific (ACP) States	40°037	7	1.0	1°683	6.5	1	94
Enlargement	7°925	24	3.5	700	2.7	1	23
Humanitarian aid	4°306	3	0.4	83	0.3	2	22
Commission's administration	29°621	8	1.2	95	0.4	1	8
Statistics	1°071	1	0.1	10	0.0	1	98
Total	2°502°606	690		26°043		15	1°485

9.2.2. *Financial amounts involved by geographical area and Member State*

Table DE3 summarizes the recoveries per geographical area, where the beneficiary of the Community funding resided. The column 'average' indicates the average amount (in EUR 1,000) per recovery.

*Table DE 3: Recoveries (number and amounts) by region of residence and qualification, 2009*

Contractor place of residence	Commitments € 1 000	Recoveries									
		Irregularity					Suspected Fraud				
		N	%	€1 000	%	Average	N	€1 000	%	Average	
ACP	58°237	8	1.2	74	0.3	9.2					
Africa	7°429	1	0.1	1°013	3.9	1°013.1	1	8	0.5	8	
Asia & Pacific	135°328	4	0.6	69	0.3	17.2					
EFTA	164°385	17	2.5	434	1.7	25.6					
EU	2°274°563	608	88.1	23°663	90.9	38.9	14	1°477	99.5	106	
NEP & PA	157°297	52	7.5	790	3.0	15.2					

Most of the entities concerned have their residence in the European Union: 622 recovery orders (88.2% of 705) were issued for an amount of EUR 25.1 million (91.3% of EUR 27.5 million). 83 recovery orders (11.8%) were issued to entities residing outside the EU, for a total amount of EUR 2.4 million (8.7%). In the latter category, more than 40% of the amount of recoveries relates to an entity residing in South Africa (EUR 1 million), followed by countries eligible for assistance under the neighbourhood policies and pre-accession assistance (EUR 0.8 million).

There was only one case qualified as suspected fraud involving beneficiaries residing outside the EU. The case concerned a beneficiary registered in South Africa and amounted to EUR 8°116.

Table DE4 gives an overview of the recoveries per Member State of residence of the entities in the European Union and the qualification of the recovery. This table details the findings for the European Union reported in table DE3. The 'average' column is the average amount, in EUR 1°000, per recovery.

Table DE 4: Recoveries (number and amounts) by Member State and qualification, 2009

Contractor place of origin	Commitments € 1 000	Recoveries						
		Irregularity					Suspected Fraud	
		N	%	€ 1 000	%	Average	N	€ 1 000
AT	69°448	23	3.8	645	2.7	28.1		
BE	169°857	83	13.7	3°055	12.9	36.8		
BU	947	6	1.0	189	0.8	31.6		
CY	1°281	8	1.3	101	0.4	12.6		
CZ	856	7	1.2	118	0.5	16.9		
DE	493°946	70	11.5	2°201	9.3	31.4	1	25
DK	29°449	6	1.0	64	0.3	10.6		
EE	332	7	1.2	99	0.4	14.2		
EL	60°083	28	4.6	916	3.9	32.7	1	81
ES	96°551	24	3.9	908	3.8	37.8	3	373
FI	50°198	10	1.6	257	1.1	25.7		
FR	521°771	85	14.0	3°555	15.0	41.8	2	130
HU	5°991	9	1.5	173	0.7	19.2		
IR	21°636	11	1.8	190	0.8	17.3		
IT	130°915	46	7.6	1°453	6.1	31.6	2	29
LT	280	1	0.2	12	0.1	12.1		
LU	3°857	5	0.8	89	0.4	17.9		
LV	1°460	6	1.0	62	0.3	10.3		
MT	541	4	0.7	316	1.3	79.0		
NL	156°487	39	6.4	2°272	9.6	58.2		
PL	14°854	15	2.5	128	0.5	8.5		
PT	71°074	14	2.3	517	2.2	36.9	1	235
RO	8°624	2	0.3	21	0.1	10.6		
SK	5°570	3	0.5	179	0.8	59.5		
SL	650	3	0.5	45	0.2	14.9		
SV	33°307	18	3.0	1°146	4.8	63.7	1	369
UK	324°598	75	12.3	4°953	20.9	66.0	3	237
Total EU	2°274°563	608	100.0	23°663	100.0	38.9	14	1°477

Most of the recoveries were made from beneficiaries residing in 5 Member States: France (14.0%), Belgium (13.7%), the United Kingdom (12.3%), Germany (11.5%) and Italy (7.6%). Entities residing in the Member States of the EU account for more than 90% of the amount of the recoveries. Entities from whom the highest aggregated amounts have to be recovered are residing in the United Kingdom (20.6%, EUR 5.2 million), France (14.7%, EUR 3.7 million), Belgium (12.2%, EUR 3.1 million), the Netherlands (9.0%, EUR 2.3 million) and Germany (8.9%, EUR 2.2 million). These five Member States account for 65% of the amounts of recoveries. The high rates of Belgium can be explained by the fact that most of the European Institutions have their seats in this Member State: this leads to the conclusion of a relative higher number of contracts and grant agreements with entities residing in this country.

In 2009 almost all recovery orders involving cases of suspected fraud were reported to involve beneficiaries residing in the EU. The highest number of recoveries with



suspected fraud qualifications concerned beneficiaries in Spain and the United Kingdom, 3 in each. The highest amounts involved per project in cases quantified as suspected fraud were recorded for Sweden (EUR 368°686) and Portugal (EUR 235 146). Both countries have only one case of suspected fraud but of a considerable amount.

### 9.2.3. Method of detection

For each recovery order, the Commission service that issues the order has to indicate how the irregularity or suspected fraud has been detected. Six different categories have been pre-defined, two of which fall under the direct responsibility of the European Commission: On-the-spot checks and the verification of documents by desk officers and financial officers responsible for the implementation of the commitment. Table DE5 gives a breakdown of the recoveries by method of detection.

Table DE 5: Recoveries (number and amounts) by method of detection, 2009

Method of detection	N	%	€ 1 000	%	Average € 1000
Community control / Check on the spot	210	29.8	10°810	39.3	51.5
Community control / Desk check documents	348	49.4	11°126	40.4	32.0
Control by national authorities	1	0.1	20	0.1	19.5
European Court of Auditors	2	0.3	13	0.0	6.3
Independent control (supervising engineers, auditors)	103	14.6	3°261	11.8	31.7
OLAF	8	1.1	669	2.4	83.6
Other	33	4.7	1°631	5.9	49.4
Total	705	100	27°529	100.0	39.0

Most of the irregularities or suspected fraud for which a recovery order was issued, were detected on the basis of Community controls: 558 recoveries (79.1%) accounting for EUR 21.9 million (79.7%). Within the 'Community controls' desk controls and on the spot checks generated amounts of recoveries of the similar magnitude. However checks on the spot detected irregularities involving 60 % higher amounts per project than desk checks. The average amount for recoveries is EUR°39°048. Recoveries detected by OLAF and Community controls on the spot have a substantially higher average. Recoveries issued on the basis of OLAF activities had the highest value per recovery (EUR 83°643) but account for an amount to be recovered of 2.4%. Table DE6 gives a further breakdown of the recoveries by method of detection and by qualification. The last column is the average amount per recovery.

Table DE 6: Recoveries (number and amount) by method of detection and by qualification, 2009

Qualification	Method of detection	N	%	€ 1 000	%	Av. € 1000
Irregularity	Community control / Check on the spot	207	30.0	10°523	40.4	50.8
	Community control / Desk check documents	345	50.0	10°712	41.1	31.0
	Control by national authorities	1	0.1	20	0.1	19.5
	European Court of Auditors	2	0.3	12.5859	0.0	6.3
	Independent control (supervising engineers, auditors)	103	14.9	3°261	12.5	31.7
	OLAF	1	0.1	106	0.4	105.6
	Other	31	4.5	1°409	5.4	45.5
Total of Irregularity		690	100.0	26°043	100.0	37.7
Suspected fraud	Community control / Desk check documents	3	20.0	286	19.3	95.4
	Independent control (supervising engineers, auditors)	3	20.0	414	27.9	138.1
	OLAF	7	46.7	564	37.9	80.5
	Other	2	13.3	221	14.9	110.6
Total of Suspected fraud		15	100.0	1°485	100.0	99.0
Total		705		27°529		39.0

Table DE6 shows the differences in the method of detection between irregularities and suspected fraud. 'Community desk checks of documents' was the most common method of detection of recoveries classified as irregularity for both the number of recoveries and the associated amounts, it constituted half of all the recoveries and over 40% of the amounts. The Community controls are the most important method of detection concerning recoveries classified as irregularity, they make around 80%, both of the number of recoveries and amounts involved. Their share in recoveries classified as suspected fraud drops considerable, the 'Community desk check documents' makes 20% both by the number of recoveries and amounts. Surprisingly, Community on the spot checks did not lead to detection of any suspected fraud recoveries. Most of the recoveries classified as suspected fraud were detected by OLAF: 7 out 15 (46.7%), representing EUR 0.6 million (37.9%) of the recovered amounts. The second most efficient detection method was 'Independent control' carried out by external actors. 'Independent control' allowed for the detection of the same number of suspected fraud cases as Communities desk controls, however the amounts involved were considerable higher in recoveries detected by independent controllers. This method of detection seems to be the best way to identify big cases involving fraudulent actions.

#### 9.2.4. Types of irregularity

The Commission services also have to indicate the type of irregularity that was detected when the recovery order was issued. The number of categories is relatively high compared to e.g. the method of detection, and the interpretation of these findings must be done with care as interpretation problems easily occur with the identification of the correct type of irregularity. It can not be excluded that the same irregularity is scored differently by different financial officers or that some of the categories used in this classification have a small overlap.

Table DE7 presents recoveries by main types of irregularities.

Table DE 7: Recoveries (number and amount) by type of irregularity, 2009

Type of irregularity	N	%	€ 1 000	%	Average €1 000
Action not implemented	53	7.5	2°734	9.9	51.6
Action not in accordance with the rules	105	14.9	5°254	19.1	50.0
Advances not correctly reflected	11	1.6	793	2.9	72.1
Beneficiary ineligible	9	1.3	132	0.5	14.7
Calculation error	75	10.6	2°439	8.9	32.5
Deadline not respected	14	2.0	276	1.0	19.7
Expenditure declared not related to the action	37	5.2	974	3.5	26.3
Expenditure not covered by legal base	108	15.3	4°534	16.5	42.0
Falsified documents	7	1.0	330	1.2	47.2
Inappropriate accumulation of aid	4	0.6	449	1.6	112.3
Incomplete documents	46	6.5	2°249	8.2	48.9
Incorrect rates used in calculating the claim	57	8.1	1°835	6.7	32.2
Lack of necessary co-financing	1	0.1	243	0.9	243.2
Missing documents	118	16.7	3°211	11.7	27.2
Not Applicable	10	1.4	74	0.3	7.4
Public procurement procedures not respected	11	1.6	329	1.2	29.9
Quality of action inadequate	27	3.8	1°593	5.8	59.0
Recoverable VAT, interest received not correctly reflected	12	1.7	80	0.3	6.7
Total	705	100.0	27°529	100.0	39.0

The most common type of recoveries qualified as irregularities is 'Missing Documents' (118 recoveries or 16.7%). The average amount per recovery for this type however is modest and only ranks 13<sup>th</sup> of the 18 types. The qualification 'Expenditure not covered by legal base' follows with 108 recoveries (15.3%). The third most common type is 'Action not in accordance with the rules' (105 recoveries or 14.9%). The last type for which the share exceeds 10% is 'Calculation error' (75 recoveries or 10.6%). The four most frequent types of irregularity amount to more than 55% both by number and irregular amount.

For 134 recoveries, more than one type of irregularity was indicated. The most frequent pair of identified irregularities was 'Missing documents' combined with 'Incorrect rates used in calculating the claim'. This pair of irregularities occurred in 23 recoveries. The second pair consisted of 'Missing Documents' and 'Incomplete documents', which occurred in 20 recoveries. The pair 'Recoverable VAT, interest received not correctly reflected' and 'Incorrect rates used in calculating the claim' occurred in 16 recoveries. The following table presents the four types of irregularity which most frequently appeared in cases involving more than one type of irregularity.

