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Follow-up of recommendations to the Commission report on the protection of the EU's financial interests – fight against fraud, 2014

Accompanying the document

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Protection of the European Union's financial interests - Fight against Fraud
2015 Annual Report

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SUMMARY

In the 2014 Report on the protection of the European Union's financial interests, the Commission made a number of recommendations to the Member States. More specifically, the recommendations included the following subjects: (1) encouraging them to use the Anti-Fraud Coordination service to its full potential whilst developing national anti-fraud strategies; (2) transposition of Public Procurement directives into their national legislation with special emphasis placed on the definition of 'conflict of interests' and measures to tackle such conflicts; (3) improving low levels of reporting and; (4) strengthening customs controls with a focus on the decreasing number of customs controls at the time of clearance.

As stated in the previous report, by the end of 2014, all Member States had an AFCOS in place. There are some variations in the responsibilities allocated to some Member States' AFCOS; the majority of Member States[1] empowered their AFCOS with coordination responsibilities, four Member States[2] accorded it with administrative investigative powers and, UK has accorded it with criminal investigative powers. Four other Member States[3] have organised an AFCOS network which entails cooperation between various parties.

Poland reported that because of the composition and scope of its AFCOS, the body operates across administrative sectors, and therefore ensures proper coordination between the government administration and the institutions involved in implementing EU funds. Furthermore, Dutch Customs decided to merge its AFCOS with two other fraud teams to make a single team for an optimum response to the Commission's requests and messages. The United Kingdom reported that there are arrangements in place to coordinate the different authorities engaged in anti-fraud measures.

More specifically, the four Member States which have accorded their AFCOS with administrative investigative powers reported the following:

- Bulgaria's AFCOS Council provides guidelines, monitors and coordinates the activities of state authorities responsible for preventing and combating infringements related to fraud, and cooperates with OLAF in carrying out investigations in Bulgaria. The interaction and cooperation between the AFCOS Council and the Prosecutor's Office of the Republic of Bulgaria have been regulated by the Agreement. The Prosecutor's Office cooperates and interacts with OLAF with regard to the administrative investigations concerning the Republic of Bulgaria.
- Lithuania's AFCOS, FCIS, is entrusted by law with the detection, investigation and prevention of criminal acts and other breaches of law connected with fraud.
- Malta's AFCOs coordinates all legislative, administrative and operational obligations and activities related to the protection of the Community's financial interests,

1 Belgium, Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Luxembourg, Hungary, Netherlands, Poland, Portugal, Slovenia, Finland, Sweden

2 Bulgaria, Lithuania, Malta, Romania

3 Bulgaria, Denmark, Ireland, Slovakia

cooperate with OLAF in Financial Investigations, communicate with OLAF on mandatory reporting and information exchange and conducts financial investigations.

- Romania's AFCOS (the Fight against Fraud Department - DLAF) carries out or coordinates control activities in order to detect irregularities, frauds and other illegal activities. In exercising its control function, the Department conducts administrative investigations, on the spot checks, analysis and documentary checks.

With regards to the first recommendation that AFCOS should be used to its full potential to ensure cooperation between AFCOS and relevant national parties, the majority of Member States[4] have taken such action, and have involved national entities relevant in the fight against fraud in their networks. An example of this would be the fact that five Member States[5] have established working groups and trainings to improve the skills of the members of national parties involved in combating fraud. Luxembourg has reported that this recommendation has been discussed with all the relevant stakeholders, and as such, a meeting was brought together including all the relevant authorities involved in managing EU funds. Furthermore, Finland has reported that it will examine how to increase the efficiency of AFCOS cooperation in 2016. Regarding the adoption of a National Anti-Fraud Strategy (NAFS), six Member States[6] have endorsed a National Anti-Fraud Strategy (NAFS), while five others[7] are in the process of developing a NAFS. The Czech Republic has reported that it plans to adopt a revision of its NAFS and Italy reported that its AFCOS has drawn up and developed strategic orientations and actions which are updated annually and published since 2012 in their Annual Reports to the Italian Parliament.

In relation to recommendation two, the majority of Member States[8] reported that they have followed the Commissions' recommendation to transpose the definition of 'conflict of interest' contained in the Public Procurement Directive into their national order and have drafted new national procurement laws. Two Member States[9] have already adopted such a law and new law will come into effect by April 2016 for a further seven Member States[10]. Furthermore, Belgium, France, and the Netherlands have altered already existing laws to incorporate the EU Directive. The United Kingdom has implemented the 'Public Contracts Regulation 2015' as a response to the EU Directive, and similarly, Malta has introduced 'New National Regulations' transposing the Public Procurement Directive. Furthermore, Germany has made amendments to already existing national regulations. Two Member States[11] have not taken further action as they consider that their national law already coincides with the

4 Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, Sweden, United Kingdom

5 Latvia, Hungary, Poland, Portugal, Romania

6 Bulgaria, Greece, Croatia, Hungary, Malta, Slovakia

7 Spain, Latvia, Luxembourg, Romania, Slovenia

8 Bulgaria, Czech Republic, Denmark, Estonia, Ireland, Greece, Spain, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Romania, Slovenia, Slovakia, Finland

9 Denmark, Slovenia

10 Bulgaria, Estonia, Ireland, Greece, Italy, Slovenia, Slovakia

11 Poland, Sweden

Directive. Portugal reported that its national legislation requires beneficiaries to conduct themselves in a way that respects the principles of transparency and good management of public funding, but it has also drawn up Codes of Ethics and Conduct at internal level within each managing authority. Luxembourg reported that it is committed to protecting the financial interests of the EU effectively.

With regards to the third recommendation and the low level of reporting of irregularities, the four Member States[12] that were specifically recommended to strengthen their systems in relation to detecting and/or reporting fraud, responded on changes made for improving their national system. Three Member States[13] specifically referred to the measures undertaken to improve the reporting of irregularities. In addition, four Member States[14] stated that there was actually an increase in irregularities reported due to the efficiency of their detection system. The remaining Member States[15] did not make any comment as they assumed that it was only applicable to the four named Member States.

In relation to the fourth recommendation concerning the fight against customs fraud, Member States were invited to inform the Commission of the measures taken to strengthen cooperation in order to ensure that all transactions, and all economic operators, are included in the population for post-clearance controls, irrespective of whether or not the importer is located in the Member State of the physical importation. While the majority of Member States[16] reported that they have indulged in cooperation with other Member States in order to fight customs fraud and detect irregularities more successfully, four Member States[17] have specifically focused on improving internal cooperation within national bodies associated with post-clearance controls. Three Member States[18] have not taken any further measures concerning recommendation four because they consider that their system is efficient and therefore it is not necessary to take further measures.

Concerning the decreasing number of customs controls at the time of clearance, nine Member States[19] have specifically explained how their customs administration functions and five of these[20] gave specific examples of when their customs authorities were successful in detecting fraud or irregularities at the time of clearance. Furthermore, nine Member States[21] have noted down examples in fighting customs fraud in the field of post-clearance controls.

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12 Denmark, Luxembourg, Slovakia, Finland

13 Spain, France, Croatia

14 Czech Republic, Estonia, Greece, Portugal

15 Belgium, Bulgaria, Germany, Ireland, Italy, Cyprus, Latvia, Lithuania, Hungary, Malta, Netherlands, Poland, Romania, Slovenia, Sweden, United Kingdom

16 Bulgaria, Czech Republic, Denmark, Spain, France, Croatia, Italy, Cyprus, Lithuania, Hungary, Malta, Poland, Finland, Slovenia, Slovakia, Sweden, United Kingdom

17 Greece, Italy, Latvia, United Kingdom

18 Belgium, Estonia, France, Netherlands

19 Denmark, Germany, Greece, Spain, Italy, Cyprus, Latvia, Romania, Slovenia

20 Denmark, Greece, Cyprus, Romania, Slovenia

21 Bulgaria, Greece, Croatia, Italy, Lithuania, Malta, Romania, Finland, Sweden

1. FOLLOW UP BY RECOMMENDATION

1.1. Improved coordination and cooperation: a new impetus in the fight against fraud

1.1.1. Reinforced legal and administrative structures for enhanced cooperation

'Significant steps were taken in 2014 to enhance the Commission's and the Member States' protection of the EU's financial interests.

In 2014, the Commission successfully completed the priority actions of its multi-annual Anti-Fraud Strategy (CAFS). While the focus of CAFS is primarily upon developing anti-fraud strategies at Commission service and agency level, the Commission is now increasingly focusing on how to support Member States in developing their own anti-fraud strategies.

Regulation (EU) No 883/2013 provides, inter alia, for enhanced cooperation with Member States through the appointment of an AFCOS.

At the end of 2014, all Member States had designated their AFCOS. The responsibilities of each national AFCOS vary, depending on the Member State. All Member States have given their AFCOS coordinative responsibilities, albeit to varying extents. Only a few Member States empower their AFCOS to act in an investigative capacity.

Structured coordination between anti-fraud bodies and other national authorities has proved to be a best practice and should be implemented in all Member States'.

Recommendation 1:

Member States are encouraged to use their AFCOS to its full potential.

The Commission suggests that cooperation between relevant national parties be developed in the framework of national anti-fraud strategies.

Several Member States have responded in relation to measures taken to improve cooperation and to use their AFCOS to their full potential.

To be more precise, twenty-one Member States have reported on the extensive involvement of various national parties relevant to the fight against fraud and, simultaneously, on the cooperation between such national parties with their AFCOS:

- Belgium's AFCOS is made up of representatives of all departments involved in the fight against fraud including, inter alia, the customs administration, SPF Finances (the Federal Public Finance Service), regional departments managing the structural and agricultural funds, the Economic Inspectorate and the Board of Prosecutors-General.
- Bulgaria's AFCOS is chaired by the Minister of Interior and composed of ministers, deputy ministers and heads of administrations responsible for the management of the EU funds and programmes, directors of revenue agencies, and heads of control,

certification, audit and enforcement bodies. Bulgaria's AFCOS has also signed a collaboration agreement with the Prosecutor's Office Bulgaria. It has also established an interdepartmental coordination centre on combating smuggling and controlling the movement of hazardous goods and cargo, aiming to ensure the interaction and coordination between the bodies of the Ministry of Interior, Ministry of Finance and the Ministry of Transport, Information Technology and Communications.

- The Czech AFCOS has been cooperating with Customs Administration of the Czech Republic, the Supreme Public Prosecutor's Office and the Unit for Combating Corruption and Financial Crime.
- The Danish AFCOS was placed in the Finance Ministry and, at the same time, an anti-fraud network was set up composed of the Danish AgriFish Agency, the Danish Business Authority, the Danish Customs and Tax Administration, and the Public Prosecutor for Serious Economic and International Crime.
- Germany reported that its AFCOS at the Ministry of Finance is in constant direct and indirect contact with all federal and regional administrative bodies competent for preventing, detecting and fighting fraud and irregularities in the country.
- Estonian AFCOS has involved in its network ministries, managing/certifying and auditing authorities and, partners from investigative institutions such as different police forces, prosecutors, the Tax and Customs Board and the Competition Authority.
- Ireland reported that it established an AFCOS network which includes authorities like the Department of Education, Food and the Marine, Departments of Public Expenditure and Reform, Department of Education and Skills, Department of Justice, Revenue Commissioners and, the Irish police.
- Greece's AFCOS cooperates with the Fiscal Audit Committee (EDEL) and the Ministry of Rural Development and Food. It also runs liaison offices for the following control mechanisms: the Financial and Economic Crime Unit (SDOE), the Financial Police Directorate, the internal audit units of ministers, and the Health and Welfare Services Inspectorate.
- Spain's AFCOS is chaired by the Auditor General and comprises representatives of the ministries, bodies and other national institutions responsible for managing, monitoring, preventing and combating fraud in relation to the financial interests of the EU.
- The French Anti-Fraud Coordinating Service (SCAF) works closely with all national administrations and operators involved in the fight against fraud to protect the interests of the European Union under the Ministry of Finance and Public Accounts , the Ministry of Agriculture, Ministry of Interior and Justice but also the regions which are managing authorities. Its priorities are: (1) to facilitate the action of OLAF in the implementation of its investigations (exercise of the right of communication, referral to relevant institutional interlocutors); (2) to promote administrations and national operators in the fight against fraud to the interests of the European Union (communication, training) including the fight against corruption; (3) to participate in committees and seminars organized by OLAF (COCOLAF , OAFCN); (4) to promote the sharing of best practices and risk analysis. The French AFCOS works closely with all national administrations and operators involved in the fight against fraud to the

interests of the European Union (Ministry of Finance and Public Accounts, Ministry of Agriculture, Ministry of Interior and Justice) but also with the regions which are managing authorities.

- Croatia's AFCOS was established within the Ministry of Finance and has been cooperating with the Croatian State Attorney's Office. In order for Croatia to ensure the efficient information flow and effective cooperation between national institutions and AFCOS it has set up an AFCOS system that establishes cooperation between institutions at different levels.
- Italy's AFCOS includes top level representatives from all administrations concerned in the management and/or control activities in the field of EU funding like, for example, the Prime Minister's Office Ministries of the Interior, Justice, Economic Affairs and Finance, Economic Development, Agricultural Policies, Infrastructure and Transport, Employment and Education, the financial police, the Carabinieri, the Customs Revenue Agencies, Agricultural Payments Agency, Conference of the Regions, Union of Italian Provinces and Italian National Association of Municipalities.
- Cyprus's AFCOS comprises of the following Services/Departments: the Legal Service and specifically the responsible Unit combating of Money Laundering (MO.K.A.S), the Treasury of the Republic of Cyprus, Audit Service, Customs Department, Police, Internal Audit Service, Cyprus Agricultural Payments Organisation and, the Directorate General of European Programs coordination and Development.
- Lithuania's AFCOS is the Financial Crime Investigation Service under the Ministry of Interior and it cooperates with the Ministry of Finance and the Special Investigation Service, which is responsible for the fight against corruption. They have drawn up a procedure for providing the Ministry of Finance with information on pre-trial investigations being carried out i.e. law enforcement agencies will inform the Ministry of Finance about the launch of pre-trial investigations (where doing so will not prejudice the course of the investigation).
- Hungary reported that cooperation between AFCOS and Hungary's competent authorities and organisations takes place at various levels. As such, Hungary mentioned the Interdepartmental Coordinating Committee on European Affairs' Olaf expert working group and the fact that eighteen Hungarian organisations (ministries, investigating authorities, control bodies and EU fund managing authorities) delegate members to the group.
- The Dutch AFCOS cooperates with relevant national enforcement partners like the Fiscal Information and Investigation Service and, the Netherlands Food and Product Safety Authority.
- Poland's AFCOS is headed by the Government Commissioner for Combating Financial Irregularities against Poland or the EU, and is assisted by an inter-ministerial Team for Combating Financial Irregularities against Poland or the EU (including specialised work groups established by the Team).
- Romania reported that in order to improve inter-institutional cooperation, its AFCOS, the Anti-Fraud Department, has concluded several cooperation protocols with the institutions involved in managing EU funds such as the Ministry of European Funds, or the National Anticorruption Directorate.

- Slovenia's AFCOS organises periodic meetings with other Slovenian institutions that form part of the inter-departmental working group for cooperation with OLAF. This working group includes members like the Commission for the Prevention of Corruption, the Office of the State Prosecutor General of Slovenia, the Criminal Police Directorate, the Agency of Slovenia for Agricultural Markets and Rural Development, The Government Office for Development and European Cohesion Policy, Office for Money Laundering Prevention, Ministry of Finance-Financial Administration of Slovenia, and the Ministry of Justice.
- Slovakia's AFCOS is assisted by an AFCOS network which includes bodies and institutions who provide the Union's financial resources and otherwise handle these funds, bodies who are authorised to check the use of these funds, and bodies who are entrusted with the exercise of powers in order to perform the tasks with regard to the protection of the EU's financial interest.
- The UK has reported that its AFCOS, the City of London Police (CoLP), and the National Police Chiefs Council have a significant number of memorandums of understanding in place with various national bodies. Several of these bodies include the Association of British Insurers, the Department for Business Innovations and Skills, the Department for Work and Pensions, the Medicines and Healthcare Products Regulatory Agency, the Solicitors Regulation Authority, the Financial Services Authority, the UK fraud prevention service called CIFAS, the National Crime Agency, the Crown Prosecution Service, and the Ministry of Defence Police.

The rest of the Member States have given less detailed responses to this recommendation:

- Latvia referred to establishing an inter-institutional working group to draw rules for efficient cooperation and exchange of information in order to strengthen and formalize cooperation between the Latvian competent authorities and OLAF and to improve mutual legal assistance.

- Luxembourg has reported that a meeting was organised between all the relevant authorities involved in managing EU funds.

- Malta reported excellent cooperation between bodies combating fraud.

- Austria has not reported any information.

- Portugal has reported that there have been several developments with regards to the cooperation between its AFCOS and various national bodies, whose aim was to improve on the sharing of knowledge and experience of running management and control systems in the anti-fraud area.

- Finland has reported that in 2016 it will examine implementing measures that will render the AFCOS cooperation network more efficient.

- Sweden reported that the Swedish Economic Crime Authority is the Swedish AFCOS and chairs the Swedish Council for the Protection of the European Union's Financial Interests

(the SEFI Council), and that all government authorities involved in the administration and protection of the EU's funds in Sweden are represented in the Council.

Moreover, a number of Member States have increasingly focused on taking measures to protect EU funds:

- The main purpose of Croatia's National Strategy adopted for the period 2014-2016 is to ensure effective and efficient protection of EU financial interests by further strengthening the AFCOS system.

- Lithuania adopted Resolution No XII-1537 approving a National anti-corruption programme for 2015-25 which will provide for the deployment of anti-corruption and anti-fraud measures and activities relating to the use of EU fund resources.

- Romania's Anti-fraud Department concluded several cooperation protocols with the institutions involved in managing EU funds.

- The National Strategy adopted by Slovakia is focused on the need to protect EU funds from fraud; measures contained in the Strategy relate both to the expenditure and revenue areas of the EU's budget.

- For the management of ESIF funds in the UK, AFCOS has a designated regional contact point for each of the devolved nations and, in the case of England, for each of the major EU funds.

Regarding structured coordination and the development of national anti-fraud strategies, six Member States[22] have adopted a national anti-fraud strategy. In this regard:

- In Belgium, the introduction of a national anti-fraud strategy will be examined in 2016.

- Czech Republic has reported that they plan to revise their already existing national anti-fraud strategy and they are in the process to adopt it by government decree.

- Estonia reported that in the future it will focus more on composing the written strategic action plan with every party's duties and goals.

- Greece plans to update its National-anti fraud strategy.

- Spain's AFCOS has prepared the draft which will govern the working and composition of the Advisory Council for Preventing and Combating EU-related fraud. This has not yet been approved by the Council of Ministers.

- France aims to construct specific measures to better combat fraud against the Union's financial interests as part of its national yearly plan for the fight against fraud.

- Italy supports that its AFCOS has drawn up and developed the national strategy for combating irregularities/fraud affecting the EU budged and included this in the Annual Report to the Italian Parliament on 24th of December 2012.

[22] Bulgaria, Greece, Croatia, Hungary, Malta, Slovakia

- Latvia has established an inter-institutional working group to elaborate anti-fraud strategy at national level of the AFCOS network 2017-2019 and draw up rules for efficient cooperation and exchange of information. These are expected to be approved by the end of 2016. As its first step towards adopting an NAFS, Latvia's AFCOS has updated the anti-fraud strategy for the protection of the financial interests of the Union for 2014-2016.

- In 2015, Lithuania has approved Lithuania's National Anti-corruption Programme for 2015-25 providing for the deployment of anti-corruption and anti-fraud measures and activities relating to the use of EU fund resources.

- Luxembourg is currently devising a national anti-fraud strategy.

- Portugal has adopted a Strategic Plan for 2015-2017 to combat tax and customs fraud and evasion. Also, an anti-fraud strategy is defined for each management and control system, with the aim of adopting effective and proportionate anti-fraud measures.

- Romania has set up the National Public Procurement Agency (ANAP) and in 2015 developed the National Public Procurement Strategy which has been approved by the Government. As such it put forward measures to reform the national public procurement system between 2015 and 2020.

- Slovenia has not yet drawn up a national strategy but plans to do so and plans to rely on the guidelines for drafting a national strategy which will be issued by a special working group within OLAF in 2016.

1.1.2. Measures to fight fraud and corruption in public procurement

'In February 2014, the first EU anti-corruption report was adopted[23] and the revised package of public procurement Directives and a new concessions Directive entered into force.

The transposition of these Directives gives the Member States an opportunity to enhance transparency and strengthen their anti-fraud efforts, by defining conflict of interest, making e-procurement mandatory and introducing monitoring and reporting obligations to curb procurement fraud and other serious irregularities.

In addition, Member States took a significant number of legislative and administrative measures aimed at strengthening anti-fraud work in the area of public procurement.'

Recommendation 2:

During the public procurement process, conflict of interest can cause serious harm to the public budget and to the reputation of the EU and the Member States concerned.

Member States are invited not only to transpose the definition of 'conflict of interest' contained in the Public Procurement Directive, into national legislation, but also to put effective measures in place to tackle conflicts of interest.

[23] See section 4.1.4.

The majority of Member States[24] have taken steps to endorse the Public Procurement Directive and have drafted new law which has not yet been adopted. Two Member States[25] have so far adopted a new law transposing the EU Public Procurement Directive into national legislation and three Member States[26] have made amendments to provisions in their national law so that they can effectively incorporate the EU Directive.

Germany has transposed the Public Procurement Directive in a two-stage procedure; the basic rules have been transposed in Part Four of the 'Restrain Competition Act', and the more detailed procedural rules were implemented by amendments to the 'Public Procurement Regulation'. These will both enter into force on 18 April 2016. Furthermore, Malta and the United Kingdom have introduced new national Regulations in an effort to implement the EU Procurement Directive. Malta introduced 'national regulations' which are envisaged to come into effect by April 2016 and the UK has introduced the 'Public Contracts Regulation 2015'.

Two Member States[27] have not taken further action as they consider that their national law already coincides with the Directive. In particular, Poland has mentioned that appropriate provisions for preventing and tackling conflicts of interest had been introduced into national public procurement law – Public Procurement Act (PZP) - even before the relevant provisions to this effect were introduced into the EU Directives coordinating the award of public contracts. Portugal reported that its national legislation requires beneficiaries to conduct themselves in a way that respects the principles of transparency and good management of public funding, and as such, it has not introduced national legislation, but Codes of Ethics have been drawn up at internal level and within each managing authority covering conflicts of interests. Portugal has also issued guidelines on this subject recommending the adoption of specific procedures by the managing authorities, which set out the approach to take with regards to identifying preferential relations, and how to deal with them. Similarly, Romania has not introduced any new national legislation, but it has developed a 'National Public Procurement Strategy' in 2015 which put forward measures to reform the national public procurement system between 2015 and 2020.

Three Member States[28] have laid down stricter rules on conflict of interest than what was intended by the EU Procurement Directive:

In Bulgaria participation in a public procurement by any person for whom a conflict of interest has been established is prohibited and cannot be removed.

In Denmark, the voluntary ground for exclusion contained in Article 57(4)(e) of the Procurement Directive has been made mandatory.

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24 Bulgaria, Czech Republic, Denmark, Estonia, Ireland, Greece, Spain, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Romania, Slovenia, Slovakia, Finland

25 Denmark, Hungary

26 Belgium, France, Netherlands

27 Poland, Sweden

28 Bulgaria, Denmark, Slovenia

Slovenia requires any person responsible for a public procurement procedure to send ahead of the award of the public contract, a written notice informing all parties involved in drawing up the documentation.

Furthermore, five Member States[29] have adopted the procedure of 'declarations of conflict of interest':

In Bulgaria, the guidelines on all managing authorities for operational programmes receiving European funding include declarations of conflict of interest in order to participate in the procedure for the awarding of grants. Furthermore, all employees of the Managing Authority must sign declarations that they will refrain from a conflict of interest.

In France, certain senior officials in management roles must declare their interests to the High Authority for Transparency in Public Life.

In Hungary the conflict of interest declarations are one of the documents submitted by the contracting parties as part of public procurement checks conducted by the Public Procurement Supervisory Departments of the Prime Minister's Office.

Portugal's Codes of Ethics and Conduct drawn up at internal level and within each managing authority include making a declaration of conflicts of interest.

Slovakia endorses the idea of filing a form for the conflict of interest comprising information on the evaluation of the existence of a potential conflict of interests in the public procurement.

Three Member States[30] have allowed the possibility to appeal to a Court against a finding that there existed a conflict of interest in relation to a public procurement contract. Bulgaria has actually taken this even further by giving this appeal opportunity to participants who believe that a conflict of interest exists when the suspected participant has not been removed from the procedure.

Three Member States31 focused on improving transparency in the field of public procurement. The Czech Republic obliges all its state-funded institutions to publish private-law agreements exceeding the amount of €1850, and Slovenia makes it mandatory to annually publish statistical data of all public contracts exempted from a public procurement, but also the details of all entities awarded a public contract valued at more than €10 000 along with the subject of the contract and the exact price paid. In the United Kingdom, information on all procurement spending over £25 000 and on all awarded contracts over £10 000 is published online.

To this end, it is also important to mention the measures introduced by Romania and Spain:

In Spain, all senior officials' assets will be inspected when their mandates come to the end by the Office of Conflicts of Interest.

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29 Bulgaria France, Hungary, Portugal, Slovakia

30 Bulgaria, Denmark, France

31 Czech Republic, Slovenia, United Kingdom

In Romania, the National Integrity Agency, an institution concerned with the administrative conflicts of interest, launched the PREVENT project which is an integrated information system used for preventing conflicts of interest in public procurement.

1.2. Increasing detection: results and open issues

1.2.1. Expenditure

'On the expenditure side, the fluctuation in the number of fraudulent irregularities reported over the last five years is difficult to interpret. However, apart from the years 2011 and 2012, the amounts concerned have remained relatively stable. This might reflect the fact that most spending programmes are multi-annual and the level of detection follows their cyclical nature.