Table DE 8: The most frequently indicated pairs of irregularity types, 2009

Type of irregularity	Missing Documents	Incorrect rates used in calculating the claim	Expenditure not covered by legal base	Expenditure declared not related to the action
Action not implemented	1	1	3	2
Action not in accordance with the rules	5	4	3	2
Beneficiary ineligible	1	0	1	1
Calculation error	6	3	2	5
Deadline not respected	5	1	0	0
Expenditure declared not related to the action	11	7	7	N/A
Expenditure not covered by legal base	17	13	N/A	7
Falsified documents	1	0	0	1
Inappropriate accumulation of aid	1	2	1	1
Incomplete Documents	20	5	5	12
Incorrect rates used in calculating the claim	23	N/A	13	7
Lack of necessary co-financing	0	0	0	2
Missing Documents	N/A	23	17	11
Public procurement procedures not respected	0	0	1	0
Quality of action inadequate	3	1	1	1
Recoverable VAT, interest received not correctly reflected	6	16	4	4

The most common modus operandi identified in parallel with other modus operandi is 'Missing documents'. It is indicated in 100 recoveries, which represents 74.6% of recoveries with more than one type of irregularity indicated. The second most frequent modus operandi is 'Incorrect rates used in calculating the claim', which occurred in 76 recoveries.

Table DE9 provides an overview of the recoveries by type of irregularity, broken down by qualification of the recovery. For recoveries qualified as suspected fraud, only the categories were reported where the cells were not empty.

Table DE 9: Recoveries (number and amount) by type of irregularity and by qualification, 2009

Qualification	Type of irregularity	N	%	€ 1 000	%	Average
Irregularity	Action not implemented	53	7.7	2°733.7	10.5	51.6
	Action not in accordance with the rules	101	14.6	4°275.8	16.4	42.3
	Advances not correctly reflected	11	1.6	793.4	3.0	72.1
	Beneficiary ineligible	9	1.3	132.1	0.5	14.7
	Calculation error	75	10.9	2°438.5	9.4	32.5
	Deadline not respected	13	1.9	188.9	0.7	14.5
	Expenditure declared not related to the action	37	5.4	973.8	3.7	26.3
	Expenditure not covered by legal base	107	15.5	4°507.0	17.3	42.1
	Falsified documents	3	0.4	225.0	0.9	75.0
	Inappropriate accumulation of aid	4	0.6	449.0	1.7	112.3
	Incomplete Documents	45	6.5	2°224.8	8.5	49.4
	Incorrect rates used in calculating the claim	56	8.1	1°806.7	6.9	32.3
	Lack of necessary co-financing	1	0.1	243.2	0.9	243.2
	Missing Documents	117	17.0	3°196.1	12.3	27.3
	Not Applicable	10	1.4	74.4	0.3	7.4
	Public procurement procedures not respected	9	1.3	107.4	0.4	11.9
	Quality of action inadequate	27	3.9	1°593.2	6.1	59.0
	Recoverable VAT, interest received not correctly reflected	12	1.7	80.1	0.3	6.7
Total of Irregularity		690	100.0	26°043	100.0	37.7
Suspected fraud	Action not in accordance with the rules	4	26.7	977.8	65.8	244.4
	Deadline not respected	1	6.7	86.7	5.8	86.7
	Expenditure not covered by legal base	1	6.7	27.4	1.8	27.4
	Falsified documents	4	26.7	105.3	7.1	26.3
	Incomplete Documents	1	6.7	24.0	1.6	24.0
	Incorrect rates used in calculating the claim	1	6.7	28.1	1.9	28.1
	Missing Documents	1	6.7	14.9	1.0	14.9
Public procurement procedures not respected	2	13.3	221.2	14.9	110.6	
Total of Suspected fraud		15	100.0	1°485	100.0	99.0
Total		705		27°529		39.0

Among the recoveries qualified as irregularities 'Missing documents' was the most frequent identified category (117 recoveries or 17.0%). The next category was 'Expenditure not covered by legal base' (107 recoveries or 15.5%). The four most frequent categories account for 58.0% of the recoveries qualified as irregularity, which shows a big variety in modus operandi used in irregular transactions. It should be observed that the share of these categories is very similar (55.4%) if the amounts involved in the recovery are taken into account.

Among the recoveries qualified as suspected fraud, 'Falsified documents' and 'Action not in accordance with the rules' are the most frequent types of irregularity (each 4 recoveries or 26.7%). Suspected fraud in public procurement is identified in two cases qualified as suspected fraud. However, the amounts involved in the recovery show a different pattern: the four cases where the type of irregularity is 'Action not in accordance with the rules' account for 65.8% of the amounts, whereas

the category 'Falsified documents' only accounts for 7.1%. The two cases with type of irregularity 'Public procurement procedures not respected' involve 14.9% of the amounts identified as suspected fraud.

### 9.3. Specific analysis

#### 9.3.1. Irregularity versus Suspected Fraud

Only 2.1% of the 705 issued recovery orders were qualified by the Commission services as suspected fraud, but they account for 5.4% of the amounts involved in the recoveries. Table DE10 provides an overview of these findings.

Table DE 10: Recoveries (number and amounts) by qualification, 2009

Qualification	Commitments			Recoveries				
	€ 1 000	%	Average	N	%	€1 000	%	Average
Irregularity	2°376°019	94.9	3°444	690	97.9	26°043	94.6	37.7
Suspected fraud	126°587	5.1	8°439	15	2.1	1°485	5.4	99.0
Total	2°502°606	100.0	3°550	705	100.0	27°529	100.0	39.0

The average irregular amount per recovery is two and a half times higher in suspected fraud recoveries than in recoveries qualified as irregularity. The average for recoveries qualified as irregularity is EUR 37°744 compared to EUR 99°031 for recoveries qualified as suspected fraud. The commitments in which irregularities qualified as suspected fraud were identified were substantially higher as well. It should be noted that the financial impact of suspected fraud cases could be revised following OLAF's investigations.

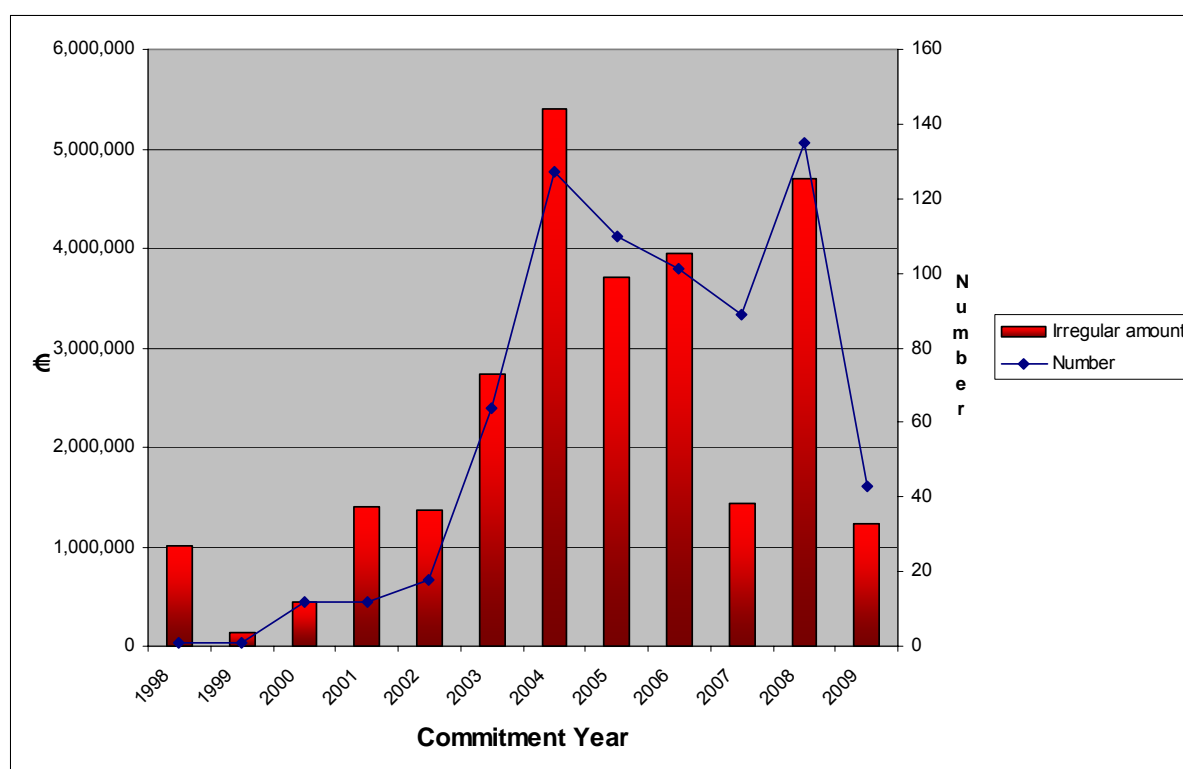
#### 9.3.2. Time delay

Half of the irregularities for which a recovery order was issued in 2009 occur within one year after the first payment was made by the Commission. More than 80% of all irregularities are perpetrated within the first three years from the first payment. The average time delay between payment and committing an irregularity is only 11 months. The contract value does not play an important role: irregularities in both big and small contracts appear within the first year from payment. The average delay between first payment and occurrence of the irregularity, taking account of the amounts involved, is 9 months.

For the recovery orders issued in 2009, the average delay between the irregularity and its detection is 2 years and 11 months. There is a limited number of irregularities that are detected almost immediately: 12.1% of the irregularities for which a recovery orders were issued, were detected during the first year after. The percentage of detected irregularities does not change substantially for the period between 2 and 6 years after the irregularity was committed. This clearly reflects the project management cycle in the Commission and shows the systematic way in which the Commission implements its controls. There is no relationship between the amount of the irregularity and its duration at the moment of its detection. Taking account of the amounts involved in the weighted average of time delay it takes 2 years and 7 months, from the moment an irregularity starts to the moment it is detected.

The chart below presents the recoveries registered in 2009 by number (line) and amounts (bars) of commitments by a year in which the commitment was made (e.g.: in 2009, 101 recoveries were registered in ABAC that were made in 2006. The corresponding amount to be recovered is EUR 3.9 million). For recovery orders issued in 2009 for direct expenditures commitments, most commitments were made in 2004 and 2008. In both years more than 120 commitments were made for which a recovery order was issued in 2009. More than 90% of the recovery orders concerned commitments which were made between 2002 and 2008. The corresponding amounts account for almost 85%.

Chart DE 1: Recoveries in 2009 (number and amounts) by year of commitment



### 9.3.3. Trends

The total number of recorded recoveries decreased in 2009 in comparison to 2008 by 24.4%. The number of recoveries qualified as suspected fraud decreased by 21.1%. The corresponding amounts decreased by 20.6% (all recoveries) respectively 54.0% (suspected fraud). The main reason for the decline in the **number of recoveries** is the proportional decrease of the number of payments made by the European Commission in recent years. The decline in the **amounts to be recovered** could be explained by the improved and stricter controls applied by the Commission as well as the decrease of the amounts paid from the Communities budget under centralised direct management.

The distribution of irregularities between internal and external policies follows the share of the amounts committed in the two policy areas. Internal policies account for 80% of the commitments, which is reflected in its share of recoveries and corresponding amounts. The recoveries follow the same pattern as the previous year.

However, the number of irregularities in the area of external actions slightly increased in 2009 while the corresponding amounts decreased. This brings the average amount of an irregularity in external actions more in line with the ones observed in internal policies. In 2008, the average amount of an irregularity in external actions was two times higher than the one in internal policies whereas in 2009, the average values for the two areas are at the similar level – the difference is only 10%.

In comparison to 2008, there are no major shifts in the most frequent methods of detection and the most frequent types of irregularities. 'Community controls' was the most frequent method of detection in both years, with share of 'Desk check of documents' around 50%. Among cases qualified as suspected fraud 'Independent controls' increased its significance as an efficient method of fraud identification.

The average delay between the first payment to a beneficiary and the detection of an irregularity for recovery orders issued in 2009 was 3 years and 9 months. For 2008, this figure was 4 years and 8 months, which represents a reduction of almost 20%. An even stronger progress can be observed if the average delays are weighted with the corresponding amounts: the average delay then drops from 5 years and 6 months in 2008 to 3 years and 6 months in 2009, which represents a reduction of 36%.

#### 9.4. Recovery

This paragraph describes the *payments made to the Commission* further to the issuing of the recovery orders. Once a recovery order is issued, the beneficiary has to pay back the undue payment. For the recovery orders issued in 2009, full or partial recovery was recorded in 478 cases (67.8% of the 705 recovery orders), which represents an amount of almost EUR 15.5 million (56.1% of the amounts to be recovered). In 463 recovery orders (65.7%) the full amount has already been recovered. However there are still 242 (34.3%) outstanding recovery orders which account for EUR 12 million (43.9%).

Table DE 11: Recoveries in 2009 (number and amount) by payment status and qualification.

Qualification	Recovered		To be Recovered	
	N	Cashed Amount € 1 000	N	Open Amount (€ 1 000)
Irregularity	471	14'886	233	11'157
Suspected fraud	7	559	9	927
Total	478	15'445	242	12'084

The recovery rate for recoveries qualified as irregularity is 57.2% and is higher than for cases qualified as suspected fraud (37.6%). The latter percentage represents a substantial improvement as it increased from 18.6% in 2008 to 37.6% in 2009, despite the fact that there are more suspected fraud recovery orders of 2009 still open (60%) than there were in 2008 (31.6%).

#### 9.5. Conclusions

The analysis of the irregularities detected in the expenditure managed by the Commission on a centralised direct basis, as registered in the recovery context of the



Commission's financial system, is only at its beginning. Taking into consideration its limitations described in the methodological section as well as the relatively short time the recovery context functions, the findings in this chapter must be interpreted with care.

Following the rates presented in previous chapters the respective figures for expenditures managed directly by the Commission are presented in the table below.

*Table DE 12: Summary table for 2009*

Rates in %	2009	2008	Total 2008-9
Irregularity rate - IrR	0.17	0.17	0.17
Fraud rate – FrR	0.01	0.02	0.01
Fraud frequency level - FFL	2.13	2.04	2.08
Fraud amounts level - FAL	5.39	9.31	7.58

- (1) Only a small part of the Commission expenditures is concerned by irregularities. Recovery orders issued in 2009 relate to 0.17% of the overall amounts paid by the Commission, whereas recovery orders classified as suspected fraud are lower and affect less than 0.01% of the those payments. The aggregated amount of the recovery orders issued in 2009 represents 1.1% of the commitments made by the Commission for internal policies and external actions. This is an improvement compared to 2008 when this rate was 6%.
- (2) The number of recovery orders issued in 2009 decreased by 24.4% in comparison to the previous year, which could be explained by the decrease of payments in the respective areas. The number of cases qualified as suspected fraud decreased from 19 in 2008 (2.0%) to 15 in 2009 (2.1%). The corresponding amounts decreased more rapidly: from EUR 3.2 million in 2008 to EUR 1.5 million in 2009, which represents a reduction of 54%.
- (3) The majority of the irregularities were committed by a beneficiary residing in one of the Member States. The beneficiaries registered in the EU committed 88.2% of irregularities, which corresponds to more than 90% of the irregular amounts. For recovery orders qualified as suspected fraud, there is even a higher concentration of the beneficiaries in the European Union - 14 out of 15 beneficiaries, corresponding to almost 100% of the amounts, had one of the Member States as their place of residence.
- (4) The most successful method of detection is 'Communities controls': almost 80% of the irregularities (numbers and corresponding amounts) were identified on the basis of 'On-the-spot checks' and 'Desk checks of documents'. The average amount of the irregularities detected with "on-the-spot checks" was 60% higher than the average for "Desk checks of documents". It was only in a few recoveries that desk controls led to a 'suspected fraud qualification'. 'Independent controls' carried out by e.g. engineers and external auditors detected a similar number of cases involving higher amounts. This might indicate the need to increase such controls of the EU financed projects in order to better tackle the fraud question.

- (5) The types of irregularity show a large variance. In recovery orders qualified as irregularity, 'Missing documents' and 'Expenditures not covered by the legal basis' are the most frequent categories, whereas the type of irregularity most frequently observed in recovery orders qualified as suspected fraud is 'Falsified documents'. However if the irregular amounts are compared the most frequent type of irregularity among suspected fraud cases is 'Action not in accordance with rules' (65.8%).
- (6) Commitments made in 2004 have a high share in the recovery orders issued in 2008 and 2009. The Commission has already recovered or offset 56.1% of value of the recovery orders issued in 2009. 65.7% recovery orders issued in 2009 have already been fully recovered.

**ANNEXES**

**ANNEX 1 – SUMMARY OF FINANCING<sup>1</sup> OF THE GENERAL BUDGET BY TYPE OF OWN RESOURCE AND BY MEMBER STATE (in million Euros)**

Member State	Traditional own resources (TOR)				VAT and GNI-based own resources, including adjustments							Total own resources <sup>2</sup>
	Net sugar sector levies (75 %)	Net customs duties (75 %)	Total net traditional own resources (75 %)	p.m. Collection costs (25% of gross TOR)	VAT-based own resource	GNI-based own resource	Reduction in favour of Netherlands and Sweden	United Kingdom correction	Adjustments relating to 2007 and 2008	Total 'national contributions'	Share in total 'national contributions' (%)	
	(1)	(2)	(3)=(1)+(2)	(4)	(5)	(6)	(7)	(8)	(9)	(10)=(5)+(6)+(7)+(8)+ (9)	(11)	(12) = (3) + (10)
<b>Total</b>	<b>139400000</b>	<b>14441100000</b>	<b>14580500000</b>	<b>4860166667</b>	<b>13668391900</b>	<b>81989065204</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>95657457104</b>	<b>100,00</b>	<b>11023795710</b>
Belgium	6600000	1613226465	1619826465	539942155	424319700	2381246881	24132838	251071878	204589861	3285361158	3,43	4905187623
Bulgaria	400000	71260747	71660747	23886916	50547600	238330851	2415373	25069708	17366133	333729665	0,35	405390412
Czech Republic	3400000	191350235	194750235	64916745	188377500	888195875	9001455	95940354	71314837	1252830021	1,31	1447580256
Denmark	3400000	290885745	294285745	98095248	293474400	1670514784	16929896	172713449	143571167	2297203696	2,40	2591489441
Germany	26300000	2808069918	2834369918	944789967	1581459150	16884497842	171116590	311657432	-1736354527	17212376487	17,99	20046746405
Estonia	8600000	23475356	32075356	10691786	20656950	97397076	987074	10872320	8734505	138647925	0,14	170723281
Ireland	0	170483252	170483252	56827751	208952250	985205380	9984602	106594657	91629026	1402365915	1,47	1572849167
Greece	1400000	201053382	202453382	67484461	352958250	1664190583	16865803	184147541	126166977	2344329154	2,45	2546782536
Spain	6200000	1051591614	1057791614	352597205	1542368100	7272232531	73700719	762210573	592534409	10243046332	10,71	11300837946
France	30900000	1047626887	1078526887	359508962	2694111000	13589348082	137721768	1421188534	1096152291	18938521675	19,80	20017048562
Italy	4700000	1335278250	1339978250	446659417	2000065800	10510520358	106519271	1082758527	949414872	14649278828	15,31	15989257078
Cyprus	3800000	38603919	42403919	14134640	25272300	119158353	1207615	12477306	8882419	166997993	0,17	209401912
Latvia	800000	14189549	14989549	4996517	23306100	138147222	1400058	13952861	11893607	188699848	0,20	203689397
Lithuania	800000	44759679	45559679	15186560	42241200	199784486	2024724	18823288	16715516	279589214	0,29	325148893
Luxembourg	0	12311520	12311520	4103840	42061950	198321193	2009894	21490064	16872718	280755819	0,29	293067339
Hungary	2000000	94318764	96318764	32106255	120881100	631554405	6400512	60446857	57520700	876803574	0,92	973122338
Malta	200000	11789845	11989845	3996615	8258700	38939593	394635	4218544	3006056	54817528	0,06	66807373
Netherlands	7300000	1807706747	1815006747	605002249	282073000	4090251449	-624384804	92883922	-2108712670	1732110897	1,81	3547117644
Austria	3200000	175386993	178586993	59528998	277101450	1911207839	19369209	27667296	-30989269	2204356525	2,30	2382943518
Poland	12800000	326150946	338950946	112983649	445562250	2100816458	21290805	220913567	177873305	2966456385	3,10	3305407331
Portugal	200000	114246733	114446733	38148911	231396000	1091027180	11057057	113149704	89132398	1535762339	1,61	1650209072
Romania	1100000	155772029	156872029	52290677	148310700	894872284	9069117	94130437	72969422	1219351960	1,27	1376223989
Slovenia	0	82007244	82007244	27335748	53130450	250508933	2538792	27239466	19006610	352424251	0,37	434431495
Slovakia	2200000	123532540	125732540	41910847	82874400	465458205	4717204	46805427	32789749	632644985	0,66	758377525
Finland	800000	136678739	137478739	45826247	236805900	1260261434	12772168	134556943	110353342	1754749787	1,83	1892228526
Sweden	2600000	423495422	426095422	142031808	124292400	2017073488	-144641598	45355662	-707893691	1334186261	1,39	1760281683
United Kingdom	9700000	2075847480	2085547480	695182493	2167533300	10400002439	105399223	5358336317	665460237	7980058882	8,34	10065606362

<sup>1</sup> p.m. (own resources + other revenue = total revenue = total expenditure); (110 237 957 104 + 2 797 458 310 = 113 035 415 414).

<sup>2</sup> Total own resources as percentage of GNI: (110 237 957 104) / (11 592 709 500 000) = 0,95 %; own resources ceiling as percentage of GNI: 1,24 %.

## ANNEX 2

<b>Expenditure estimates for EU policies</b> (in billion EUR)	<b>Budget</b> <b>2009</b>	<b>Change from</b> <b>2008</b>
<b>Sustainable growth</b>	<b>60.2</b>	<b>3.2 %</b>
Competitiveness, <i>including</i> :	<b>11.8</b>	<b>6.2 %</b>
Education and training	1.1	6.5 %
Research	6.8	10.9 %
Competitiveness and innovation	0.5	22.2 %
Transport and energy networks	1.9	-4.6 %
Social policy agenda	0.2	5.5 %
Cohesion, <i>including</i> :	<b>48.4</b>	<b>2.5 %</b>
Convergence	39.0	4.4 %
Regional competitiveness and employment	8.1	-5.6 % <sup>(1)</sup>
Territorial cooperation	1.2	-1.3 %
<b>Natural resources</b>	<b>56.1</b>	<b>1.0 %</b>
Environment	0.3	18.8 %
Agricultural expenditure and direct aids	41.1	0.3 %
Rural development	13.7	2.6 %
Fisheries	0.9	0.3 %
<b>Citizenship, freedom, security and justice</b>	<b>1.5</b>	<b>12.3 % <sup>(2)</sup></b>
Freedom, security and justice, including fundamental rights and justice, security and liberties, migration flows	0.9	18.1 %
Citizenship, including culture, media, public health and consumer protection	0.6	5.4 % <sup>(2)</sup>
<b>The EU as a global player</b>	<b>8.1 <sup>(3)</sup></b>	<b>7.3 %</b>
Pre-accession	1.5	5.6 %
European neighbourhood	1.6	3.8 %
Development cooperation	2.4	5.5 %
Humanitarian aid	0.8	3.4 %
Democracy and human rights	0.2	6.9 %
Common foreign and security policy	0.2	-14.8 %
Instrument for Stability	0.2	4.1 %
<b>Administration</b>	<b>7.7</b>	<b>5.7 %</b>
European Commission	3.6	4.5 %
Other institutions	2.8	6.5 %
<b>Compensations to new EU countries <sup>(4)</sup></b>	<b>0.2</b>	<b>1.2 %</b>
<b>Total</b>	<b>133.8</b>	<b>2.5 %</b>

<sup>(1)</sup> Decrease due to reduction in allocations to the so-called 'phasing-in regions', which were eligible under Objective 1 between 2000 and 2006.

<sup>(2)</sup> Excluding the amounts allocated in 2008 from the Solidarity Fund.