The role of Managing and Paying Authorities in detecting fraud has grown since 2012 and should be further enhanced in the coming years, pursuant to the new regulatory framework for the period 2014-2020.

Fraud detection practices still differ between Member States and the Commission is concerned about the low number of potentially fraudulent irregularities reported by some countries. However, the number of Member States which report no, or very few, fraudulent cases has fallen in recent years. The Commission will continue to provide guidelines to improve the convergence of national systems and to raise awareness of fraud, in order to protect the EU's financial interests more efficiently.

In 2014, Italy and Romania were the most effective countries in detecting potential fraud in the agriculture sector[32]*. Germany, Poland and the Czech Republic were the most effective in the cohesion policy area.*

Overall, Germany was the most effective Member State regarding the detection of fraud'.

Recommendation 3

As some Member States continue to report a very low number of fraudulent irregularities, the Commission recommends strengthening their work in relation to detecting and/or reporting fraud, in particular, as they have not reported any over the last five years:

- **in the area of agriculture: Slovakia and Finland.**
- **in the area of cohesion policy: Denmark and Luxembourg.**

The Commission takes note of progress made in reporting by some Member States, such as France and Spain in the cohesion policy area, but believes that there is still considerable room for improvement.

[32] Hungary reported the highest number of fraudulent irregularities uncovered during the course of an OLAF investigation.

Although satisfactory, the quality of the reported irregularities could be further improved, in particular in relation to the classification of fraudulent irregularities and the timing of reporting, as highlighted by the analysis of the Member States' replies to the questionnaire.

Given the new rules on the reporting of irregularities currently being adopted, and the remaining areas for improvement identified by the Commission following analysis of the information provided by the Member States, the Commission will prepare a working document on the practicalities of the reporting of irregularities, in close cooperation with the Member States.

The two Member States[33] explicitly invited to strengthen their work in relation to detecting and/or reporting fraud in the area of agriculture, took significant steps in doing so. Finland has drawn up a fraud control plan, organised training on fraud control and reporting within the Paying Agency and for all the entities handling delegated tasks. Slovakia has changed its methodology both in deterring the IRQ2 and IRQ3 qualification and in relation to the methodology used by the Agricultural Paying Agency to report irregularities qualified as IRQ3. As such, this has led to a higher number of identified fraudulent irregularities.

Moreover, Denmark has made changes to the area of cohesion policy; drawn up an anti-fraud policy, and organised both preventive administrative checks and on-the-spot checks by the management authority. It also noted that the low level of fraudulent activities reflects the low level of fraud that actually takes place. Luxembourg has responded by stating that it plans to hold meetings between all authorities involved in managing EU funds on a regular basis in order to achieve a structured coordination.

While the Commission praised some progress by France and Spain in reporting on cohesion policy irregularities, it noted considerable room for improvement. Both countries tool concrete steps to improve this. Spain set up the Advisory Council for Preventing and Combating EU-related Fraud which sets out general criteria and establishes procedures for handling specific cases of suspected fraud. France, through the Inter-ministerial Commission for the Coordination of Inspections continued the efforts it had already begun in 2014 in fighting fraud. The ARACHNE tool is widely used by the French authorities who also arrange training sessions for their officials. Furthermore, since May 2015, France has adopted a stance whereby administrative actions are simplified, and as such, it has adjusted professional secrecy in information exchange between administrative authorities. This has led to halting the production of supporting documents and has made the process by which information is shared among authorities much quicker.

Estonia, Czech Republic, Greece, Portugal and Croatia have highlighted their efforts to report fraudulent irregularities. Such efforts entailed updating and improving guidelines for managing irregularities in the case of Croatia, organising training courses on fraud-related issues in the case of Greece, and collaborating with all involved offices in the case of the

[33] Slovakia, Finland

Czech Republic. Furthermore, Portugal explicitly stated that there was an increase in the reporting of irregularities and Estonia characterised its reporting on fraudulent irregularities as 'average'.

The remaining Member States which did not reply to this recommendation assumed that it was only applicable to four named Member States.

1.2.2. Revenue: Updating control strategies

'In 2014, on the revenue side, the number of detected irregularities, and in particular, the level of the established amounts increased significantly in comparison with previous years. Considering the risks of cross-border fraud, the Commission believes that close cooperation between the Member States and exchange of information beyond the borders for purposes of customs controls is to be welcomed. Exchange of information on customs transactions, economic operators or debts should ensure that all customs transactions and economic operators are included in the populations for post-clearance controls, regardless of the place of physical importation of goods, or the place where the economic operator is located. Information received from other Member States should be integral to risk management and supplement the national populations used for risk management purposes. Absence of such cooperation might result in financial liability in the area of TOR.

Based on the figures for 2014, it can be concluded that cases of fraud and irregularities are detected much more often after the clearance of goods. It should be kept in mind that a combination of different control strategies is required. However, post-clearance controls are the most effective method of detection, both in terms of the number of cases detected and in terms of established amounts. Controls at the time of clearance of goods and inspections carried out by anti-fraud services are crucial to the detection of certain types of existing fraud and new types of fraud.

Furthermore, mutual assistance notices issued following JCOs conducted by OLAF are an important source of information for detecting irregularities in transactions involving certain types of goods'.

Recommendation 4

To fight customs fraud, Member States are invited to inform the Commission of the measures taken to strengthen cooperation in order to ensure that all transactions, and all economic operators, are included in the population for post-clearance controls, irrespective of whether or not the importer is located in the Member State of the physical importation.

Considering the decreasing number of customs controls at the time of clearance, Member States are invited to exchange experiences when customs authorities were particularly successful in detecting fraud or irregularities at the time of clearance.

Regarding this recommendation, the Member States' replies mainly focused upon the measures taken to strengthen cooperation and fight customs fraud. A significant number of Member States[34] commented on the importance of cooperating with other Member States and the measures they have taken to accomplish that e.g. by signing bilateral agreements.

To this end, in 2014 the customs authority in Lithuania launched a Data Mining project so that Member States can share their experiences in identifying fraud during post-clearance checks. The project was launched with a view to setting up similar joint models in other member States.

Six Member States[35] reported that they do not exlude economic operators registered in other Member States in their investigations to identify customs fraud. This further emphasises the adoption of the Commission's recommendation when it comes to cooperating with other Member States to identify irregularities.

Belgium mentions its dissatisfaction with Commission's recommendation four. According to the Belgian customs, financial responsibility is increasingly being shifted on the Member States in the area of post-clearance controls. However, Member States are only financially responsible for losses of traditional own resources when the losses occur for reasons imputable to them. This has been confirmed by the European Court of Justice (ECJ). In such cases liability starts typically from the point in time when the own resources would have been made available in the absence of the Memebr State's error, which has also been confirmed by the ECJ. On the other hand the own resources legislation has recently been changed, after a proposal by the Commission to that effect, reducing the interest rate applicable to delays in making available own resources and allowing for possible derogations from Member States' financial responsibility for cases involving criminal investigations.

[34] Czech Republic, France, Lithuania, Hungary, Malta, Poland, Slovenia, Slovakia, Finland, Sweden

[35] Bulgaria, Germany, Spain, Italy, Cyprus, Romania

2. REPLIES OF MEMBER STATES

2.1. Improved coordination and cooperation: a new impetus in the fight against fraud

2.1.1. Reinforced legal and administrative structures for enhanced cooperation

Significant steps were taken in 2014 to enhance the Commission's and the Member States' protection of the EU's financial interests.

In 2014, the Commission successfully completed the priority actions of its multi-annual Anti-Fraud Strategy (CAFS). While the focus of CAFS is primarily upon developing anti-fraud strategies at Commission service and agency level, the Commission is now increasingly focusing on how to support Member States in developing their own anti-fraud strategies.

Regulation (EU) No 883/2013 provides, *inter alia*, for enhanced cooperation with Member States through the appointment of an AFCOS.

At the end of 2014, all Member States had designated their AFCOS. The responsibilities of each national AFCOS vary, depending on the Member State. All Member States have given their AFCOS coordinative responsibilities, albeit to varying extents. Only a few Member States empower their AFCOS to act in an investigative capacity.

Structured coordination between anti-fraud bodies and other national authorities have proved to be a best practice and should be implemented in all Member States.

Recommendation 1:

Member States are encouraged to use their AFCOS to its full potential.

The Commission suggests that cooperation between relevant national parties be developed in the framework of national anti-fraud strategies.

BE	Belgium decided to allocate the AFCOS responsibilities to the interdepartmental committee for coordinating the fight against economic fraud (CICF). The committee is made up of representatives of all departments involved in the fight against economic fraud, and therefore in the fight against fraud affecting the financial interests of the EU. The members of the committee include, inter alia: the customs administration, SPF Finances (the Federal Public Finance Service), regional departments managing the structural and agricultural funds, the Economic Inspectorate and the Board of Prosecutors-General. The committee meets four times per year in order to coordinate action, prepare COCOLAF meetings, coordinate the reply to the Article 325 questionnaire, etc. A secretariat is responsible for following up specific requests from OLAF, e.g. relating to on-the-spot controls. The introduction of a national anti-fraud strategy will be examined in 2016. There is currently no national coordination of the anti-fraud strategies applied by the different departments concerned. A legal framework to regulate the operation of the AFCOS and cooperation with all the departments concerned is currently being drafted.
BG	In fulfilment of the European Commission's recommendations, by Council of Ministers Decree (PMS) No 18 of 4 February 2003, Bulgaria established a Council for Coordination in the Fight Against Infringements Affecting the European Union's Financial Interests (AFCOS). At the higher political level, the AFCOS Council provides guidelines, monitors and coordinates the activities of State authorities responsible for preventing and combating infringements affecting the revenue and expenditure of the EU budget and the national budget. The Council is chaired by the Minister for the Interior, who implements the State policy on the protection of the EU's financial interests. The Council is composed of ministers, deputy-ministers and heads of administrations responsible for the management of EU funds and programmes, directors of revenue agencies, and heads of control, certification, audit and enforcement bodies. The operation of the Council is supported by the Protection of the European Union's Financial Interests Directorate (AFCOS), a specialised unit within the Ministry of the Interior (MVR) which carries out control, information and coordination activities relating to the protection of the European Union's financial interests. In accordance with Article 3(4) of Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council, the AFCOS Directorate is the designated national coordinating anti-fraud service, which assists the effective cooperation and information exchange with the European Anti-Fraud Office (OLAF). The AFCOS Directorate coordinates the operational cooperation between OLAF and the members of the AFCOS Council in carrying out investigations in Bulgaria, and ensures and coordinates, at the national level, the reporting of irregularities

	between the national institutions and the European Commission. With the adoption, in December 2014, of the National Strategy for Preventing and Combating Irregularities and Fraud Affecting the Financial Interests of the EU for the period 2014–2020 and of the Action Plan implementing the National Strategy for the period 2015–2016, the cooperation between the responsible national institutions, whose heads are AFCOS Council members, is implemented in a structured manner on the basis of the strategic goals and functions envisaged in the two programming documents. The National Strategy for Preventing and Combating Irregularities and Fraud Affecting the Financial Interests of the EU identifies 4 strategic goals, providing the framework for cooperation between the responsible national institutions: Improving prevention by strengthening the regulatory framework, increasing the administrative capacity and enhancing transparency and access to information; Improving efficiency in detecting and combating irregularities and fraud by strengthening cooperation among revenue authorities and enhancing internal control and interaction between State authorities, the private sector, non-governmental organisations and civil society; Strengthening the cooperation with OLAF and the competent EU institutions, the Member States and third countries; Improving the efficiency of investigation, refunding and sanctions activities. All institutions administering European programmes cooperate closely with the AFCOS Directorate, which is reflected in the submission of information to the Directorate in all cases when indications of fraud are established in the course of checks and when suspected irregularities are classified as 'suspected fraud'. Upon completion of the alerts the responsible institutions notify the AFCOS Directorate of the final position and the measures adopted in response to the alert. In addition, the relevant national institutions report to the AFCOS every three months on the registered irregularities and the measures taken in response to them. Furthermore, all institutions administering European programmes actively implement the AFCOS Directorate's Methodological Guidelines