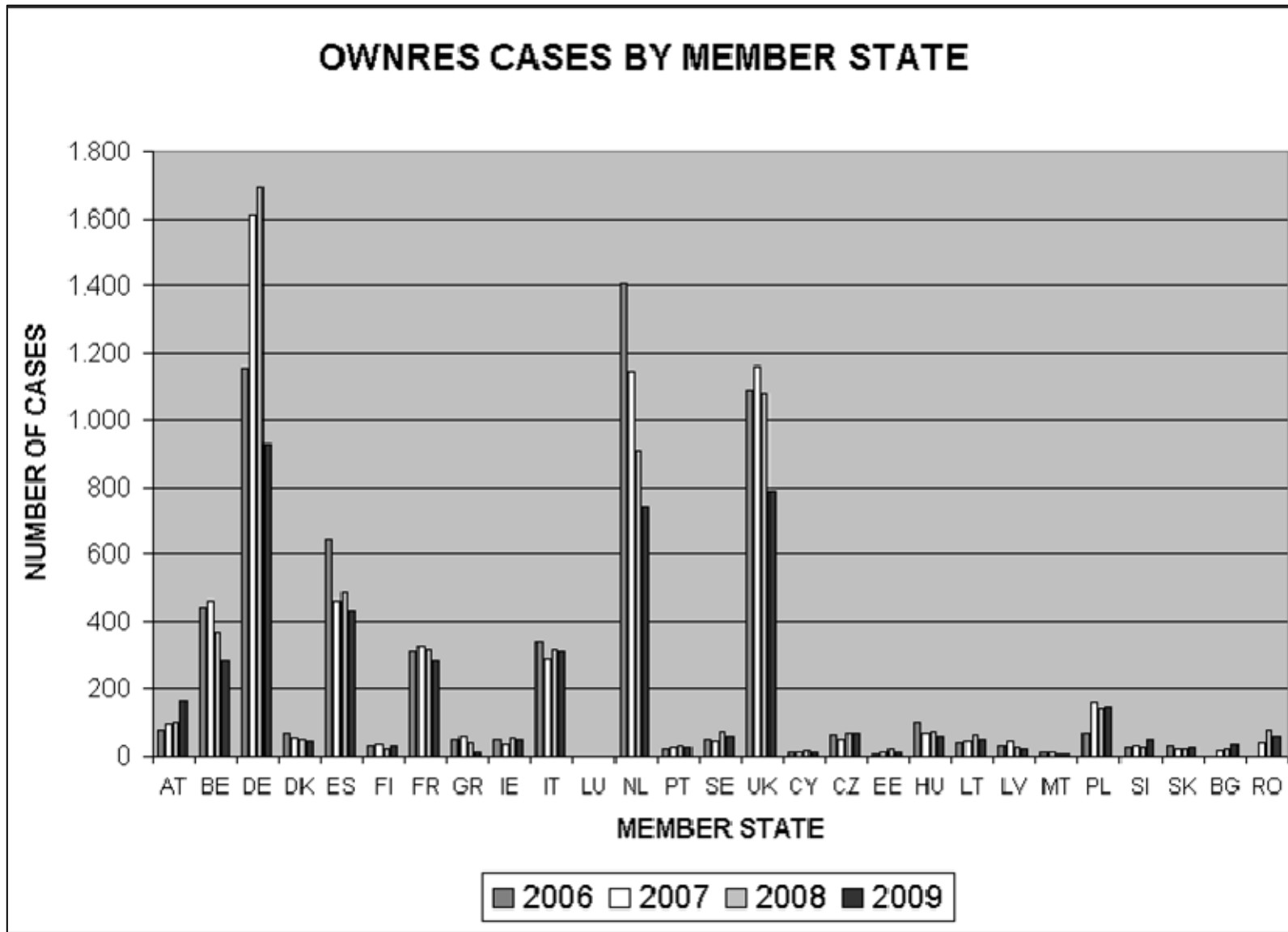
<sup>(3)</sup> Including *emergency aid reserve*.

<sup>(4)</sup> Amounts fixed by the accession treaties.

**ANNEX 3 – NUMBER OF CASES OWNRES AND AMOUNTS – PERIOD 2004-2007 PER MEMBER STATE**

<b>Number of cases OWNRES and amounts for the period 2006-2009 by Member State</b>										
<b>Member State</b>	<b>2006</b>		<b>2007</b>		<b>2008</b>		<b>2009</b>		<b>% Change cases 2008-2009</b>	<b>% Change amount 2008-2009</b>
	<b>Cases</b>	<b>Amount €</b>	<b>Cases</b>	<b>Amount €</b>	<b>Cases</b>	<b>Amount €</b>	<b>Cases</b>	<b>Amount €</b>		
AT	75	5°877°026	94	36°532°901	103	15°446°113	166	21°479°526	<b>61.17%</b>	<b>39.06%</b>
BE	442	12°071°264	462	22°233°141	368	15°001°626	286	9°496°939	<b>-22.28%</b>	<b>-36.69%</b>
DE	1°156	57°451°497	1°614	76°134°997	1696	87°012°563	927	73°591°941	<b>-45.34%</b>	<b>-15.42%</b>
DK	67	6°068°089	54	7°209°425	47	4°196°196	44	9°277°407	<b>-6.38%</b>	<b>121.09%</b>
ES	643	33°379°949	464	20°660°465	485	23°650°089	432	23°880°689	<b>-10.93%</b>	<b>0.98%</b>
FI	28	1°989°495	34	1°820°185	21	1°035°615	31	1°747°094	<b>47.62%</b>	<b>68.70%</b>
FR	314	28°824°380	327	32°430°736	317	17°024°066	285	20°551°562	<b>-10.09%</b>	<b>20.72%</b>
GR	48	11°697°070	57	2°976°051	37	1°751°545	12	534°742	<b>-67.57%</b>	<b>-69.47%</b>
IE	48	2°864°369	34	2°426°561	53	1°839°749	49	2°003°110	<b>-7.55%</b>	<b>8.88%</b>
IT	341	64°913°724	288	22°940°129	320	33°744°661	312	39°859°261	<b>-2.50%</b>	<b>18.12%</b>
LU	1	49°291	0	-	1	109°902	0	-	<b>-100.00%</b>	<b>-100.00%</b>
NL	1°404	36°376°427	1°145	27°768°747	912	45°817°303	742	33°280°727	<b>-18.64%</b>	<b>-27.36%</b>
PT	21	807°725	23	1°635°142	29	2°253°594	22	901°744	<b>-24.14%</b>	<b>-59.99%</b>
SE	47	2°164°111	44	2°620°160	71	6°503°546	58	4°871°519	<b>-18.31%</b>	<b>-25.09%</b>
UK	1°086	64°492°022	1°161	108°342°942	1078	90°150°802	791	65°659°462	<b>-26.62%</b>	<b>-27.17%</b>
<b>EUR-15 TOTAL</b>	<b>5°721</b>	<b>329°026°439</b>	<b>5°801</b>	<b>365°731°582</b>	<b>5°538</b>	<b>345°537°370</b>	<b>4°157</b>	<b>307°135°723</b>	<b>-24.94%</b>	<b>-11.11%</b>
CY	9	192°160	11	750°964	14	787°523	11	718°211	<b>-21.43%</b>	<b>-8.80%</b>
CZ	63	2°298°548	50	2°202°574	65	4°893°646	67	3°668°883	<b>3.08%</b>	<b>-25.03%</b>
EE	5	178°010	12	362°193	17	838°216	11	259°221	<b>-35.29%</b>	<b>-69.07%</b>
HU	103	7°654°127	69	6°260°184	71	6°069°639	59	6°403°096	<b>-16.90%</b>	<b>5.49%</b>
LT	39	1°548°735	41	1°069°437	64	1°580°853	47	1°842°512	<b>-26.56%</b>	<b>16.55%</b>
LV	29	2°274°172	41	2°265°331	25	944°250	19	1°011°059	<b>-24.00%</b>	<b>7.08%</b>
MT	11	1°226°978	10	404°949	3	279°533	6	1°585°808	<b>100.00%</b>	<b>467.31%</b>
PL	69	1°739°568	159	8°419°370	141	5°361°790	142	6°033°647	<b>0.71%</b>	<b>12.53%</b>
SI	24	950°848	27	1°579°108	26	897°474	50	2°652°248	<b>92.31%</b>	<b>195.52%</b>
SK	28	1°561°967	21	950°725	17	520°789	22	2°474°719	<b>29.41%</b>	<b>375.19%</b>
<b>EUR-10 TOTAL</b>	<b>380</b>	<b>19°625°113</b>	<b>441</b>	<b>24°264°835</b>	<b>443</b>	<b>22°173°713</b>	<b>434</b>	<b>26°649°404</b>	<b>-2.03%</b>	<b>20.18%</b>
BG	0	0	15	308°192	19	502°373	34	1°235°236	<b>78.95%</b>	<b>145.88%</b>
RO	0	0	37	3°770°239	75	7°151°645	59	8°419°903	<b>-21.33%</b>	<b>17.73%</b>
<b>EUR-2 TOTAL</b>	<b>0</b>	<b>0</b>	<b>52</b>	<b>4°078°431</b>	<b>94</b>	<b>7°654°018</b>	<b>93</b>	<b>9°655°139</b>	<b>-1.06%</b>	<b>26.14%</b>
<b>EUR-27 TOTAL</b>	<b>6°101</b>	<b>348°651°552</b>	<b>6°294</b>	<b>394°074°848</b>	<b>6°075</b>	<b>375°365°101</b>	<b>4°684</b>	<b>343°440°266</b>	<b>-22.90%</b>	<b>-8.51%</b>

ANNEX 4 – OWNRES CASES PER MEMBER STATE



**ANNEX 5 – IMPACT ON CUSTOM PROCEDURE FREE CIRCULATION**

<b>IMPACT ON CUSTOMS PROCEDURE FREE CIRCULATION</b>				
<b>YEAR</b>	<b>CASES</b>	<b>IMPACT CASES % OF TOTAL</b>	<b>AMOUNTS ESTABLISHED</b>	<b>IMPACT AMOUNTS ESTABLISHED % OF TOTAL</b>
<b>2005</b>	3°316	53.37%	259°674°964	81.69%
<b>2006</b>	3°922	64.28%	263°562°760	75.59%
<b>2007</b>	4°131	65.63%	327°655°670	83.15%
<b>2008</b>	4°157	68.43%	311°176°854	82.90%
<b>2009</b>	3°428	73.19%	286°236°587	83.34%



**ANNEX 6 – TOP 10 CHAPTER HEADINGS**

2007				2008				2009			
CN	PRODUCT	AMOUNT €	CASES	CN	PRODUCT	AMOUNT €	CASES	CN	PRODUCT	AMOUNT €	CASES
85	TVs and parts etc.	86°803°868	1°087	85	TVs and parts etc°	105°108°766	970	85	TVs and parts etc°	76°663°396	724
64	Footwear	48°263°851	284	24	Tobacco / cigarettes	32°724°945	457	61	Clothing	35°668°571	250
24	Tobacco / cigarettes	35°393°266	459	61	Clothing	29°733°092	418	24	Tobacco / cigarettes	23°647°113	340
87	(Parts of) cars / motors	21°258°981	341	84	Machines	16°652°468	412	87	(Parts of) cars / motors	22°367°120	258
07	Edible vegetables	19°523°232	92	62	Clothing	16°530°654	456	62	Clothing	16°413°636	338
61	Clothing	17°851°469	390	87	(Parts of) cars / motors	15°600°151	383	84	Machines	15°379°233	338
62	Clothing	14°239°112	448	02	Meat	12°114°908	149	29	Chemical products	13°851°751	161
84	Machines	14°018°082	397	39	Plastics	10°584°566	253	16	Food	12°747°855	86
63	Other textile articles	10°471°221	80	64	Footwear	10°375°890	253	64	Footwear	12°269°915	165
73	Articles of iron and steel	8°693°476	187	07	Vegetables	9°442°210	158	73	Articles of iron and steel	12°106°655	194

**ANNEX 7 – GOOD AFFECTED BY FRAUD AND IRREGULARITY – PERIOD 2005-2007**

<b>GOODS AFFECTED BY FRAUD AND IRREGULARITY PERIOD 2007-2009</b>								
<b>2007</b>			<b>2008</b>			<b>2009</b>		
<b>TARIFF CODES</b>	<b>CASES</b>	<b>AMOUNTS €</b>	<b>TARIFF CODES</b>	<b>CASES</b>	<b>AMOUNTS €</b>	<b>TARIFF CODES</b>	<b>CASES</b>	<b>AMOUNTS €</b>
64039998	39	30°825°995	85219000	124	30°512°258	85219000	87	21°575°586
85282190	75	23°793°372	24022090	393	28°261°950	24022090	270	20°367°653
24022090	353	22°828°664	85282190	26	18°607°596	61091000	43	12°575°370
07032000	49	18°056°964	61046300	3	9°674°750	16041416	28	9°677°039
85281298	4	13°221°267	85393190	99	9°498°895	61046300	1	9°500°000
87031018	50	9°399°746	02071410	60	7°779°662	87032410	19	8°565°338
64030000	6	6°706°330	07032000	116	7°404°350	85393190	41	8°133°673
63039118	1	6°468°283	85366990	22	6°140°220	07032000	80	7°473°658
85393190	102	5°995°910	28046900	6	5°565°548	85365080	4	5°427°349
02071410	116	4°307°828	96131000	21	4°803°557	85287119	37	4°964°827
85219000	116	4°155°951	24012010	11	3°766°811	85285990	62	4°257°315
61103099	89	3°829°741	85287220	6	3°613°262	38249091	3	4°008°418
24031010	43	3°711°910	61101190	12	3°512°930	29310095	3	3°962°877
24012010	9	3°711°817	39232100	68	3°017°653	04021019	4	3°914°753
62034231	21	3°460°033	85285990	48	2°997°649	87032319	13	3°771°018
20031030	45	3°326°846	83112000	1	2°765°919	55032000	16	3°581°021
61101190	14	3°157°134	61091000	47	2°743°745	84279000	36	3°546°120
96131000	20	3°073°440	61103099	59	2°568°161	29371200	1	3°356°160
04051000	1	3°071°722	87031018	20	2°564°623	85269120	11	3°014°630
85281294	42	2°635°082	17019999	2	2°376°061	61159399	2	2°860°760
85369010	2	2°549°674	02023090	22	2°216°134	39232100	75	2°647°302
64039938	3	2°548°693	84099100	5	2°214°657	08030019	5	2°516°879
85254091	12	2°484°027	62046231	27	2°156°788	87120030	29	2°474°057
48103900	1	2°111°908	85269120	20	2°138°476	85299092	30	2°184°703
85253090	14	2°060°399	15119019	3	2°130°303	64041990	14	2°092°903

## ANNEX 8 – FRAUD AND IRREGULARITIES: BREAKDOWN BY ORIGIN OF GOODS

FRAUD AND IRREGULARITIES: BREAKDOWN BY ORIGIN OF GOODS DURING 2007-2009								
2007			2008			2009		
COUNTRY	€	CASES	COUNTRY	€	CASES	COUNTRY	€	CASES
China	171°060°976	1°814	China	154°752°686	1°922	China	136°708°058	1°700
USA	43°341°410	793	USA	39°622°046	700	USA	34°799°342	506
Japan	26°401°632	271	Japan	20°723°309	259	Japan	18°002°252	202
South Korea	17°472°146	178	Brazil	15°286°109	168	Hong Kong	16°860°334	70
Brazil	11°691°233	266	South Korea	14°957°163	109	Not specified	10°649°807	443
Taiwan	11°659°218	136	Bangladesh	13°056°184	185	Vietnam	10°281°100	32
Bangladesh	8°836°565	188	Not specified	10°702°944	608	Argentina	9°884°440	37
Vietnam	8°572°969	64	Switzerland	9°188°001	99	Seychelles and dep°	8°255°834	2
Thailand	6°486°764	98	Malaysia	7°242°777	63	South Korea	7°451°742	84
Not specified	5°614°034	686	Russian Federation	6°807°555	131	Bangladesh	7°394°940	113

## ANNEX 8.1: RECOVERY RATE (RR) BREAKDOWN BY ORIGIN OF GOODS 2006-2008

FRAUD AND IRREGULARITIES: BREAKDOWN BY ORIGIN OF GOODS DURING 2007-2009								
2007			2008			2009		
Country	Recovered €	RR	Country	Recovered €	RR	Country	Recovered €	RR
China	68°632°686	40%	China	71°966°983	47%	China	53°816°471	39%
USA	35°665°619	82%	USA	27°145°501	69%	USA	24°290°222	70%
Japan	23°053°039	87%	Japan	18°582°660	90%	Japan	16°555°497	92%
South Korea	7°627°144	44%	Brazil	6°508°892	43%	Hong Kong	1°398°600	8%
Brazil	6°856°801	59%	South Korea	10°263°429	69%	Not specified	4°251°269	40%
Taiwan	4°846°428	42%	Bangladesh	5°630°766	43%	Vietnam	1°141°529	11%
Bangladesh	5°191°437	59%	Not specified	2°640°954	25%	Argentina	9°560°508	97%
Vietnam	8°033°229	94%	Switzerland	1°173°408	13%	Seychelles and dep°	0	0%
Thailand	3°093°715	48%	Malaysia	1°997°391	28%	South Korea	4°880°536	65%
Not specified	4.193.562	75%	Russian Federation	1.837.503	27%	Bangladesh	1.652.680	22%

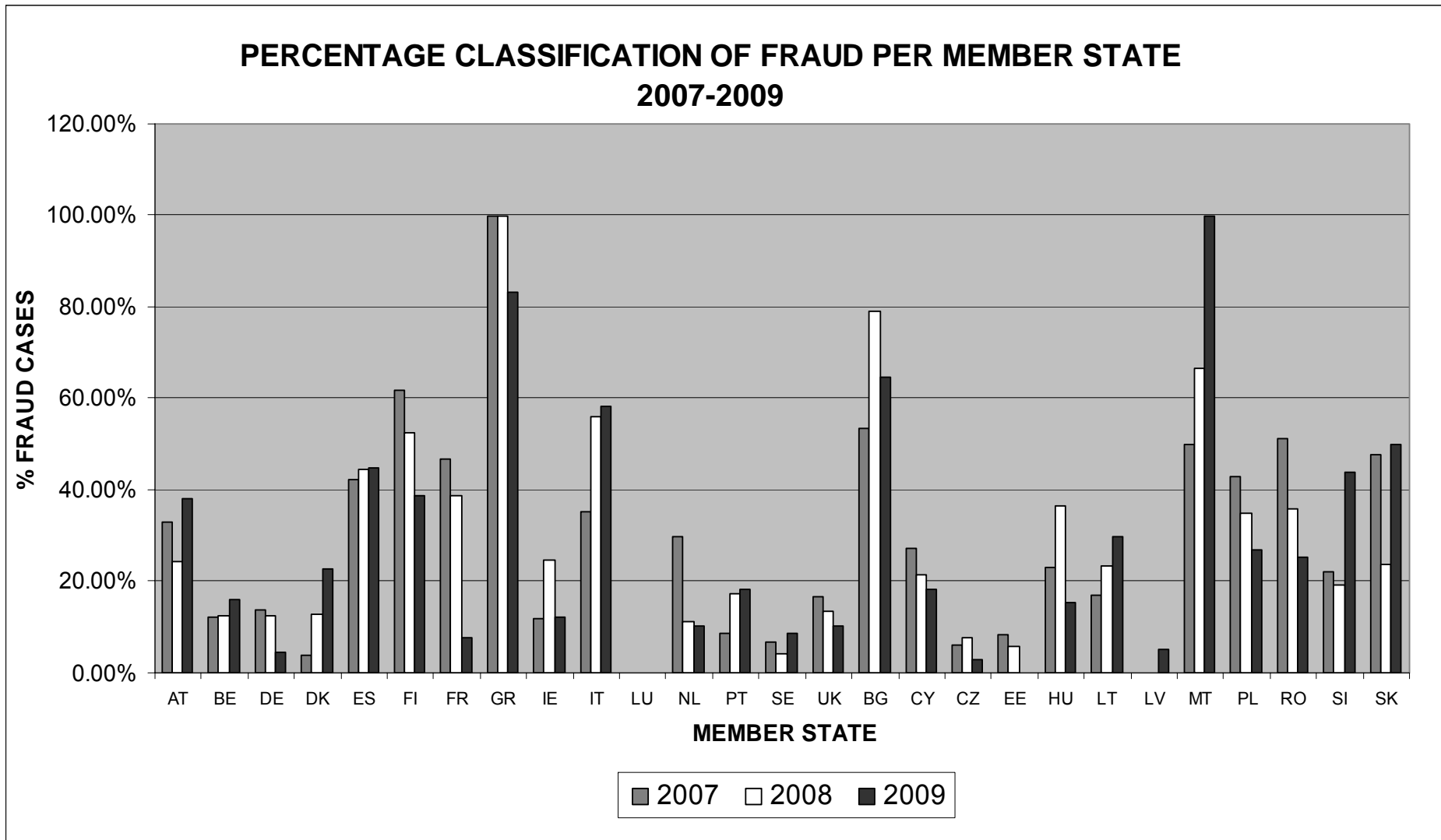
## ANNEX 9 – RECOVERY RATES OWNRES

<b>RECOVERY RATES TRADITIONAL OWN RESOURCES (RR)</b>									
<b>MEMBER STATES</b>	<b>2008</b>						<b>2009</b>		
	<b>AMOUNT € 2008</b>	<b>RECOVERED € 2008</b>	<b>RR 2008</b>	<b>AMOUNT € IN 2009</b>	<b>RECOVERED € IN 2009</b>	<b>RR for 2008 IN 2009</b>	<b>AMOUNT € 2009</b>	<b>RECOVERED € 2009</b>	<b>RR 2009</b>
AT	5°028°046	1°678°042	33.37%	15°446°113	1°876°662	12.15%	21°479°526	1°711°593	7.97%
BE	12°670°490	2°216°020	17.49%	15°001°626	5°823°112	38.82%	9°496°939	1°744°655	18.37%
BL	502°373	289°569	57.64%	502°373	289°569	57.64%	1°235°236	482°555	39.07%
CY	787°523	134°134	17.03%	787°523	134°134	17.03%	718°211	99°147	13.80%
CZ	5°025°048	1°292°086	25.71%	4°893°646	1°358°064	27.75%	3°668°883	1°564°753	42.65%
DE	65°894°342	40°753°580	61.85%	87°012°563	58°118°848	66.79%	73°591°941	50°871°218	69.13%
DK	3°963°276	3°295°562	83.15%	4°196°196	3°604°634	85.90%	9°277°407	6°722°362	72.46%
EE	1°358°643	411°651	30.30%	838°216	443°820	52.95%	259°221	173°933	67.10%
ES	19°019°835	10°662°361	56.06%	23°650°089	11°810°143	49.94%	23°880°689	12°355°734	51.74%
FI	708°003	384°491	54.31%	1°035°615	392°807	37.93%	1°747°094	1°117°717	63.98%
FR	17°548°870	11°235°749	64.03%	17°024°066	13°263°839	77.91%	20°551°562	10°739°506	52.26%
GR	1°444°289	387°361	26.82%	1°751°545	387°401	22.12%	534°742	6°684	1.25%
HU	5°852°076	2°988°620	51.07%	6°069°639	3°398°654	55.99%	6°403°096	3°883°932	60.66%
IE	1°645°639	1°544°260	93.84%	1°839°749	1°797°003	97.68%	2°003°110	1°978°926	98.79%
IT	31°320°103	2°812°556	8.98%	33°744°661	4°144°365	12.28%	39°859°261	3°062°519	7.68%
LT	1°544°550	688°732	44.59%	1°580°853	934°818	59.13%	1°842°512	950°076	51.56%
LU	263°046	0	0.00%	109°902	109°902	100.00%	0	0	0.00%
LV	944°415	73°706	7.80%	944°250	113°970	12.07%	1°011°059	36°509	3.61%
MT	449°940	20°319	4.52%	279°533	20°319	7.27%	1°585°808	0	0.00%
NL	54°597°249	8°289°082	15.18%	45°817°303	30°497°688	66.56%	33°280°727	14°365°082	43.16%
PL	5°609°503	1°832°197	32.66%	5°361°790	2°545°038	47.47%	6°033°647	3°290°563	54.54%
PT	2°186°424	328°155	15.01%	2°253°594	395°325	17.54%	901°744	431°807	47.89%
RO	7°175°419	5°516°513	76.88%	7°151°645	5°533°457	77.37%	8°419°903	1°115°411	13.25%
SE	6°331°784	4°501°990	71.10%	6°503°546	6°084°758	93.56%	4°871°519	4°595°049	94.32%
SI	915°631	613°472	67.00%	897°474	613°472	68.36%	2°652°248	964°737	36.37%
SK	469°810	236°534	50.35%	520°789	294°696	56.59%	2°474°719	320°365	12.95%
UK	98°362°245	29°851°886	30.35%	90°150°802	39°392°170	43.70%	65°659°462	29°378°179	44.74%
<b>EUR-27 TOTAL</b>	<b>351°618°572</b>	<b>132°038°628</b>	<b>37.55%</b>	<b>375°365°101</b>	<b>193°378°668</b>	<b>51.52%</b>	<b>343°440°266</b>	<b>151°963°012</b>	<b>44.25%</b>