	relating to the administration of irregularities. The Permanent Working Group on Irregularities, headed by the AFCOS Directorate, discusses, on an ongoing basis, all complex issues arising in relation to the administration of irregularities. The training sessions organised by the AFCOS Directorate further enhance the administrative capacity of experts responsible for the prevention, detection, reporting and subsequent handling of cases of irregularities and fraud relating to the spending of funds from the common budget of the EU. The following agreements were signed in fulfilment of the tasks defined in the Action Plan implementing the National Strategy for Preventing and Combating Irregularities and Fraud Affecting the Financial Interests of the EU for the period 2014–2020: Agreement of 23 March 2015 between the Bulgarian Prosecutor's Office, the Ministry of the Interior, the State Agency for National Security (DANS), the National Revenue Agency (NAP) and the Customs Agency (AM) on establishing an interdepartmental unit to support the investigation of organised crime related to financial offences. The main priorities in the unit's operations are the specialisation and teamwork of prosecutors, investigative police officers, officials from the DANS, the NAP and the AM; information exchange and confidentiality, efficiency and speed of preliminary checks and pre-trial proceedings. The overall management and control over the unit and the joint investigation teams established within it are exercised by the Supreme Court of Cassation deputy responsible for this area, designated by the Prosecutor General. In early November of 2015 a Cooperation and Collaboration Agreement was signed between the Council for Coordination in the Fight Against Infringements Affecting the European Union's Financial Interests (AFCOS) and the Prosecutor's Office of Bulgaria (PRB). The agreement establishes the conditions, procedures and formats for the interaction and cooperation between the Council and the Prosecutor's Office. The PRB has set up an electronic register for the exchange of information between the Prosecutor's Office of Bulgaria and the European Anti-Fraud Office in accordance with the agreement signed between the PRB and the AFCOS Council. PMS No 89/16 April 2015 established an interdepartmental coordination centre on combating smuggling and controlling the movement of hazardous goods and cargo, aiming to ensure the interaction and coordination between the bodies of the Ministry of the Interior, the Ministry of Finance and the Ministry of Transport, Information Technology and Communications (MTITS). The effective interaction at the inter-institutional level and the coordination of the operational activities on identified cases of smuggling and tax misuse from a single coordination centre enables

	immediate action on risk analysis, identification of countermeasures and undertaking of joint control activities by the law enforcement bodies, the Executive Agency for Automobile Administration and the two revenue agencies: the National Revenue Agency and the Customs Agency.
CZ	The Czech AFCOS team intensively cooperated with the other relevant Czech parties such as the Customs Administration of the Czech Republic, the Supreme Public Prosecutor's Office and the ***Unit*** for ***Combating Corruption and Financial Crime*** as to improve the fight against fraud and irregularities. Firstly, the Czech AFCOS team organized a conference for the members of local contact points of AFCOS in September 2015, in which representatives of the aforementioned offices were trained in the field of the protection of the EU's financial interests, specifically in analysing collected evidence or gathered facts which are reported to the administrative authority, inter alia, when there is suspicion of a violation of administrative law, or it regards the case of suspicion of a breach of criminal law. We focused on the efficiency of the detection and legal classification of behaviour of the accused party by inspectors during the conduction of checks, inspections, and prompt reporting to the police. A representative of the ***Unit*** for ***Combating Corruption and Financial Crime presented a few case studies to show practical examples of breaching the Czech Penal Code, specifically of criminal cases where suspects caused financial damage to the EU budget.*** Secondly, the revision of the Czech national anti-fraud strategy is still in the process of being adopted. As far as the internal comments procedure is concerned, it has been completed. In regards to the external comments procedure, it has not been adopted yet. The revised strategy shall be adopted by government decree. In addition to that, based on the Agreement on the Mutual Cooperation, the Supreme Public Prosecutor's Office in cooperation with the Supreme Audit Office organized a workshop. The workshop attended by representatives of those bodies held on 13th September 2015 was organized to exchange practical information, describing new types of criminal activities, and different possibilities for common cooperation in procedures for the awarding of public contracts co-financed by ESIF.
DK	The Danish Anti-Fraud Coordination Service was placed in the Finance Ministry by a Government decision in May 2014. In order to support the Finance Ministry in this task, an anti-fraud network was set up at the same time, composed of the relevant authorities (the Danish AgriFish Agency, the Danish Business Authority, the Danish Customs and Tax Administration, and the Public Prosecutor for Serious Economic and

	International Crime (SØIK)). The network was set up in this way so as to cover both the revenue side and the expenditure side, along with the prevention, detection, investigation and prosecution of fraud against the EU's financial interests and recovery of the unduly paid funds. The Finance Ministry thus carries out the obligations laid down in Article 3(4) of the OLAF Regulation and can act as a contact point for OLAF. However, the Danish AFCOS is merely a coordinating unit, and specific inquiries from OLAF are therefore passed on to the relevant authority. Cooperation in the network helps to ease this communication. The AFCOS network meets regularly, both before relevant meetings in Brussels, and also in connection with thematic meetings on subjects of cross-cutting relevance for the authorities. Cooperation in the network allows for a helpful and regular exchange of ideas and experiences, and easier coordination of cross-cutting issues. It also allows for discussions of a more strategic nature. Cooperation in the network has been reinforced through regular meetings, exchanges of experience, and continuous information exchange. It is our view that cooperation in the network has been - and continues to be - useful for the authorities involved in fighting fraud against the EU's financial interests. A manual is being drawn up in order to completely clarify the respective authorities' powers, anti-fraud action plans, interfaces and cooperation within the AFCOS network, and their cooperation with OLAF. The aim is to strengthen cooperation by giving a more cross-cutting overview of the authorities' work in fighting fraud against EU funds. This can be helpful to authorities both within and outside of the network. It is not considered necessary at the present time to have a formal national anti-fraud strategy.
DE	Germany's AFCOS at the Ministry of Finance is in constant direct and indirect contact with all federal and regional administrative bodies competent for preventing, detecting and fighting fraud and irregularities in the country. The issue of preventing and fighting fraud now routinely features on the agenda for coordination meetings and other discussions with these authorities. OLAF's coordination assistance is consistently provided but depends to a great degree on mutual recognition and reporting.
EE	The Estonian AFCOS exists since 2003. It includes: institutions granting different aid, such as 1st Level Implementing Bodies, 2nd Level Implementing Bodies = Ministries, Managing / Certifying

	and Auditing Authorities partners from investigative institutions, such as different police forces, prosecutors, the Tax and Customs Board, Competition Authority It organises joint training courses at least twice a year, where common cases and area-specific challenges and achievements are discussed. Due to regular and close cooperation we all are aware of our and the others' duties and the importance of cooperation for the protection of the EU and Estonian financial interests. In the future we will focus more on composing the written strategic action plan with every party's duties and goals. We will assess this plan in our annual meeting with the partners'
IE	Regarding cooperation between AFCOS and the relevant national authorities, Ireland established an AFCOS network, the inaugural meeting of which took place in May 2015. The relevant authorities represented at the inaugural meeting included the Department of Education, Food and the Marine, Department of Public Expenditure and Reform, Department of Education and Skills, Department of Justice, Revenue Commissioners and the Irish police. The AFCOS network will meet periodically to inter alia share information and best practice.
EL	**ENTITY** **Secretariat-General for the Fight Against Corruption** Law 4320/2015 established the **Secretariat-General for the Fight Against Corruption** with the task of drawing up a draft national strategy for preventing and combating corruption and fraud, specifying the strategy in terms of measures and actions to be taken by each ministry and entity, and coordinating all services and entities involved in the implementation of the strategy, with a view to ensuring its implementation, coherence and effectiveness by giving instructions and recommendations. To this end, it has been designated as the anti-fraud coordination service (AFCOS), pursuant to Article 3(4) of

		Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013. As an AFCOS, it acts as a national contact point with OLAF, i.e. the EU agency that investigates fraud against the EU budget. The Secretariat-General for the Fight Against Corruption, in its capacity as an AFCOS, cooperates closely with the Special Service for Institutional Support of the Secretariat-General for Public Investments and NSRF with a view to updating the national strategy for combating fraud in structural actions and implementing the provisions of the new management and control system for the new programming period 2014-2020 on combating fraud in structural actions. In addition, it cooperates with the Fiscal Audit Committee (EDEL) to ensure the effective functioning of the management and control system, with a view to preventing and identifying cases of fraud. It also cooperates with the Ministry of Rural Development and Food, with a view to detecting and preventing irregularities in aid payment. The Secretariat-General for the Fight Against Corruption removes conflicts and resolves matters of overlapping responsibilities between departments or agencies involved in the fight against corruption, by proposing appropriate solutions for the effective resolution of those matters and by bringing forward the necessary legislative or regulatory interventions. It issues general instructions and recommendations and intervenes, where required, to facilitate the exchange of information between agencies and entities fighting against corruption and fraud. Within its remit, the Secretariat-General draws up coordinated action programmes to combat corruption and fraud, thus implementing the national strategic planning. These programmes are addressed to the administrative bodies concerned, which have an obligation to coordinate their actions to achieve the above strategy. To ensure

		this coordination, the Secretariat-General runs liaison offices for the following control mechanisms: (a) the Financial and Economic Crime Unit (SDOE), (b) the Financial Police Directorate, (c) the internal audit units of ministries and (d) the Health and Welfare Services Inspectorate. Moreover, joint teams were formed and operated in 2015, consisting of one delegate from each body, so as to achieve better cooperation and control, even within those control mechanisms. In this context, joint control teams coordinated by the Secretariat-General for the Fight Against Corruption have been created to combat smuggling, with the involvement of the Financial Police, the SDOE, the Coast Guard, the customs authorities and the Internal Affairs Directorate of the Secretariat-General for Public Revenue. An illustration of this is the outcome of the cooperation with law enforcement authorities from October 2015 to 8 February 2016, following information given by the Secretariat-General for the Fight Against Corruption in its capacity as AFCOS: - seizure by the customs authorities of nine containers with a total of 102 190 000 smuggled cigarettes, corresponding to a total of € 18 773 129.69 in duties and taxes; - on-site inspections by OLAF in December 2015 in Athens, supported by SDOE and coordinated by the Secretariat-General for the Fight Against Corruption; - in a number of cases the Coast Guard carried out checks on ships following information given by the Secretariat-General for the Fight Against Corruption in its capacity as AFCOS.
ES	A new **twenty-fifth additional provision**, which entered into force on 2 October 2015, was added to the General Subsidies Law (GSL)	

	No 38/2003 of 17 November 2003. This granted legal status to the establishment of the National Anti-Fraud Coordination Service (AFCOS) and to the regulation of its core tasks. These aspects were previously covered by a regulatory instrument (Royal Decree No 802/2014 of 19 September 2014, which set up the AFCOS). The 25th additional provision of the GSL added to the rules governing the Anti-Fraud Coordination Service by including certain elements that are needed for it to be able to carry out its tasks successfully. In particular, the following should be noted concerning the content of Recommendation 1: **1)** Firstly, point four of the fourth paragraph of the 25th additional provision of the GSL provides that *'The National Anti-Fraud Coordination Service shall be assisted by an Advisory Council chaired by the Auditor General and comprising representatives of the ministries, bodies and other national institutions responsible for managing, monitoring, preventing and combating fraud in relation to the financial interests of the European Union. Its composition and workings shall be established by Royal Decree.'* The National Anti-Fraud Coordination Service has prepared the draft of the Royal Decree governing the composition and workings of the **Advisory Council for Preventing and Combating EU-related Fraud**. The process of approving the Royal Decree is ongoing. AFCOS has prepared the text of the Royal Decree as well as the accompanying documentation required for the approval process. However, the text has not yet been approved by the Council of Ministers because the general election was held and it cannot be approved until a new Government has been formed. When designing the Advisory Council for Preventing and Combating EU-related Fraud the recommendations made by OLAF itself were used as a reference point, particularly those made in the '*Guidance note on the main tasks and responsibilities of an Anti-Fraud Coordination Service (AFCOS)*' (prepared by OLAF in October 2013) and especially those in Part IV '*Institutional framework of the AFCOS in the Member State*'. In light of the above, a broad-based **composition** was chosen so as to represent all the national bodies, entities and institutions that are responsible for managing, monitoring, preventing and combating fraud in this field. As such, the Advisory Council is designed to be the principal tool for ensuring cooperation between the various bodies and entities concerned.