## ANNEX 10 – SEIZED AND CONFISCATED GOODS

SEIZED AND CONFISCATED GOODS (Cigarettes CN 24022090)						
MEMBER STATES	2007		2008		2009	
	CASES	ESTIMATED AMOUNT OF TOR €	CASES	ESTIMATED OR ESTABLISHED AMOUNT OF TOR €	CASES	ESTIMATED AMOUNT OF TOR €
AT	2	11°958	2	48°255	1	20°227
BE	6	12°580	4	13°903	4	462°439
DE	2	151°597	6	94°985	3	51°261
DK	0	0	0	0	0	0
ES	0	0	0	0	0	0
FI	8	139°145	6	160°326	4	88°151
FR	29	1°679°953	33	21°101	20	989°920
GR	13	2°072°640	10	1°206°270	5	767°505
IE	5	388°821	13	2°540°368	6	1°174°410
IT	4	345°467	13	1°694°276	16	2°426°867
LU	0	0	0	0	0	0
NL	0	0	0	0	0	0
PT	0	0	0	0	0	0
SE	3	385°600	3	116°014	5	265°589
UK	131	9°809°628	152	13°080°541	82	5°846°358
<b>EUR-15 TOTAL</b>	<b>203</b>	<b>14°997°389</b>	<b>242</b>	<b>18°976°039</b>	<b>146</b>	<b>12°092°727</b>
BG	0	0	2	52°543	0	0
CY	1	33°673	0	0	0	0
CZ	0	0	1	204°578	0	0
EE	1	41°304	0	0	0	0
HU	6	193°168	4	669°162	4	416°536
LT	0	0	3	78°624	2	115°057
LV	4	693°930	4	365°572	9	490°369
MT	2	205°013	0	0	1	60°912
PL	34	809°383	36	1°068°633	30	828°588
RO	19	3°211°696	16	1°134°311	11	4°941°994
SI	6	187°055	4	261°035	1	83°209
SK	1	144°760	0	0	0	0
<b>EUR-12 TOTAL</b>	<b>74</b>	<b>5°519°982</b>	<b>70</b>	<b>3°834°458</b>	<b>58</b>	<b>6°936°665</b>
<b>EUR-27 TOTAL</b>	<b>277</b>	<b>20°517°371</b>	<b>312</b>	<b>22°810°497</b>	<b>204</b>	<b>19°029°392</b>

**ANNEX 11 – PERCENTAGE CLASSIFICATION OF FRAUD PER MEMBER STATE**



## ANNEX 12 – AMOUNTS INVOLVED IN FRAUD

AMOUNTS INVOLVED IN FRAUD PER MEMBER STATE PERIOD 2007-2009									
MEMBER STATE	2007			2008			2009		
	CASES	FRAUD CASES	FRAUD IN €	CASES	FRAUD CASES	FRAUD IN €	CASES	FRAUD CASES	FRAUD IN €
AT	94	31	34°103°931	103	25	11°299°158	166	63	13°646°462
BE	462	56	2°193°816	368	46	3°411°591	286	46	2°224°292
DE	1°614	222	15°081°027	1°696	214	14°684°577	927	43	14°128°607
DK	54	2	213°813	47	6	671°103	44	10	2°895°762
ES	464	196	10°482°321	485	216	14°900°293	432	193	15°355°224
FI	34	21	1°207°186	21	11	651°465	31	12	441°108
FR	327	153	6°064°600	317	123	4°415°700	285	22	23°659
GR	57	57	2°976°051	37	37	1°751°545	12	10	440°791
IE	34	4	134°805	53	13	0	49	6	0
IT	288	101	11°231°037	320	179	19°490°171	312	182	21°935°990
LU	0	0	0	1	0	0	0	0	0
NL	1°145	341	22°388°674	912	101	2°455°234	742	75	7°165°386
PT	23	2	394°483	29	5	1°676°333	22	4	0
SE	44	3	0	71	3	0	58	5	0
UK	1°161	193	15°453°616	1°078	144	12°668°045	791	80	6°001°044
<b>EUR-15 TOTAL</b>	<b>5°801</b>	<b>1°382</b>	<b>121°925°360</b>	<b>5°538</b>	<b>1°123</b>	<b>88°075°215</b>	<b>4°157</b>	<b>751</b>	<b>84°258°325</b>
BG	15	8	79°536	19	15	447°721	34	22	901°678
CY	11	3	26°456	14	3	378°947	11	2	237°313
CZ	50	3	559°995	65	5	79°088	67	2	23°656
EE	12	1	41°304	17	1	100°592	11		0
HU	69	16	2°505°463	71	26	2°438°843	59	9	1°866°737
LT	41	7	77°041	64	15	469°924	47	14	563°629
LV	41	0	0	25	0	0	19	1	173°160
MT	10	5	285°766	3	2	259°214	6	6	1°585°808
PL	159	68	5°940°049	141	49	1°793°594	142	38	940°331
RO	37	19	3°211°696	75	27	1°501°929	59	15	6°458°174
SI	27	6	187°055	26	5	277°754	50	22	1°187°798
SK	21	10	189°623	17	4	125°579	22	11	1°278°880
<b>EUR-12 TOTAL</b>	<b>493</b>	<b>146</b>	<b>13°103°984</b>	<b>537</b>	<b>152</b>	<b>7°873°185</b>	<b>527</b>	<b>142</b>	<b>15°217°164</b>
<b>EUR-27 TOTAL</b>	<b>6°294</b>	<b>1°538</b>	<b>135°029°344</b>	<b>6°075</b>	<b>1°275</b>	<b>95°948°400</b>	<b>4°684</b>	<b>893</b>	<b>99°475°489</b>



### Annex 13-Methods of detection of OWNRES cases – Year 2009

	Primary inspections		Ex-post controls		Voluntary admission		Total amounts
	Amounts	%	Amounts	%	Amounts	%	
<b>AT</b>	1°877°336	8.7%	19°287°039	89.8%	315°151	1.5%	<b>21°479°526</b>
<b>BE</b>	629°744	6.6%	8°844°645	93.1%	22°550	0.2%	<b>9°496°939</b>
<b>DE</b>	7°170°543	9.7%	61°017°116	82.9%	5°404°282	7.3%	<b>73°591°941</b>
<b>DK</b>	6°169°327	66.5%	3°108°080	33.5%	0	0.0%	<b>9°277°407</b>
<b>ES</b>	5°843°876	24.5%	15°605°530	65.3%	2°431°283	10.2%	<b>23°880°689</b>
<b>FI</b>	807°561	46.2%	773°687	44.3%	165°846	9.5%	<b>1°747°094</b>
<b>FR</b>	8°185°614	39.8%	12°365°948	60.2%	0	0.0%	<b>20°551°562</b>
<b>GR</b>	428°565	80.1%	106°177	19.9%	0	0.0%	<b>534°742</b>
<b>IE</b>	186°528	9.3%	1°678°616	83.8%	137°966	6.9%	<b>2°003°110</b>
<b>IT</b>	19°114°574	48.0%	20°555°217	51.6%	189°470	0.5%	<b>39°859°261</b>
<b>LU</b>	0	0.0%	-	0.0%	0	0.0%	<b>0</b>
<b>NL</b>	9°018°593	27.1%	24°262°134	72.9%	0	0.0%	<b>33°280°727</b>
<b>PT</b>	130°633	14.5%	645°251	71.6%	125°860	14.0%	<b>901°744</b>
<b>SE</b>	0	0.0%	4°871°519	100.0%	0	0.0%	<b>4°871°519</b>
<b>UK</b>	6°100°562	9.3%	59°558°900	90.7%	0	0.0%	<b>65°659°462</b>
<b>CY</b>	0	0.0%	718°211	100.0%	0	0.0%	<b>718°211</b>
<b>CZ</b>	103°219	2.8%	2°945°652	80.3%	620°012	16.9%	<b>3°668°883</b>
<b>EE</b>	30°586	11.8%	228°635	88.2%	0	0.0%	<b>259°221</b>
<b>HU</b>	1°179°822	18.4%	5°223°274	81.6%	0	0.0%	<b>6°403°096</b>
<b>LT</b>	509°056	27.6%	1°333°456	72.4%	0	0.0%	<b>1°842°512</b>
<b>LV</b>	507°905	50.2%	492°576	48.7%	10°578	1.0%	<b>1°011°059</b>
<b>MT</b>	1°136°012	71.6%	449°796	28.4%	0	0.0%	<b>1°585°808</b>
<b>PL</b>	1°912°436	31.7%	4°095°516	67.9%	25°695	0.4%	<b>6°033°647</b>
<b>SI</b>	2°096°793	79.1%	528°451	19.9%	27°004	1.0%	<b>2°652°248</b>
<b>SK</b>	98°727	4.0%	2°375°992	96.0%	0	0.0%	<b>2°474°719</b>
<b>BG</b>	0	0.0%	1°235°236	100.0%	0	0.0%	<b>1°235°236</b>
<b>RO</b>	5°263°491	62.5%	3°156°412	37.5%	0	0.0%	<b>8°419°903</b>
<b>Total</b>	<b>78°501°503</b>	<b>22.9%</b>	<b>255°463°066</b>	<b>74.4%</b>	<b>9°475°697</b>	<b>2.8%</b>	<b>343°440°266</b>

## ANNEX 14

update 26/05/2010

### AGRICULTURAL SECTOR

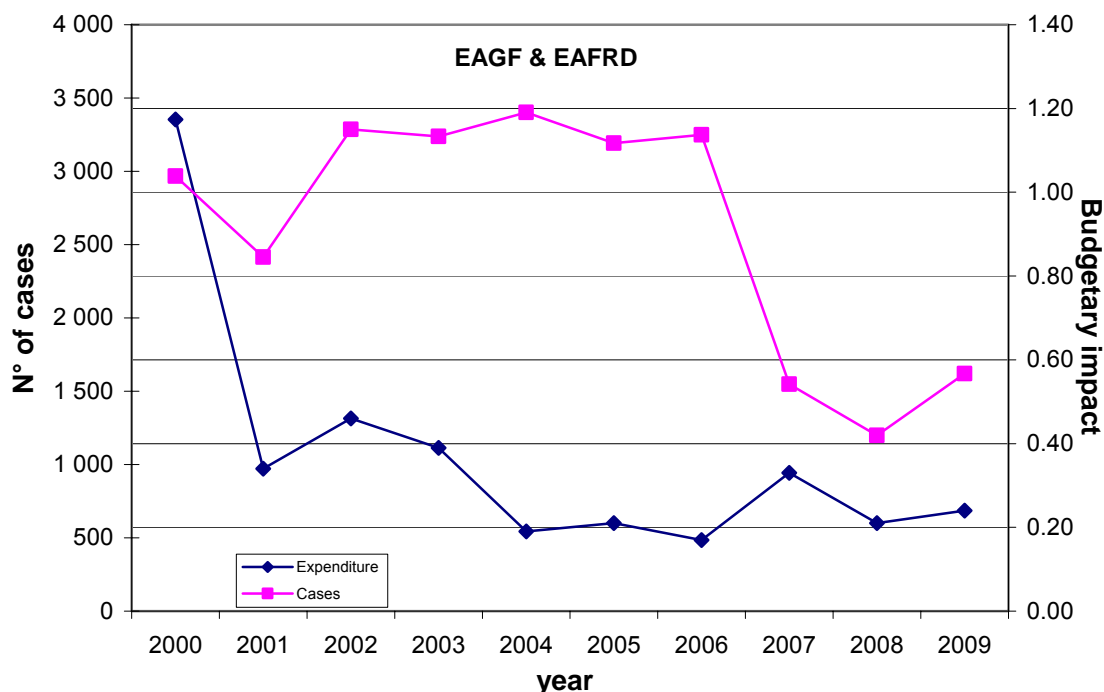
IRREGULARITIES  
COMMUNICATED BY MEMBER STATES  
UNDER  
Reg. 1848/2006

**YEARS 2000 - 2009**

(amounts in € 1,000)

Year	Cases	Amounts affected	% of Agricultural expenditure	Agricultural expenditure
2009	1 621	125 026	0.24	52 558 305
2008	1 198	102 259	0.21	48 628 607
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

period < 2007: threshold € 4,000  
period > 2006: threshold €10,000



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

## ANNEX 15

update 26/05/2010

## AGRICULTURAL SECTOR

IRREGULARITIES  
COMMUNICATED BY MEMBER STATES  
UNDER  
Reg. 1848/2006

2009

(amounts in € 1,000)

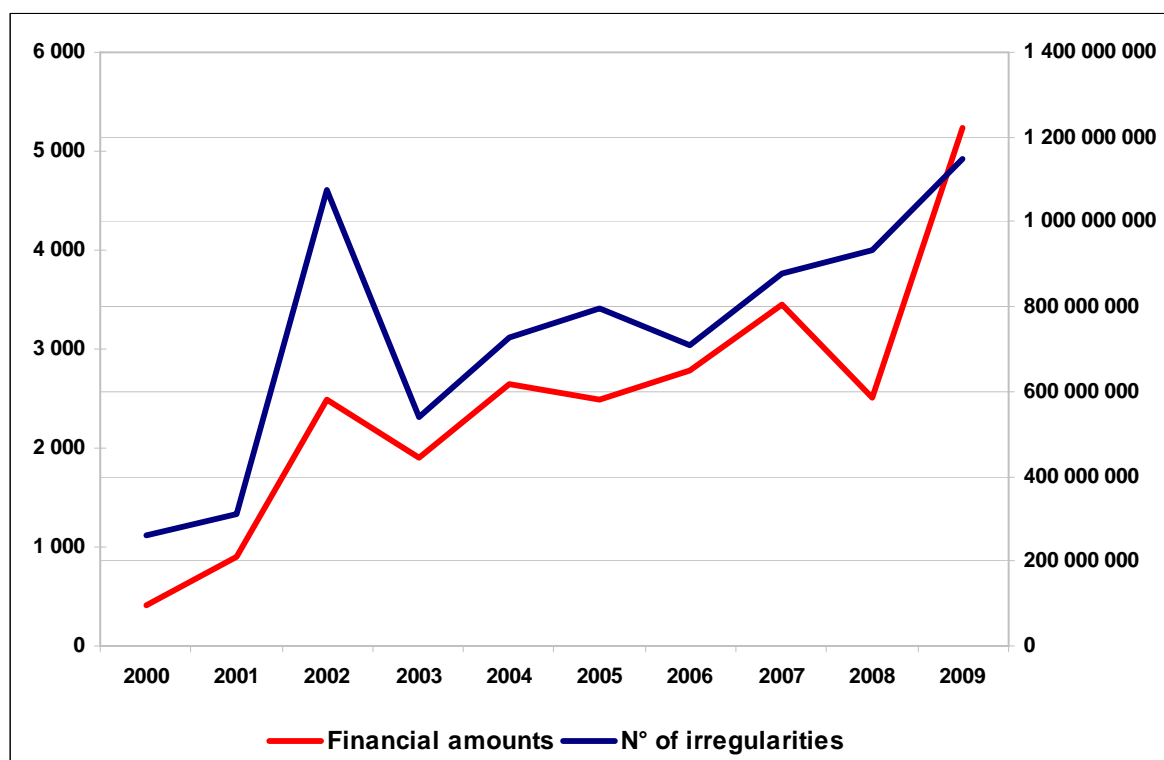
<i>Member States</i>	<i>Number of cases involved in irregularities</i>	<i>Amounts affected by irregularities</i>	<i>% of agricultural expenditure</i>
AT	3	87	0.01%
BE	27	859	0.10%
BG	23	1 848	0.53%
CY	2	234	0.37%
CZ	35	793	0.09%
DE	68	2 798	0.04%
DK	9	203	0.02%
EE	12	736	0.49%
EL	44	1 817	0.06%
ES	404	27 835	0.42%
FI	19	942	0.12%
FR	127	9 142	0.09%
HU	19	2 082	0.15%
IE	72	1 793	0.11%
IT	288	54 481	1.01%
LT	45	897	0.19%
LU	0	0	0.00%
LV	13	297	0.14%
MT	8	139	1.14%
NL	37	1 978	0.18%
PL	87	2 374	0.08%
PT	121	3 441	0.36%
RO	82	2 236	0.19%
SE	16	450	0.05%
SI	0	0	0.00%
SK	58	7 541	1.41%
UK	2	21	0.00%
<b>TOTAL</b>	<b>1 621</b>	<b>125 026</b>	<b>0.24%</b>

## ANNEX 16

### STRUCTURAL FUNDS

#### IRREGULARITIES\* COMMUNICATED BY MEMBER STATES 2000-2009\*\*

YEAR	N° OF IRREGULARITIES	FINANCIAL AMOUNTS	TOTAL BUDGET	IMPACT ON BUDGET
	N°	EUR	Million EUR	%
2009	4 931	1 224 427 269	48 400	2.53%
2008	4 007	585 249 322	46 889	1.25%
2007	3 756	804 102 077	45 327	1.77%
2006	3 047	647 773 952	3 843	1.69%
2005	3 417	581 214 090	37 192	1.56%
2004	3 123	617 099 163	35 665	1.73%
2003	2 323	444 278 642	30 764	1.44%
2002	4 607	579 010 650	30 556	1.89%
2001	1 337	210 329 680	29 823	0.71%
2000	1 109	97 160 006	25 556	0.38%



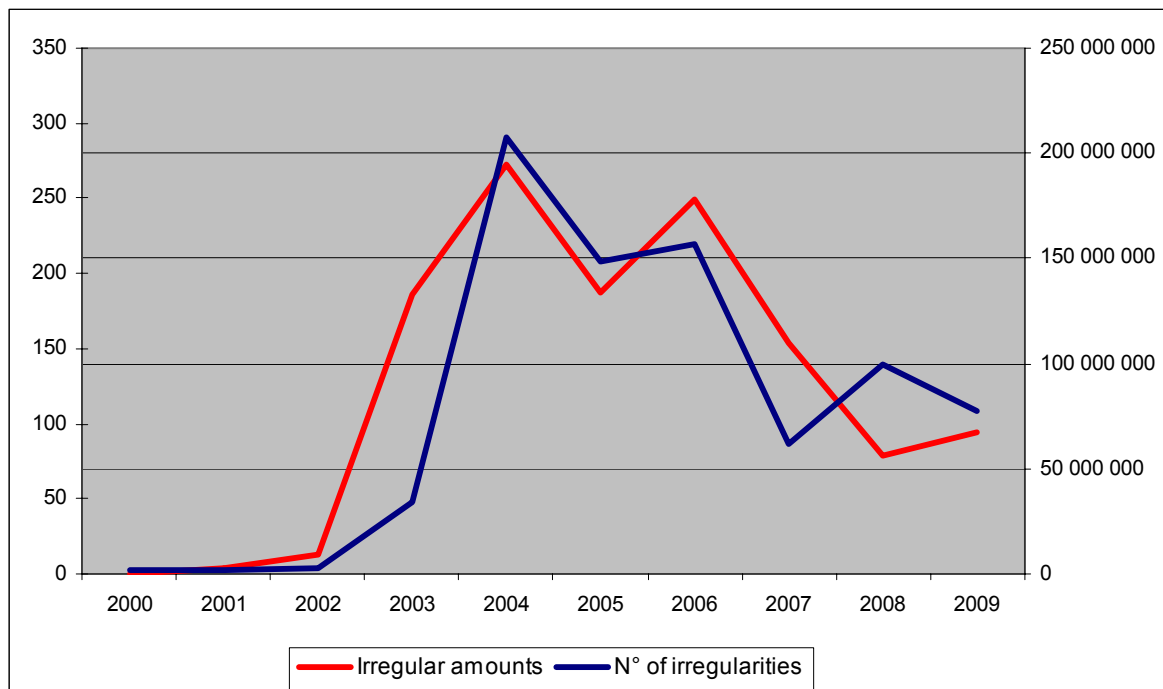
*\*The concept of irregularity includes fraud. The qualification as fraud, meaning criminal behaviour, can only be made following a penal procedure.*

*\*\* Data have been updated in relation to those published in the 2007 report in order to take into account the updates sent by Member States during the reporting year 2008.*

## ANNEX 17

### COHESION FUND

#### IRREGULARITIES\* COMMUNICATED BY MEMBER STATES 2000-2009



YEAR	N° OF IRREGULARITIES	IRREGULAR AMOUNTS
	N	EUR
2009	109	67 304 951
2008	140	56 328 911
2007	86	109 739 219
2006	219	178 487 134
2005	208	133 653 731
2004	291	194 285 278
2003	48	132 914 324
2002	4	9 627 540
2001	3	2 534 032
2000	2	36 278

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

## ANNEX 18.1

### STRUCTURAL FUNDS

#### REGULATION No 1681/94

#### IRREGULARITIES RELATED TO THE PROGRAMMING PERIOD 1994-1999 REPORTED IN 2009

##### N° OF IRREGULARITIES BY MEMBER STATE

MEMBER STATE	ERDF	EAGGF-G	FIFG	TOTAL
AT		1		1
DE	6	3	1	10
IT	6	1		7
UK			3	3
<b>TOTAL</b>	<b>12</b>	<b>5</b>	<b>4</b>	<b>21</b>

##### FINANCIAL AMOUNTS INVOLVED IN IRREGULARITIES BY MEMBER STATE

MEMBER STATE	ERDF	EAGGF-G	FIFG	TOTAL
AT		70 070		70 070
DE	573 214	90 334	12 382	675 930
IT	234 065	40 481		274 546
UK			63 495	63 495
<b>TOTAL</b>	<b>807 279</b>	<b>200 885</b>	<b>75 877</b>	<b>1 084 041</b>

**ANNEX 18.2**  
**STRUCTURAL FUNDS**  
**REGULATION No 1681/1994**  
**IRREGULARITIES RELATED TO THE PROGRAMMING PERIOD 2000-2006**  
**REPORTED IN 2009**

**N° OF IRREGULARITIES BY MEMBER STATE**

MEMBER STATE	ERDF	ESF	EAGGF-G	FIFG	TOTAL
AT	78	1			79
BE	63	12	1	1	77
CY		1			1
CZ	45	33	1		79
DE	215	315	11	5	546
DK	10				10
EE	11	5	3	3	22
EL	38	17	20		75
ES	167	132	127	23	449
FI	10	5			15
FR	139	34			173
HU	9	53	28		90
IE	1	15			16
IT	519	146	215	4	884
LT	11	4	12	1	28
LU	4	8			12
LV	10	25	2	1	38
MT	2	1		1	4
NL	26	102			128
PL	256	31	41	2	330
PT	263	247	95	7	612
SE	2	7		3	12
SI	12	1			13
SK	33	48	1		82
UK	549	287	18	3	857
<b>TOTAL</b>	<b>2 473</b>	<b>1 530</b>	<b>575</b>	<b>54</b>	<b>4 632</b>

**IRREGULAR AMOUNTS BY FUND AND BY MEMBER STATES**

MEMBER STATE	ERDF	ESF	EAGGF-G	FIFG	TOTAL
AT	9 917 733	22 110			9 939 843
BE	4 252 993	893 887	21 393	19 609	5 187 882
CY		63 594			63 594
CZ	9 240 312	3 558 626	104 883		12 903 821
DE	29 013 886	13 870 084	550 789	993 270	44 428 029
DK	605 634				605 634
EE	989 680	107 228	119 086	173 864	1 389 858
EL	39 742 531	3 212 171	3 967 140		46 921 842
ES	124 216 835	5 750 803	8 294 430	8 690 736	146 952 804
FI	238 573	66 573			305 146
FR	10 611 538	853 197			11 464 735
HU	234 424	1 947 006	1 908 577		4 090 007
IE	61 543	866 612			928 155
IT	290 713 648	14 007 223	21 836 267	1 809 939	328 367 077
LT	1 774 905	152 732	1 247 076	1 226 192	4 400 905
LU	1 748 257	1 582 781			3 331 038
LV	963 724	1 902 853	193 958	9 763	3 070 298
MT	568 769	10 441		10 706	589 916
NL	2 345 613	16 973 070			19 318 683
PL	43 549 842	3 006 174	1 598 658	205 362	48 360 036
PT	82 888 629	23 220 053	3 477 375	671 986	110 258 042
SE	31 782	567 166		115 264	714 212
SI	5 103 131	26 967			5 130 098
SK	21 670 887	1 894 879	17 656		23 583 422
UK	239 552 129	39 254 625	687 993	117 021	279 611 768
<b>TOTAL</b>	<b>920 036 999</b>	<b>133 810 855</b>	<b>44 025 281</b>	<b>14 043 712</b>	<b>1 111 916 846</b>

**ANNEX 19**  
**STRUCTURAL FUNDS**  
**REGULATION No 1828/2006**

**IRREGULARITIES RELATED TO THE PROGRAMMING PERIOD 2000-2006**  
**REPORTED IN 2009**

**N° OF IRREGULARITIES BY MEMBER STATE**

MEMBER STATE	CF	ERDF	ESF	TOTAL
BG	17	13	9	39
DE		7	35	42
EE		3	1	4
FI		1		1
FR			1	1
HU		10	24	34
IE			6	6
LV		1	1	2
PL		24	11	35
RO			2	2
SI		8		8
SK		10	1	11
UK		1		1
<b>TOTAL</b>	<b>17</b>	<b>78</b>	<b>91</b>	<b>186</b>

**IRREGULAR AMOUNTS BY FUND AND BY MEMBER STATES**

MEMBER STATE	CF	ERDF	ESF	TOTAL
BG	3 578 740	0	0	3 578 740
DE		759 655	959 148	1 718 803
EE		248 828	10 737	259 565
FI		17 741		17 741
FR			53 680	53 680
HU		22 399 400	1 399 243	23 798 643
IE			232 860	232 860
LV		29 134	72 396	101 530
PL		3 087 294	1 256 280	4 343 574
RO			45 806	45 806
SI		2 978 489		2 978 489
SK		7 332 464	10 569	7 343 033
UK		12 699		12 699
<b>TOTAL</b>	<b>3 578 740</b>	<b>36 865 704</b>	<b>4 040 719</b>	<b>44 485 163</b>