	Thus, in accordance with Article 3 of the draft Royal Decree, the Advisory Council for Preventing and Combating EU-related Fraud will comprise the following members: a) A Chairperson, who will represent the Auditor General. b) A Deputy Chairperson, who will represent the National Anti-Fraud Coordination Service. c) One member to represent each Managing and Certifying Authority for each European Fund. d) Two members representing the National Audit Office, in its capacity as the auditing authority. e) Two members representing the National Agency for Tax Administration, at least one of whom will represent the Department of Customs and Excise as regards customs duties and other traditional own resources in the EU budget. f) One member representing the State Secretariat for Security of the Ministry of the Interior. g) One member representing the Directorate-General for Police, as a body with the power to investigate fraud. h) One member representing the Directorate-General for the Civil Guard, as a body with the power to investigate fraud. i) One member representing the State Prosecutor's Office. j) One member representing the State Secretariat for the European Union. k) One member or several members representing the bodies or institutions of the Autonomous Communities responsible for managing European Union funds if they choose to accept the invitation from the Chairperson of the Advisory Council. l) One member representing local administration, on a proposal from the largest association of local authorities in the country, if it chooses to

	accept the invitation from the Chairperson of the Advisory Council. In addition, the draft Royal Decree provides that, alongside the voting members of the Advisory Council, experts - where appropriate - and especially OLAF representatives may attend its meetings in an advisory capacity without the right to vote. As regards the **tasks** conferred upon the Advisory Council, the purpose of the Royal Decree is to make the Council the principal tool for guaranteeing effective cooperation between all those involved in the various stages of the anti-fraud cycle (prevention, detection, investigation, recovery/sanctions) and for ensuring that the National Anti-Fraud Coordination Service can successfully perform its coordination role in terms of preventing and combating fraud. To this end, Article 2 of the draft Royal Decree confers the following tasks upon the Advisory Council: *'a) Consider, and if necessary, comment on draft laws and proposals of any kind that are submitted to it by the National Anti-Fraud Coordination Service.* *b) Study, consider and propose to the National Anti-Fraud Coordination Service any measures considered necessary regarding the prevention of and fight against fraud vis-à-vis the financial interests of the European Union.* *c) Work together with the National Anti-Fraud Coordination Service to establish systems that allow a smooth exchange of information between the national institutions that are responsible for managing, monitoring, preventing and combating fraud vis-à-vis the financial interests of the European Union, and between these bodies and the European Anti-Fraud Office, in full compliance with the existing rules on information confidentiality.* *d) Work together with the National Anti-Fraud Coordination Service when coordinating anti-fraud measures to be taken by the relevant national authorities.* *e) Help the National Anti-Fraud Coordination Service set out general criteria and establish procedures for handling specific cases of suspected fraud, as well as the procedures to be followed in each case depending on the specific circumstances in each individual case.*

	f) Inform and advise the National Anti-Fraud Coordination Service in relation to any issues that it may raise regarding the prevention of and fight against fraud vis-à-vis the financial interests of the European Union. *g) Communicate information concerning the proposals, decisions and recommendations made by the European Union in the field of the prevention of and fight against fraud.* *h) Help draw up and promote the national strategy to prevent and combat fraud vis-à-vis the financial interests of the European Union.* *i) Any other task that is assigned to it by law or regulation, within the scope of its powers*'. **2)** Secondly, the 25th additional provision of the GSL confers new powers on the National Anti-Fraud Coordination Service to ensure the statutory involvement of the entities that might be affected by the actions of AFCOS, thereby ensuring that AFCOS can carry out its duties fully. In particular, paragraph 5 of the 25th additional provision lays down that '*The authorities, representatives of the State, Autonomous Communities and Local Authorities, as well as the heads and directors of public offices, public bodies and other public organisations and, in general, those who exercise public duties or work in these institutions shall cooperate with and support the Service*' and that '*The Service shall have the same powers as OLAF to access information relevant to the matter under investigation*'. **3)** The National Anti-Fraud Coordination Service is holding meetings with various national bodies and institutions with a view to establishing channels for cooperation with any other bodies that may have an interest in combating fraud vis-à-vis the financial interests of the European Union. In this respect, a convention, protocol or similar instrument is due to be drawn up to formalise relations between AFCOS and relevant departments in the Prosecutor's Office for the Fight against Corruption and Organised Crime regarding channels for exchanging information on cases of fraud vis-à-vis the EU's financial interests, among other issues.
FR	Since its creation in 2008, the National Anti-Fraud Unit (Délégation nationale de lutte contre la fraude - DNLF) has drawn up a national plan for the fight against fraud in national public finances. This plan is approved every year by the Prime Minister or, by delegation, the Minister for

	Finance, during the meeting of the National Anti-Fraud Committee. For 2016, it is planned to include in the plan specific measures to better combat fraud against the Union's financial interests.
HR	1. Introduction The Republic of Croatia has fulfilled its obligation under Article 3, paragraph 4 of the Regulation (EU EURATOM) No. 883/2013, since the Service for Combating Irregularities and Fraud (SCIF) was established within the Ministry of Finance. SCIF performs a coordinating role within the AFCOS system and acts as the main contact point to the European Anti-fraud Office (OLAF) and therefore ensures protection of financial interests of the EU in the Republic of Croatia. Tasks and responsibilities of SCIF are set in the Government Decree on internal organization of the Ministry of Finance (OG 32/12, 67/12, 124/12, 78/13, 102/13, 24/14, 134/14, 154/14) and in the Government Regulation on the institutional framework of the system of combating irregularities and fraud (OG 144/13). 2. Strategic documents National Anti-fraud Strategy for the Protection of the EU Financial Interest for the period 2010-2012 On 14 January 2010, the Government of the Republic of Croatia adopted the National Anti-fraud Strategy for the Protection of the EU Financial Interest for the period 2010-2012 as the main strategic document stressing the priorities in the protection of EU financial interests and measures for their attainment. The Strategy defined the scope of work and responsibilities of bodies in the AFCOS system, as well as the measures and activities for strengthening the protection of EU financial interests in the Republic of Croatia. Most of those measures and activities were fulfilled during the course of implementation of IPA 2007 Twinning light project "Strengthening Croatian AFCOS System with the aim of protecting the EU's financial interests". National Anti-Fraud Strategy in the Field of Protection of EU Financial Interests for the period 2014-2016 Following the National strategy 2010 – 2012, on 23 January 2014, the Government adopted the National Anti-Fraud Strategy in the Field of

	Protection of EU Financial Interests for the period 2014-2016 and its accompanying Action Plan. The purpose of this Strategy is to ensure effective and efficient protection of EU financial interests by further strengthening the AFCOS system in the Republic of Croatia, by carrying out predefined measures and achievement of the set objectives. Moreover, when drafting the Strategy 2014- 2016, all the aspects that require improvement on the basis of the weaknesses detected in the system for combating irregularities and fraud were taken into account. 3. Cooperation between SCIF and relevant national parties Efficient information flow and effective cooperation between institutions within the AFCOS system in the Republic of Croatia (cooperation between institutions at different levels i.e. SCIF – AFCOS Network- Irregularity Reporting System) are set and in use. Cooperation between SCIF and relevant national parties is a product of good practices and has also its basis in national legislation (e.g. Regulation on the institutional framework of the system for combating irregularities and fraud (OG 144/13), Decision on the establishment of the AFCOS network (NN 151/13)). In order to further enhance cooperation with certain national bodies, measures set in the National Anti-Fraud Strategy in the Field of Protection of EU Financial Interests for the period 2014-2016 and Action Plan, inter alia, include signing Protocols on: • cooperation and exchange of information between the Ministry of Finance and the Ministry of Interior (MOI), • cooperation and exchange of information between the Ministry of Finance and the Croatian State Attorney's Office (SAO), • cooperation and exchange of information between the Ministry of Finance and the European Anti-Fraud Office (OLAF). The aim of these Protocols is to help to define cooperation and exchange of information in detail. Protocol on cooperation with the Ministry of Interior was signed on 24.3.2015 and with the Croatian State Attorney's Office (SAO) on 16.6.2016. On 14 April 2015, the Ministry of Finance sent to OLAF the initiative for concluding Administrative Cooperation Arrangement with

	OLAF (ACA). By defining fields of mutual cooperation, ways of communication and information exchange, ACA ought to improve the already effective cooperation between the Ministry of Finance and OLAF and to contribute to the enhancement of the protection of the EU financial interests in general. **Additionally, SCIF also drafted *Guidelines for managing irregularities and fraud* which are integrated within Manuals of procedure of Irregularity Reporting System bodies in the context of EU Structural Instruments environment (programming period 2007 – 2013) and for ESI Funds (programming period 2014 – 2020) (Guidelines). Guidelines were adopted by Minister of Finance on 13 August 2015. Correspondingly, reinforced cooperation and exchange of information is achieved through the Guidelines, since the document is, inter alia, consisted of provisions on way how to and in which form bodies should cooperate with each other.**
IT	The Italian COLAF (Comitato per la lotta contro le frodi nei confronti dell'Unione europea [Committee for combating fraud against the European Union]) was established by Article 76 of Law No 142 of 19 February 1992, and subsequently confirmed by Article 54 of Law No 234 of 24 December 2012. Furthermore, on the basis of Article 3(4) of the recently adopted Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by OLAF, the Committee has been designated as the central Anti Fraud Coordination service (AFCOS). The Committee is the government body responsible for drawing up and developing the national strategy for combating irregularities/fraud affecting the EU budget, included in the annual report to the Italian Parliament provided for by Article 54 of Law No 234 of 24 December 2012. It has advisory and guidance functions for the coordination of all actions to combat fraud/irregularities in the fields of taxation, the common agricultural policy and the Structural Funds. It includes top-level representatives from all the administrations concerned in the management and/or control activities in the field of EU funding, namely: Prime Minister's Office, Ministries of the Interior, Justice, Economic Affairs and Finance, Economic Development, Agricultural Policies, Infrastructure and Transport, Employment and Education; the Guardia di Finanza (financial police), the Carabinieri; the

	Customs and Revenue Agencies; Agricultural Payments Agency; Conference of the Regions, Union of Italian Provinces and Italian National Association of Municipalities. The Committee is therefore the ideal tool for enhancing knowledge of and analysing illegal activities, as well as identifying the most appropriate action to prevent, combat and punish irregularities and fraud. The strategic action carried out by AFCOS has tackled several significant areas of activity, at all levels, in order to improve further the coordination of all the national institutions concerned, and consequently, the national anti-fraud structure, mainly from the point of view of preventing illegal activities. Thanks to the significant efforts made, good results have been achieved and further strategic areas of activity identified for the future, both at national and European levels. These are set out in the aforementioned annual report to Parliament.
CY	In Cyprus, with Minister's Decision No. 56.370 dated 12/09/2002 AFCOS was established and as a contact point with the Anti-Fraud Office in the European Union (OLAF), was set the Legal Service and specifically the responsible Unit combating of Money Laundering (MO.K.A.S). Later, with Minister's Decision No. 61.895, dated 21/04/2005, Contact Point was set the Treasury of the Republic of Cyprus, since at that time was responsible for the notification to the Commission of all irregularities were identified by all services of AFCOS members. Now the AFCOS members shall communicate on their own cases. Cyprus identified the competent authorities which are able to provide OLAF's Office with the assistance needed in the performance of its duties. AFCOS in Cyprus is composed of the following Services/Departments: • MOKAS • Treasury of the Republic Of Cyprus • Audit Service

	• Customs Department • Police • Internal Audit Service • Cyprus Agricultural Payments Organisation • Directorate General of European Programs coordination and Development No antifraud Strategy was developed, but a structured coordination between anti-fraud bodies (members of AFCOS) and other national authorities exist. When a case opened by OLAF or a request for provision of information/documents all members of AFCOS work towards the satisfaction of OLAF's request in line with local and European Law. If the information relates to other areas such as Tax, social insurance, existing shareholders a writing request is made to the competent departments for provision of such information. Such exchange of information respects the principles of confidentiality and the rules on data protection. Note that for customs matters the Customs Department is the only the competent Authority . In Cyprus, the AFCOS is not empowered to act in an investigative capacity.
LV	On 16 July 2015 the Cabinet of Ministers approved a new mid-term policy planning document "The Corruption Prevention and Combating Guidelines for 2015-2020" describing the current situation of Latvia's anticorruption policy, defining problems and stipulating tasks to be executed by various state institutions, implementation time frame for individual assignments, justification of the assignment and overall policy results to be expected within a certain period of time. To enforce the rules for the new programming period 2014-2020 in the Guidelines, particular tasks are assigned to all public institutions i.e. State institutions and municipalities shall adopt and/or update their Anti-Corruption Action Plans, including risk based anti-fraud and anti-corruption measures to prevent and detect fraud in the EU funds and other foreign financial assistance instruments, if applicable.

	To improve cooperation and to use the AFCOS to its full potential an Inter-institutional working group has been established to: 1) elaborate an Anti-Fraud Strategy at the national level of the AFCOS network 2017 – 2019 and 2) draw up rules for efficient cooperation and exchange of information in order to strengthen and formalize cooperation between the Latvian competent authorities and OLAF and to improve mutual legal assistance. They are expected to be approved by the end of 2016. Furthermore AFCOS has updated the Anti-fraud strategy of the Ministry of Finance for the protection of the financial interests of the Union for 2014 – 2016. The strategy covers State Administrative Institutions that are Subordinate to the Ministry of Finance, as AFCOS Latvia is located at the Ministry of Finance, and was meant to be the first step towards National Anti-Fraud strategy. Continued implementation of the measures set out in the action plan: - updated information on the website of the Ministry of Finance and other institutions involved in the EU management about the AFCOS and other institutions involved in protection of EU's financial interests and published information leaflet on whistle-blowing; - distributed information to AFCOS network on the AFCOS and OLAF and possible trainings, seminars, exchange of best practice on fraud and corruption-related topics; - working groups organized in between the meetings of the AFCOS Council with investigators to examine specific cases of suspected fraud; - AFCOS and representatives from relevant national parties participated in OLAF meetings and training sessions as well as exchange of experience and best practice with the Member States in this area (seminar organized by the AFCOS with the participation of OLAF, to improve cooperation for on-the-spot checks; exchange of best practice in IT tools with IT, DK, BG and EL representatives).
LT	In the Republic of Lithuania, the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (hereinafter "FCIS") is responsible for the coordination of cooperation between State and other institutions and OLAF. The FCIS participates in the drafting of legal acts regulating the administration of EU structural funds and documents detailing these, and submits proposals to the competent authorities about how to amend and improve them.