**ANNEX 20****COHESION FUND****IRREGULARITIES COMMUNICATED BY MEMBER STATES UNDER  
REGULATION N. 1831/94 IN 2009**

<b>MS</b>	<b>N° OF IRREGULARITIES</b>	<b>FINANCIAL AMOUNTS</b>	<b>AMOUNTS TO BE RECOVERED</b>
CZ	3	1 924 920	0
EL	14	4 780 520	1 684 211
ES	20	4 351 765	3 622 443
HU	4	18 449 851	40 387
LT	2	4 491 703	0
MT	1	39 133	39 133
PL	19	2 275 178	49 542
PT	27	24 575 760	1 332 009
SI	1	2 552 398	0
SK	1	284 983	284 983
<b>TOTAL</b>	<b>92</b>	<b>63 726 211</b>	<b>7 052 708</b>

Annex 21

PRE-ACCESSION ASSISTANCE

IRREGULARITIES REPORTED IN 2009

2009 all programs				
Member State	No of Cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	376	112.448.918	74.368.334	45.471.356
CZ	2	96.401	54.736	49.023
EE	2	163.097	49.653	49.653
HR	25	50.652.358	445.704	257.724
HU	11	1.745.841	1.445.473	1.445.473
LT	3	1.879.465	1.465.982	1.465.982
LV	2	140.756	140.756	140.756
PL	53	2.673.134	2.078.295	1.892.760
RO	196	644.233.221	34.103.432	22.738.652
SI	1	13.473	13.473	0
SK	9	3.353.061	116.336	99.639
TR	26	14.573.332	2.378.737	1.575.214
<b>Total</b>	<b>706</b>	<b>831.973.056</b>	<b>116.660.911</b>	<b>75.186.233</b>

2009 PHARE				
Member State	No of Cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	65	16.590.476	7.441.309	3.334.802
CZ	2	96.401	54.736	49.023
HR	9	674.344	204.320	108.009
LT	1	669.270	267.708	267.708
PL	3	127.148	70.586	70.586
RO	36	21.136.875	5.140.076	2.959.561
SK	8	3.341.044	104.319	87.622
<b>Total</b>	<b>124</b>	<b>42.635.558</b>	<b>13.283.054</b>	<b>6.877.311</b>

2009 SAPARD				
Member State	No of Cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	307	88.752.138	65.540.447	41.077.540
EE	2	163.097	49.653	49.653
HU	11	1.745.841	1.445.473	1.445.473
LT	1	261.496	249.575	249.575
LV	2	140.756	140.756	140.756
PL	48	2.500.186	1.961.909	1.790.114
RO	109	47.763.692	18.602.252	16.831.369
SI	1	13.473	13.473	0
SK	1	12.017	12.017	12.017
<b>Total</b>	<b>482</b>	<b>141.352.696</b>	<b>88.015.555</b>	<b>61.596.498</b>

2009 ISPA				
Member State	No of Cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	4	7.106.304	1.386.578	1.059.014
RO	51	575.332.654	10.361.104	2.947.722
Total	55	582.438.958	11.747.682	4.006.736

2009 Transition Facility				
Member State	No of Cases	EC amount eligible	EC amount irregular	EC amount to be recovered
HR	2	1.062.000	71.000	0
LT	1	948.699	948.699	948.699
PL	2	45.800	45.800	32.060
Total	5	2.056.499	1.065.499	980.759

2009 Turkish Instrument for Pre-accession Assistance				
Member State	No of Cases	EC amount eligible	EC amount irregular	EC amount to be recovered
TR	26	14.573.332	2.378.737	1.575.214
Total	26	14.573.332	2.378.737	1.575.214

2009 CARDS				
Member State	No of Cases	EC amount eligible	EC amount irregular	EC amount to be recovered
HR	14	48.916.014	170.384	149.715
Total	14	48.916.014	170.384	149.715

## Annex 22

## PRE-ACCESSION ASSISTANCE

## IRREGULARITIES REPORTED – 2002-2009

2002-2009 All programmes				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	675	201.125.301	122.301.077	60.438.727
CY	5	5.624.616	23.807	0
CZ	54	25.065.548	2.868.759	1.334.968
EE	43	28.424.691	6.649.147	857.717
HR	48	67.962.370	5.049.419	716.719
HU	119	18.149.540	7.960.936	2.959.658
LT	49	107.460.712	4.893.815	4.269.347
LV	40	3.454.147	1.101.128	900.700
MT	8	4.913.491	112.620	0
PL	357	794.156.755	7.708.168	2.846.716
RO	1057	4.439.444.937	93.734.219	41.936.064
SI	39	4.066.455	1.586.859	53.374
SK	117	52.308.577	8.592.891	3.410.914
TR	51	20.871.758	3.059.637	2.121.944
<b>Total</b>	<b>2.662</b>	<b>5.773.028.896</b>	<b>265.642.481</b>	<b>121.846.848</b>

2002-2009 PHARE				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	201	62.572.529	27.386.291	7.663.860
CY	5	5.624.616	23.807	0
CZ	35	3.059.498	1.064.982	574.790
EE	17	11.069.315	3.212.191	217.829
HR	18	5.719.256	2.349.301	108.009
HU	45	12.560.823	4.126.778	652.714
LT	21	1.581.361	844.197	673.597
LV	19	1.157.589	214.082	41.294
MT	8	4.913.491	112.620	0
PL	114	353.189.808	3.256.073	363.030
RO	289	346.664.470	31.996.224	12.799.616
SI	6	2.115.972	189.006	36.079
SK	101	22.662.986	6.489.882	2.103.656
<b>Total</b>	<b>879</b>	<b>832.891.712</b>	<b>81.265.433</b>	<b>25.234.475</b>

2002-2009 SAPARD				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	443	117.103.599	87.992.601	51.715.853
CZ	18	1.114.637	921.999	760.178
EE	22	4.131.884	3.266.179	639.888
HR	4	1.222.218	932.569	447.368
HU	74	5.588.717	3.834.158	2.306.944
LT	19	7.875.937	2.892.452	2.646.574
LV	20	2.206.810	847.359	819.719
PL	220	14.364.413	4.336.552	2.446.170
RO	492	234.323.118	37.460.652	22.725.056
SI	32	1.570.483	1.337.852	17.295
SK	15	2.496.391	2.053.955	1.307.258
<b>Total</b>	<b>1.359</b>	<b>391.998.207</b>	<b>145.876.327</b>	<b>85.832.303</b>

2002-2009 ISPA				
Country	No of cases	EC amount eligible	EC amount irregular	EC amount to be recovered
BG	30	21.209.173	6.682.185	1.059.014
CZ	1	20.891.413	881.778	0
EE	4	13.223.492	170.777	0
HR	2	9.113.943	1.367.091	0
LT	7	96.848.580	2.332	476
PL	21	426.556.734	69.743	5.456
RO	276	3.858.457.349	24.277.344	6.411.392
SK	1	27.149.200	49.054	0
<b>Total</b>	<b>342</b>	<b>4.473.449.884</b>	<b>33.500.304</b>	<b>7.476.338</b>

## ANNEX 23

## IRREGULARITIES COMMUNICATED BY MEMBER STATES AND CANDIDATE COUNTRIES

Year	Data	Programme						Total
		CARDS	ISPA	PHARE	SAPARD	TF	TPA	
2002	No of cases		6					6
	EC amount eligible		113.406					113.406
	EC amount irregular		6.122					6.122
	EC amount to be recovered		0					0
2003	No of cases		18	52	34			104
	EC amount eligible		282.278.784	320.163.309	5.942.454			608.384.547
	EC amount irregular		932.451	630.939	3.797.224			5.360.614
	EC amount to be recovered		0	292.359	11.839			304.198
2004	No of cases		26	68	133			227
	EC amount eligible		279.027.957	13.029.377	50.530.803			342.588.137
	EC amount irregular		251.987	4.439.174	5.995.739			10.686.900
	EC amount to be recovered		5.456	725.324	178.366			909.146
2005	No of cases		25	151	165			341
	EC amount eligible		165.424.740	65.516.726	53.242.582			284.184.048
	EC amount irregular		6.160.535	7.784.746	3.436.300			17.381.582
	EC amount to be recovered		476	2.628.138	1.098.868			3.727.481
2006	No of cases		26	208	164		1	399
	EC amount eligible		338.171.186	256.957.824	43.762.829		147.816	639.039.654
	EC amount irregular		1.145.338	13.647.480	3.127.999		147.816	18.068.632
	EC amount to be recovered		244	3.833.553	1.135.792		147.816	5.117.405
2007	No of cases	2	87	91	150		6	336
	EC amount eligible	223.957	1.842.464.080	56.499.479	33.431.930		1.253.092	1.933.872.538
	EC amount irregular	0	5.332.290	16.069.983	7.762.913		236.504	29.401.690
	EC amount to be recovered	0	381.770	947.404	3.092.430		213.082	4.634.686
2008	No of cases	6	99	185	231	4	18	543
	EC amount eligible	1.704.982	983.530.774	78.089.440	63.734.913	915.883	4.897.518	1.132.873.510
	EC amount irregular	159.074	7.923.899	25.410.058	33.740.596	545.822	296.580	68.076.029
	EC amount to be recovered	11.627	3.081.656	9.930.386	18.718.511	39.687	185.832	31.967.699
2009	No of cases	14	55	124	482	5	26	706
	EC amount eligible	48.916.014	582.438.958	42.635.558	141.352.696	2.056.499	14.573.332	831.973.056
	EC amount irregular	170.384	11.747.682	13.283.054	88.015.555	1.065.499	2.378.737	116.660.911
	EC amount to be recovered	149.715	4.006.736	6.877.311	61.596.498	980.759	1.575.214	75.186.233
	No of cases	22	342	879	1359	9	51	2662
	EC amount eligible	50.844.953	4.473.449.884	832.891.712	391.998.207	2.972.382	20.871.758	5.773.028.896
	EC amount irregular	329.458	33.500.304	81.265.433	145.876.327	1.611.321	3.059.637	265.642.481
	EC amount to be recovered	161.342	7.476.338	25.234.475	85.832.303	1.020.446	2.121.944	121.846.848

**ANNEX 24**

**IRREGULARITIES REPORTED BY MEMBER STATES IN 2008 – AGRICULTURE, COHESION POLICY, OWN RESOURCES**

MS	AGRICULTURE		COHESION POLICY		OWN RESOURCES		ALL SECTORS	
	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS	CASES	TOTAL AMOUNTS
AT	3	87 322	80	10 009 913	166	21 479 526	249	31 576 761
BE	27	858 665	77	5 187 882	286	9 496 939	390	15 543 486
BG	23	1 848 338	39	6 739 424	34	1 235 236	96	9 822 998
CY	2	234 476	1	63 594	11	718 211	14	1 016 281
CZ	35	793 364	82	14 828 741	67	3 668 883	184	19 290 988
DE	68	2 797 903	598	46 822 762	927	73 591 941	1 593	123 212 606
DK	9	202 892	10	605 634	44	9 277 407	63	10 085 933
EE	12	736 057	26	1 649 423	11	259 221	49	2 644 701
ES	44	1 817 050	89	51 702 362	432	23 880 689	565	77 400 101
FI	404	27 834 613	469	151 304 569	31	1 747 094	904	180 886 276
FR	19	941 541	16	322 887	285	20 551 562	320	21 815 990
GR	127	9 142 421	174	11 518 415	12	534 742	313	21 195 578
HU	19	2 082 316	128	46 338 501	59	6 403 096	206	54 823 913
IE	72	1 793 216	22	1 161 015	49	2 003 110	143	4 957 341
IT	288	54 480 766	891	328 641 623	312	39 859 261	1 491	422 981 650
LT	45	897 251	30	8 892 608	47	1 842 512	122	11 632 371
LU	0	0	12	3 331 038	0	0	12	3 331 038
LV	13	297 150	40	3 171 828	19	1 011 059	72	4 480 037
MT	8	139 439	5	629 049	6	1 585 808	19	2 354 296
NL	37	1 978 235	128	19 318 683	742	33 280 727	907	54 577 645
PL	87	2 374 202	384	55 033 113	142	6 033 647	613	63 440 962
PT	121	3 440 974	639	134 833 802	22	901 744	782	139 176 520
RO	82	2 235 958	2	45 806	59	8 419 903	143	10 701 667
SE	16	449 519	12	714 212	58	4 871 519	86	6 035 250
SI	0	0	22	10 660 985	50	2 652 248	72	13 313 233
SK	58	7 541 131	94	31 211 438	22	2 474 719	174	41 227 288
UK	2	21 153	861	279 687 962	791	65 659 462	1 654	345 368 576
<b>TOTAL</b>	<b>1 621</b>	<b>125 025 951</b>	<b>4 931</b>	<b>1 224 427 269</b>	<b>4 684</b>	<b>343 440 266</b>	<b>11 236</b>	<b>1 692 893 486</b>