	The FICS is also entrusted by law with the detection, investigation and prevention of criminal acts and other breaches of law connected with the receipt and use of financial support funds from EU and foreign states. Where a case of fraud is suspected, the FCIS must be informed of this in writing without delay. The FCIS informs the body that submitted the information on a suspected case of fraud about the decision to launch or not to launch an investigation into an alleged offence. This cooperation with the FCIS works on a case-by-case basis. Each year the FCIS organizes anti-fraud training courses for employees involved in the administration and control of EU structural funds which present examples of the most common types of fraud encountered, discuss issues of concern regarding cooperation between the FCIS and institutions administering EU structural fund resources in the investigation, prevention and detection of suspected cases of fraud, and look at what lies ahead. FCIS representatives likewise participate in the work of the EU fund infringement inspectors' working group, which examines questions relating to the investigation, identification, elimination and prevention of infringements relating to projects jointly financed under the EU structural funds. It should be noted that cooperation is being stepped up between law enforcement agencies and the Ministry of Finance to ensure that information is collected on pre-trial investigations relating to projects and their progress, that the measures provided for under legislation are executed as expeditiously as possible and that only eligible project expenditure is declared to the Commission, and to ensure that prevention measures are effective. Accordingly, the Ministry of Finance, together with the FCIS and the Special Investigation Service (hereinafter "SIS"), which is responsible for the fight against corruption, has drawn up a procedure for providing the Ministry of Finance with information on pre-trial investigations being carried out, i.e. law enforcement agencies will inform the Ministry of Finance about the launch of pre-trial investigations (where doing so does not prejudice the course of the investigation) and of procedural decisions relating to their progress (e.g. referral for judicial proceedings) or termination. Furthermore, Resolution No XII-1537 of 10 March 2015 of the Seimas [Parliament] of the Republic of Lithuania approving the 2015-25 Lithuanian National Anti-Corruption Programme approved Lithuania's National anti-corruption programme for 2015-25 (hereinafter "programme"), providing for the deployment of anti-corruption and anti-fraud measures and activities relating to the use of EU fund resources

	(subparagraph 29.2.3. of the programme). The 2015-2019 inter-institutional action plan to implement the programme approved by the Lithuanian Government on 17 June 2015 provides for the deployment of anti-corruption and anti-fraud measures and activities relating to the use of EU fund resources (measure No 2.2.4.), by carrying out an analysis of the reasons for corruption and fraud, risk factors and problems in the field of the use of EU fund resources, the identification of anti-corruption and anti-fraud measures and activities and the coordination and control of their implementation until 31 December 2019. Responsibility for implementing this measure lies with the Ministry of Finance, the Ministry of Agriculture, the Ministry of the Interior, the Ministry of Social Security and Labour, the Prosecutor General's Office, the SIS and the FCIS, i.e. the authorities that are responsible within their respective areas of competence for the implementation of the relevant EU funds and programmes in Lithuania, and the authorities with the power and experience to prevent, investigate and detect fraud and corruption.
LU	Luxembourg is committed to effective protection of the EU's financial interests. The recommendations to the Commission's report on the protection of the EU's financial interests have therefore been discussed with all the relevant stakeholders and are going to be taken into account in the national anti-fraud strategy that Luxembourg is currently devising. A first meeting that brought together all the relevant authorities involved in managing EU funds had taken place. It is Luxembourg's intention to have such meetings on a regular basis in order to have a structured coordination.
HU	The Anti-Fraud Coordination Service (AFCOS) was created in Hungary in 2001 within the existing Central Management of the National Tax and Customs Administration. The Service operates under the name 'OLAF Coordination Bureau' ('the Bureau') and carries out certain defined tasks relating to the protection of the financial interests of the European Union in Hungary on an on-going basis. The following were among the most important of these tasks in 2015: handling enquiries on EU funding; facilitating the work of OLAF investigators;

	coordinating on-the-spot checks carried out by OLAF; providing assistance to individual whistle-blowers or other organisations. reporting irregularities involving EU funding: managing the IMS system in Hungary; forwarding irregularity reports to OLAF; participating in the development of the system for dealing with irregularities. Performing horizontal activities related to the above key tasks: formulating and representing Hungary's position at meetings of EU-level (Council and Commission) sectoral working groups; chairing the OLAF experts working group (working group No 43) of the Interdepartmental Coordinating Committee on European Affairs (ICCEA); conducting training, educational and expert consultation activities. Contacts and cooperation between AFCOS and Hungary's competent authorities and organisations take place at various levels. The most wide-ranging cooperation can be seen in the work of the ICCEA's **OLAF expert working group (working group No 43).** For the purposes of EU anti-fraud activities the working group was set up to make preparations for tasks stemming from Hungary's EU membership, formulate negotiating positions to be advocated in EU decision-making procedures, monitor the development of EU policies and coordinate the requisite government measures. Eighteen Hungarian organisations (ministries, investigating authorities, control bodies and EU fund managing authorities) delegate members to the group. This working group met once in 2015 and carried out twenty written procedures, with its members

being regularly notified of incidents, new information and documents associated with protection of the EU's financial interests.

Extensive cooperation is also being undertaken to raise awareness of anti-fraud measures to protect public funds and on education **and training** to develop the system for dealing with irregularities involving EU funds in Hungary. In 2015 AFCOS made several presentations, including at the International Taxation Conference organised by the Hungarian Association of Qualified Tax Experts and the 2015 'Anti-Corruption Festival' organised by the European Commission and Transparency International. Competent Bureau staff also made presentations on the topic of protecting the EU's financial interests as part of in-house training at various organisations (for example, Magyar Fejlesztési Bank Zrt. (Hungarian Development Bank), Budapesti Corvinus Egyetem (Corvinus University of Budapest) and the Hungarian State Treasury). Hundreds of participants attended.

The Bureau also held three events of its own, which contributed to the exchange of professional opinions with staff of institutions involved in EU-funded projects or in dealing with irregularities or investigating the misuse of aid. At these events, experts involved in dealing with the issue could hear presentations and receive updates not only from competent AFCOS staff, but also from experts from the Prime Minister's Office, Ministry of National Development, Hungarian Competition Authority, Directorate-General for Audit of EU Funds, and the Supreme Public Prosecutor's Office.

To make this a regular event, the Bureau is planning to conclude a cooperation agreement on training with the Prime Minister's Office, which coordinates the management of EU funds and also runs training courses in this area.

When it comes to OLAF **investigations and the system for dealing with and reporting on irregularities,** contacts and cooperation have a narrower and more specialised focus. Activities in these areas typically involve targeted one-off enquiries.

In its advisory capacity, AFCOS is regularly involved in commenting and giving opinions on draft sectoral strategies, rules and guidelines for handling irregularities and fraud prevention.

Given the above, it can be said that Hungary is concentrating on utilising the full potential of the Anti-Fraud Coordination Service, and in accordance with Regulation (EU, Euratom) No 883/2013, AFCOS is playing a major role in fulfilling Hungary's legal, administrative and

	operational obligations to protect the EU's financial interests, ensuring cooperation between OLAF, Hungarian institutions and authorities, and promoting the dissemination of information among specialist organisations operating in the field in Hungary.
MT	Malta's National Anti-Fraud and Corruption Strategy was tabled in Parliament in November 2008 together with two other documents during the Budget debate. The other documents were: (1) Corporate Governance Framework for Public Sector Entities; and (2) Code of Ethics for Board Directors in Public Sector Entities. The Anti-Fraud Co-ordination Service (AFCOS) Malta was established at IAID during the EU membership negotiations and an Administrative Cooperation Arrangement (ACA) was signed by IAID and OLAF in June 2003. The basic functions of AFCOS Malta are to: 1. co-ordinate within Malta all legislative, administrative and operational obligations and activities related to the protection of the Community's financial interests; 2. co-operate with OLAF in Financial Investigations (assistance in both directions); and 3. communicate with OLAF regarding mandatory reporting and information exchange. Amongst other functions which include the conduct of financial investigations in terms of Articles 3 and 5 of the Internal Audit and Financial Investigations Act (cap. 461 of the Laws of Malta), AFCOS Malta co-ordinates strategy dissemination and implementation, develops vision, standards and agreements on ensuring co-operation in investigations and prosecution of cases of fraud and corruption. As stated in the Executive Summary of Malta's National Anti-Fraud and Corruption Strategy: "the main aim of the anti-fraud and corruption strategy is to set up a normative, institutional and operational framework for the effective and efficient fight against irregularities, fraud and

	corruption in Malta, reflecting both the local requirements and its international obligations. The main thrusts of the strategy are prevention, deterrence, detection, investigation and prosecution of fraud and corruption, whilst encouraging and facilitating transparency and accountability". Article 23 of cap. 461 makes reference to the setting up of a Co-ordinating Committee "to facilitate the exchange of information between different entities charged with the protection and safeguarding of public funds". Nonetheless, this Committee has, to date, never been set up in a formal way albeit IAID, the Attorney General Office and the Economic Crimes Unit within the Malta Police are in close contact especially in relation to ongoing financial investigations. The aim of Malta's National Anti-Fraud and Corruption Strategy is to have a Co-ordinating Committee whose remit is to "devise an initiative through which public financial control is analysed and seen that it is being addressed adequately. The Co-ordinating Committee will then be in a position to make the necessary recommendations to the appropriate authorities for the improvement of public financial control". As a sideline, one should note that though the formal Co-ordinating Committee has not been set up, cooperation between bodies combating fraud in Malta is well pronounced. Nonetheless, IAID has set an objective to set up the Co-ordinating Committee in terms of Article 23 of cap. 461 and hold the first meeting with the relevant stakeholders charged with combating fraud and irregularities in Malta by the first half of the current year. Moreover, IAID is in the process of finalizing an Operational Base for further cooperation between the Department and the Economic Crimes Unit within the Malta Police. These two objectives are considered to be of utmost importance and as such, have been included in the operational plan of AFCOS Malta for Year 2016.
NL	Dutch Customs decided last year (2015) to position the AFCOS differently (combine it with two other fraud teams to make a single team) for an optimum response to the Commission's requests and messages. The revamped AFCOS will start operations on 1 April and will be positioned independently from other teams within Customs. The new AFCOS has the required areas of expertise to comply with the broad AFCOS remit.

	Dutch Customs recognises and makes extensive use of cooperation with the relevant enforcement partners (e.g. FIOD - Fiscal Information and Investigation Service, NVWA - Netherlands Food and Product Safety Authority, foreign customs authorities); nationally and internationally determined priorities are aligned annually and examined for cooperation opportunities. Progress has thus been made towards the one-stop shop approach.
AT	No information provided.
PL	The tasks of the AFCOS, as defined in Article 3(4) of Regulation 883/2013, which consist in facilitating effective cooperation and exchange of information with OLAF in connection with investigations conducted by OLAF, are carried out by the Department for the Protection of the EU's Financial Interests in the Ministry of Finance. In addition, Poland also has an AFCOS structure, which offers a platform for cooperation between the actors involved, one of the most important functions of which is the exchange between institutions which implement EU funds and law enforcement authorities of information of key importance for preventing fraud against the financial interests of the EU. The body is headed by the Government Commissioner for Combating Financial Irregularities against Poland or the EU, assisted by an Inter-ministerial Team for Combating Financial Irregularities against Poland or the EU (including specialised work groups established by the Team). Because of its composition and the scope of its tasks, the body operates across administrative sectors. With this set-up, proper coordination between the government administration and the institutions involved in implementing EU funds in Poland can be ensured insofar as it is relevant to the overarching objective of protection of Poland's and the EU's financial interests. Work groups have been established by the Team as part of the process of establishing and implementing effective and proportionate measures for combating fraud (which are required under the 2014-2020 financial framework).
PT	The 2015-2017 Strategic Plan to combat tax and customs fraud and evasion was approved. The aim of its strategic areas of action is: to step up the fight against tax and customs fraud and evasion and the black economy, increase the effectiveness and efficiency of tax and customs inspection, promote voluntary compliance with tax and customs obligations and also improve the effectiveness of tax and customs management and collection. With specific regard to the AFCOS, a role which in Portugal is performed by the Inspectorate-General of Finance (IGF), it is worth highlighting developments in cooperation with various national bodies. The aim is to share knowledge and experiences of running

	management and control systems in the anti-fraud area. An anti-fraud strategy is defined for each management and control system, with the aim of adopting effective and proportionate anti-fraud measures, taking into account the risks identified in the area of activity and establishing the procedures to be followed as regards fraud prevention, detection and correction and the reporting of findings to the appropriate bodies. A good example of cooperation and pooling of experience and good practice was the visit by an AFCOS delegation from Bulgaria, which took place from 16 to 19 March 2015 in Lisbon. The visit included workshops, held either at the IGF (AFCOS unit) or at other bodies involved in managing and monitoring Community funds (ADC, IFAP and managing authority of POPH), or at the Lisbon District Public Prosecutor's Office.
RO	The Anti-Fraud Department (DLAF) has been established as an AFCOS since as early as 2002. The institution's capacity was strengthened over the years, and since 2011, under the legislation governing its organisation and functioning (Law No 61/2011 and Government Decision No 738/2011), the Department has been performing all the tasks set out in the Guidance Note on Main Tasks and Responsibilities of an Anti-Fraud Coordination Service (AFCOS). To improve inter-institutional cooperation, in addition to the existing bilateral cooperation agreements, DLAF has concluded several cooperation protocols with the institutions involved in managing EU funds (such as the Ministry of European Funds or the National Anticorruption Directorate). In the context of the new 2014-2020 Multiannual Financial Framework Regulations and the negotiations between the Romanian Government (through its Ministry of European Funds) and the European Commission on the 2014-2020 Partnership Agreement for the European Structural and Investment Funds and the resulting design of the new national infrastructure for the management of EU funds, DLAF has started developing the ESIF National Anti-Fraud Strategy, by coordinating diagnostic analyses to assess the current state of play,

	as well as anti-fraud risk analyses to serve as a basis for the general and specific objectives of the strategy and help design its action plan. DLAF has reviewed the implementation of the DG REGIO Guidance Note on Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures for the 2014-2020 Programming Period, and has provided guidance on the subject to the authorities responsible for managing European funds . In terms of national cooperation, DLAF organises training programmes on subjects relating to the protection of the financial interests of the EU in Romania, in cooperation with the National Institute of the Magistracy, the Ministry of European Funds, the Audit Authority, Managing Authorities, etc. Since 2014, it has shared responsibility for implementing the national project providing further training to magistrates on topics relating to the protection of the financial interests of the EU (PIF) with the National Institute of the Magistracy. In addition, at the invitation of partner institutions, DLAF representatives attended national events relevant to the protection of the financial interests of the EU in Romania and to the fight against fraud involving EU funds.
SI	Slovenia's reply to recommendation No 1 AFCOS was designated in 2002 and has since played a very active role in protecting the EU's financial interests. In addition to its usual work, which involves cooperating with OLAF and the Commission, AFCOS also organises periodic meetings with other Slovenian institutions that form part of the Inter-departmental working group for cooperating with OLAF. The working group meets at least twice every year and provides a platform for the exchange of information and experience between its members with a view to improving and promoting active cooperation and coordination in fighting fraud against the EU.

	The group's members come from the following institutions: Commission for the Prevention of Corruption, Office of the State Prosecutor General of Slovenia, Criminal Police Directorate, Agency of Slovenia for Agricultural Markets and Rural Development, Government Office for Development and European Cohesion Policy, Office for Money Laundering Prevention , Ministry of Finance – Financial Administration of Slovenia, and the Ministry of Justice. AFCOS also organises conferences (one every two years) on safeguarding the EU's financial interests targeting those responsible for administering and supervising the use of money from EU funds, those responsible for reporting irregularities, all heads of internal auditing services at ministries, and representatives of the Commission for the Prevention of Corruption, the Office of the State Prosecutor General of Slovenia, the Criminal Police Directorate, the National Review Commission for Reviewing Public Procurement Award Procedures, and Transparency Slovenia. Slovenia has yet to draw up its national strategy for protecting the EU's financial interests, which will entail good inter-institutional cooperation. Slovenia plans to use the guidelines for drafting a national strategy, as they will facilitate better coordination and organisation of tasks needed for producing the national strategy in the coming year. The Government Office for Development and European Cohesion Policy has already begun work on the cohesion policy part of the strategy.
SK	In the Slovak Republic, the function of an anti-fraud co-ordination service is performed by organisational units of the Office of the Slovak Government, namely the Central Contact Point for OLAF that is part of the Control and Anti-Corruption Section. To perform its tasks, the anti-fraud co-ordination service in the Slovak Republic is assisted by an AFCOS Network. The AFCOS Network is a structure of co-operating authorities and bodies (i.e. AFCOS Network partners), whose main objective is to mutually co-operate in performing the tasks focused on the protection of the EU´s financial interests as well as to efficiently communicate with OLAF and other Member States. That Network is an anti-fraud structure that comprises contact points from the relevant sectors. The AFCOS Network includes the following entities: a) the bodies and institutions who provide the Union’s financial resources and otherwise handle with these

	funds; b) the bodies who are authorized to check the use of these funds, and the bodies who are entrusted with the exercise of powers in order to perform the tasks with regard to the protection of the EU's financial interests; On 7 January 2015, the Government of the Slovak Republic approved an updated version of the National Strategy for the Protection of the European Union´s Financial Interests in the Slovak Republic with regard to the programming period of 2014-2020. The National Strategy was drawn up in recognition of the need to improve the protection of funds provided from the EU budget for the period of 2014-2020. This document replaced the previous National Strategy for the Protection of the Financial Interests of the EC in the SR, including its subsequent updates, that was approved by the Government Resolution No 547 of 27 June 2007. The content of the National Strategy reflects a detailed description of individual parts of the anti-fraud cycle: prevention of fraud and irregularities; detection; investigation and prosecution; recovery of unduly paid funds; and sanctions. The measures contained in the National Strategy relate to both the expenditure and revenue parts of the EU's budget.
FI	Ways of rendering the AFCOS cooperation network more efficient will be examined and promoted in 2016; this objective is also one of the performance targets of the Government Financial Controller Function, which acts as the Finnish AFCOS. Appropriate ways of improving efficiency could include regular meetings of the service as well as the promotion and dissemination of good practices (an example of a good practice is the fraud control plan drawn up by the Finnish Agency for Rural Affairs). If necessary, wider strategic issues related to fraud control can be included on the agenda of the advisory board for internal control and risk management, which is a statutory advisory board appointed by the government and laid down in the State Budget Decree. The tasks of the advisory board are to assess the organisation and status of internal control and the related risk management and to propose development

	initiatives. Other tasks include monitoring and evaluating the situation concerning misuse or violations committed in the operations of government agencies and public bodies or aimed at state funds or assets, or funds or assets for which the state is responsible, and coordinating and developing the operations and procedures of various authorities and government agencies and public bodies, as well as reporting on misuse and errors.
SE	In March 2015, the Swedish Ministry of Finance initiated an inquiry tasked to review the legal situation regarding OLAF's on-the-spot checks in Sweden, inter alia in order to bring it up-to-date with the present Multiannual Financial Perspective 2014-2020. The inquiry proposes some legal changes, covering on-the-spot checks, the role of competent authorities and AFCOS, that will enter into force in 2017. These proposals are currently subject to referral to authorities and other actors concerned in Sweden until mid April 2016. The Swedish Economic Crime Authority is the Swedish AFCOS and chairs the Swedish Council for the Protection of the European Union's Financial Interests (the SEFI Council). All government authorities involved in the administration and protection of the EU's funds in Sweden are represented in the Council and its mission is to promote an efficient and correct use of EU-related funds in Sweden. The Council has met at several occasions during the year and continue to facilitate cooperation between AFCOS and relevant national parties.
UK	The City of London Police (CoLP), where the UK AFCOS is domiciled, has a national police strategy with respect to fraud. In the UK, the AFCOS remit is to act as the designated contact point for incoming OLAF referrals for police investigation. Cases of suspected fraud identified by managing authorities on the other hand are examined by the authority's fraud investigation unit, and followed up if necessary by local police forces therefore not requiring liaison through AFCOS. However, managing authorities report irregularities to OLAF, managed centrally by the Department for Business, Innovation and Skills (BIS) for England, and by the devolved administrations in other parts of the UK. Because of these unique governance arrangements in the UK, which are spread across four constituent nations,

	managing authorities develop their own anti-fraud strategies. Nonetheless there are arrangements in place to coordinate the different authorities engaged in anti-fraud measures. CoLP manages the UK's national fraud reporting centre which is the single point of contact for all reported fraud. CoLP has MOUs with all UK police forces in relation to the tasking of fraud cases for investigation. CoLP and OLAF are in the process of signing a cooperation and exchange of information agreement. For the management of ESIF funds in the UK, AFCOS has a designated regional contact point for each of the devolved nations, and, in the case of England, for each of the major EU funds (ERDF and ESF). Relevant communications regarding AFCOS are regularly circulated to managing authorities and paying agencies. CoLP and the National Police Chiefs Council have a significant number of MoUs in place with the following national bodies. AFCOS, as a part of CoLP, benefits from these links: • Association of British Insurers • Department for Business Innovation and Skills • Charity Commission • Department for Work and Pensions • Medicines and Healthcare Products Regulatory Agency • Solicitors Regulation Authority • Financial Services Authority • CIFAS, the UK fraud prevention service • Overseas Corruption and Bribery Unit • National Crime Agency

	• Serious Fraud Office • Crown Office and Procurator Fiscal Service • Financial Conduct Authority • Crown Prosecution Service • Ministry of Defence Police AFCOS also benefits from CoLP's agreements with overseas law enforcement. Using the structures provided by Europol, Interpol, the Home Office, and OLAF, UK AFCOS willingly shares information with international bodies to support prosecutions both within the UK and overseas. A significant number of MoUs are in place to facilitate such international cooperation.

2.1.2. Measures to fight fraud and corruption in public procurement

In February 2014, the first EU anti-corruption report was adopted[36] and the revised package of public procurement Directives and a new concessions Directive entered into force.

The transposition of these Directives gives the Member States an opportunity to enhance transparency and strengthen their anti-fraud efforts, by defining conflict of interest, making e-procurement mandatory and introducing monitoring and reporting obligations to curb procurement fraud and other serious irregularities.

In addition, Member States took a significant number of legislative and administrative measures aimed at strengthening anti-fraud work in the area of public procurement.

[36] See section 4.1.4.

Recommendation 2: **During the public procurement process, conflict of interest can cause serious harm to the public budget and to the reputation of both the EU and the Member States concerned.** **Member States are invited not only to transpose the definition of 'conflict of interest' contained in the Public Procurement Directive, into national legislation but also to put effective measures in place to tackle conflicts of interest.**

BE	As part of the transposition process, Belgium has worked mainly, as regards conflicts of interest, on extending the existing measures in that area. There was already a whole raft of specific measures in Belgian law on the prevention of conflicts of this type. Those measures have been slightly adapted to bring them into line with Directives 2014/24/EU and 2014/25/EU. More specifically, the existence of a conflict of interest under Belgian law will be presumed, for example (as is already the case): 1. where there is a relationship by blood or by marriage to the third degree in direct line, or to the fourth degree in collateral line, or in the event of legal cohabitation, between the civil servant or public official and one of the candidates or tenderers or any other natural person who holds powers of representation, decision-making or control on behalf of one of the above; 2. where the civil servant or public official is himself or herself, or through an intermediary, the owner, joint owner or an active partner of one of the candidate or tendering companies or holds, de jure or de facto, himself or herself, or, where applicable, through an intermediary, powers of representation, decision-making or control. The Act will clarify that a civil servant or public official in a conflict-of-interest situation must recuse himself/herself and immediately notify the contracting authority thereof in writing. This provision is currently included in the implementing decree.

	Where the civil servant or public official holds himself or herself, or through an intermediary, one or more shares or stock representing at least five per cent of the share capital of one of the candidate or tendering companies, he or she will likewise be obliged to notify the contracting authority (as is already the case). The government also intends to take action against the 'revolving door' phenomenon. This is a situation where a person who has worked in-house at a contracting authority, in a hierarchical relationship or otherwise, subsequently plays a part in the award of a public procurement contract by the contracting authority, where a direct link exists between the activities previously performed by that person for the contracting authority and their activities under the contract. The application of this measure would be limited to a period of two years following the person's resignation or any other type of departure from his/her employment. Such a situation would be considered a conflict of interest. There will, of course, also be measures designed to exclude candidates or tenderers from participating in a contract because of specific conduct or acts at any stage of the procedure. Exclusion will be mandatory in the case of candidates or tenderers convicted of corruption or fraud by a judicial decision having final and binding effect. Exclusion will, however, be optional and left to the discretion of the contracting authority: - where they have committed acts, entered into agreements or implemented restrictive practices with the aim of distorting competition; - where a conflict of interest cannot be effectively remedied by other less intrusive measures; - where a distortion of competition resulting from the prior involvement of the economic operators in the preparation of the procurement procedure cannot be remedied by other, less intrusive measures; - where they have attempted to unduly influence the decision-making process of the contracting authority, to obtain confidential

	information that may confer upon them undue advantages in the procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award. Measures are also envisaged in the areas of governance and monitoring, in particular an obligation for Belgium to submit an audit report every three years to the European Commission, focusing on the prevention, detection and reporting of cases of fraud, corruption, conflicts of interest and other serious irregularities in the field of public procurement.
BG	Pursuant to Article 19(2)(5) of the Public Procurement Act (ZOP), the Public Procurement Agency, as a specialised body, is empowered to draw up draft legislation in the field of public procurement, including drafts relating to the implementation of EU legislation in this field. In accordance with the aforesaid powers and in the light of the new Public Procurement Directives, 2014/24/EU and 2014/25/EU, a draft of a new ZOP was prepared and submitted for discussion to the National Assembly (the new ZOP was adopted at second reading on 2 February 2016). The measures envisaged in the draft, specifically targeting the prevention of conflicts of interest, pertain to the following: Article 54(1)(7) of the draft ZOP prohibits participation in a public procurement procedure by any person for whom a conflict of interest has been established and cannot be removed. In this regard, any interested party is obliged, when participating in a public procurement procedure, to declare the absence of the aforesaid circumstance in the European Single Procurement Document (ESPD). Unlike the applicable European Directives, under which the application of the grounds is left to the discretion of contracting authorities, the draft act adopts a more restrictive approach, whereby the contracting authority is obliged always to include this requirement in public procurement procedures. According to the definition in subparagraph 21 of § 1 of the Supplementary Provisions of the ZOP, a ‘conflict of interest’ is present when

	the contracting authority, its employees or persons hired by it (beyond its structure), participating in the preparation or awarding of the public procurement contract or in a position to influence its outcome, have an interest which may result in benefits under Article 2(3) of the Conflict of Interest Prevention and Ascertainment Act (ZPUKI), and which could be assumed to affect their impartiality and independence with regard to the award. It should be noted that persons for whom the presence of a 'conflict of interest' is examined, as well as the connection between them, are identical to those under the new Directives. The draft also envisages an opportunity for the contracting authority to reject any proof of technical and professional skills presented by a person who has an interest which may result in a benefit under Article 2(3) of the ZPUKI. The draft is in compliance with Article 58(4)(2) of Directive 2014/24/EU. In addition to introducing the aforesaid provisions of the European directives, the draft act proposes national measures aimed at ensuring the principle of free and fair competition, ensuring equal treatment of all participants and avoiding agreements or concerted practices between participants in public procurement procedures. The draft act examines the presence of a conflict of interest between committee members and procedure participants. To this end, the committee members will be required to submit to the contracting authority a declaration of absence of conflicts of interest after receiving the list of participants/applicants. In the event that such a conflict is established with regard to a committee member, they will be removed from the procedure, and their actions will not be taken into account by the committee.

	When during a public procurement procedure the contracting authority establishes a conflict of interest with regard to the applicants or participants, depending on the type of the procedure, it is obliged to point out this circumstance in the respective decision, as well as the measures undertaken to rectify it. The decisions of the contracting authority are subject to appeal before the Commission for Protection of Competition or the Supreme Administrative Court as the second instance, as appropriate, ensuring that each participant can defend their interests if they disagree with the decision of the contracting authority. Such an opportunity is also given to participants who believe that a conflict of interest exists but the participant concerned has not been removed from the procedure. Article 44(3) and (4) of the draft Act provide for specific measures by the contracting authorities when they have conducted market consultations before announcing the awards. In this case, the contracting authority is obliged to publish in the buyer profile all the information exchanged in connection with the preparation of the public procurement procedure, as well as to set an appropriate term for the receipt of bids. Furthermore, the contracting authority is obliged to extend the term for the receipt of applications for participation or bids when they have made use of the opportunity to shorten the terms and within the deadline set by them only one bid or participation application has been received, submitted by a person who has consulted them. When, regardless of the measures taken, the contracting authority cannot ensure compliance with the principle of equal treatment, it must remove the candidate/participant who consulted it from the procedure. The envisaged measures aim to eliminate any opportunity for persons who have consulted the contracting authority to receive any undue advantage over other participants in the procedures. The draft Act also provides for the mandatory removal from the procedures of participants or applicants who represent related parties. The grounds for removal were introduced in order to prevent concerted practices in the procedures and fictitious offering of the same bid by them. The definition of ‘related parties’ contained in the Act refers to relationships regulated under § 1(13) and (14) of the Supplementary Provisions to the Public Offering of Securities Act. Under the aforesaid provisions, these are the persons whose activity is controlled by a

	third party, persons where one controls the other or its subsidiary, etc. On 20 March 2015, the Commission for Prevention and Ascertainment of Conflict of Interest (KPUKI) signed a Framework Agreement for cooperation with the Commission for Protection of Competition (KZK). The Agreement is aimed at further strengthening cooperation on and effective action against conflict of interest and actions that could lead to the prevention, restriction or distortion of competition. The agreement states that when, in connection with the operation of the KZK, it is established that a person holding public office has violated the provisions of the ZPUKI, the KZK will send an alert to the KPUKI. Likewise, when, in connection with the operation of the KPUKI, there is information giving rise to reasonable suspicion of violations of competition rules, the KPUKI will send an alert to the KZK. In fulfilment of the signed Framework Agreement, in 2015 the KPUKI and the KZK conducted reciprocal training for their staff, thereby increasing the administrative capacity of their experts to take effective action against any manifestation of conflict of interest and anti-monopoly behaviour. In addition to the measures already adopted in 2014, specifically the controls introduced against fraud, 'red flags' and the declaration on the absence of conflicts of interest under Article 57(2) of Regulation (EU, Euratom) No 966/2012, in 2015 the 'National Fund' Directorate — a Certifying Authority under all operational programmes — detailed its control procedures on establishing indicators on conflicts of interest at the Managing Authorities and Beneficiaries level, and on formulating a conclusion based on them. As a result, a number of additional checks have been and will be performed in order to establish the presence of conflicts of interest, which contributes to the effective implementation of the adopted measures. An analysis was conducted on the irregularities in the absorption of EU funds, which established that only 1 % of the reported 1190 irregularities during the period 2007–2013 under the SKF are related to conflicts of interest. The main irregularities concern violations of procedures conducted under the ZOP and inadmissible, unlawful or unjustified costs.

	The European Commission regards ‘Arachne’ as a useful tool to combat fraud, and its use will be taken into consideration when assessing the compliance of the implemented control systems. The Managing Authorities under operational programmes co-funded by the ERDF, the ESF, the CF and the YEI during the programming period 2014–2020 are planning to use ‘Arachne’ as a system for assessing the risk of fraud and irregularities. The system enables the continuous and systematic monitoring and review of internal and external data relating to projects, beneficiaries, contracts and contractors. The information is analysed and enables the efficiency of the management and control systems of operational programmes to be increased, especially reducing the error rate by focusing the controls on projects with the greatest risk and simultaneously strengthening the measures to identify and prevent fraud against the Structural Funds and the Cohesion Fund. By Order No R-249 of 2 December 2015, the Deputy Prime Minister for EU Funds and Economic Policy, Mr Tomislav Donchev, established the procedure for managing access to ARACHNE, the European Commission’s fraud and irregularity risk assessment tool. Under the procedure, the EU Funds Management Systems Directorate (SUSES), which is the Central Coordination Unit Directorate under the Rules of Procedure of the Council of Ministers and its administration (promulgated in SG No 2 of 8 January 2016), was designated as the central coordinator of the system at national level. For the performance of inspections on public procurement procedures by the Audit Authority (the IAOSES), the absence of circumstances under Article 35(1) and (2) of the ZOP with regard to the members of the committee conducting the procedure and the consultants has been established as a separate item for verification. It examines the number of committee members and consultants, the date that submitted bids were received, the number of submitted declarations, the date of their submission and their contents. In 2015, the checklist for public procurement procedures was supplemented and expanded so as to include dedicated questions aimed at establishing indicators of irregularities and fraud. Checklists contain detailed guidelines and instructions to auditors regarding the manner in which they should analyse the established irregularities in order to assess the presence of any fraud indicators. In order to assist auditors, the working

	document identifies specific hypotheses as examples of 'red flags' for irregularities. This part of the checklist was developed on the basis of OLAF's Practical Guidelines on establishing conflicts of interest in public procurement procedures. The checklists of the Audit Authority were provided to the Court of Auditors, the Public Financial Inspection Agency (ADFI), the Minister of Finance and the Deputy Prime Minister for European funds and economic policy. In order to unify the methodology for examining public procurement procedures and to improve the fraud indicator identification skills, in a letter No 5.15.207 of 8 April 2015, the Deputy Prime Minister for European funds and economic policy requested that all Managing Authorities under the operational programmes should implement the checklists of the Audit Authority. In addition, every year after the completion of the audits of operations, the Audit Authority prepares an analysis of established violations under the public procurement legislation. The purpose of this analysis is to acquaint stakeholders with the main types of violations with a financial impact conceded by beneficiaries in the selection of contractors for supplies, services or construction in order to avoid them in the future. The final analysis is published on IAOSES's website and is presented to the bodies exercising control functions in the field of public procurement (including the Managing Authorities on operational programmes) and to the AFCOS Directorate. All Managing Authorities for operational programmes receiving European funding undertake active measures to prevent conflicts of interest. The guidelines on the management and implementation of operational programmes include declarations of conflict of interest for participation in the procedure for the awarding of grants, as well as a declaration on the absence of conflicts of interest under Article 57(2) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, which is completed by officers from the directorates participating in programme preparation, implementation and management, members of the units/teams managing EU-funded projects. The general terms and conditions of grant contracts include clauses for the beneficiaries and their employees, obliging them to take

	appropriate steps to prevent or terminate conflicts of interest. Under Article 47 of the Public Procurement Act, participants in public procurement procedures must declare the absence of a conflict of interest, as a condition for their participation in the procedure. The beneficiaries in territorial cooperation programmes co-funded under the Instrument for Pre-Accession Assistance (IPA) are obliged, under the signed grant contracts, to observe, for the purposes of public procurement, the rules set forth in the Practical Guide to contract procedures for EU external actions, including the provisions on conflicts of interest. If there is any suspicion of a conflict of interest, the competent national authority, i.e. the Commission for Prevention and Ascertainment of Conflict of Interest, must be notified and its decision must be complied with. In cases where a conflict of interest is established by a competent national authority, financial corrections are imposed, amounting to 100 %, pursuant to the provisions on irregularity 21 of Appendix 1 to Article 6(1) of the Methodology on Determining Financial Corrections (MOFK), adopted by Council of Ministers Decree No 134 of 5 July 2010. In addition to the Bulgarian regulations on the prevention of conflicts of interest, the project implementation guidelines for beneficiaries, which are mandatory for all beneficiaries under the Operational Programmes with failure to implement them resulting in the non-verification of the costs under the respective programme, expressly state that in order to establish effective and proportional measures for combating fraud in the reporting of identified risks (Article 125(4)(c) of Regulation (EU) No 1303/2013), all members of the project management team must complete a declaration on the absence of conflicts of interest under Article 57(2) of Regulation (EU, Euratom) No 966/2012. It is also completed by the project manager when the contract is signed. The declaration must also be completed by the contracting authority or the persons empowered by it under Article 8(2) of the ZOP. Copies of the completed and signed declarations are to be presented by the beneficiary to the Managing Authority once the project management team has been determined (via a contract/order), or, as appropriate, to the authorised person/s who will be organising and conducting the public procurement procedures on the project and signing the contracts for them. When personnel changes are made, the new team members/authorised persons also present a declaration. When a technical report is filed, if the declarations on the absence of conflicts of interest under Article 57(2) of Regulation (EU, Euratom) No 966/2012 have not been submitted, the report is not processed. In addition to the above, each person signing

	such a declaration is liable under criminal law if they provide false information. The Managing Authority's procedural guidelines on the implementation of the operational programmes Development of Competitiveness (OPRK), Innovations and Competitiveness (OPIK), and Initiatives for Small and Medium Enterprises (IMSP), contain a chapter on 'Conflict of Interest,' which outlines in detail the procedures on preventing and avoiding conflicts of interest in fulfilment of the official obligations on administering the grant contracts. In accordance with the guidelines, all employees of the Managing Authority sign a declaration stating that they are familiar with the provisions of Article 57 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (the 'Financial Regulation') and are not in a situation of conflict of interest under Article 57(2) of the Regulation. Employees declare their obligation to report immediately any conflict of interest arising in the performance of their duties, and in the event of a conflict of interest they must withdraw from the task. In fulfilling their commitments, the members of evaluation committees sign a declaration on the absence of conflicts of interest with the evaluated applicants. The declarations signed during the period are duly verified; the verification is undertaken using a checklist. All external experts hired to assess the implementation of grant contracts must sign a declaration on the absence of conflicts of interest with the assessed beneficiary and its suppliers, which is subject to verification. The verification is reflected in a checklist. The general terms and conditions of grant contracts include clauses obliging the beneficiaries to avoid conflicts of interest. The Contracting Authority is entitled to terminate the contract unilaterally, without compensation, in the event that a conflict of interest

	has been established. The Managing Authority under the Operational Programme for the development of the Fisheries Sector (OPRSR) has adopted a 'Procedure for subsequent control on public procurement procedures pursuant to the Rules of Procedure of the Structural Funds for Fisheries Directorate (SFR), conducted by applicants/beneficiaries under the OPRSR, which constitute contracting authorities under Article 7 and Article 14a(3) and (4) of the ZOP for costs fully or partially financed by the European Fisheries Fund (EFF)'. This Procedure has been amended in the interests of more effective verification of the legality of public procurements conducted by beneficiaries in accordance with the principles of publicity and transparency pursuant to in the ZOP, and in order to achieve the objectives of the ZOP, namely to ensure economy, effectiveness and efficiency in expending: 1. public finances; 2. resources provided from European funds and programmes. The Procedure introduced amendments in the form of checklists and relevant indicators. One of the changes pertains to the introduction of indicators for conflict of interest, as follows: '1. Indicators of fraud in a conflict of interest: A conflict of interest can arise when an employee of the contracting authority (a manager, a member of a committee conducting the procedure, an employee participating in the preparation and/or conduct of the specific public procurement procedure) has undeclared interests in connection with a particular contract or contractor/economic operator. A conflict of interest may be suspected if one or more of the following circumstances is established: - Unexplained or unusual favouritism of a specific participant (for instance, only one bid was submitted; only one participant was admitted and the others were rejected; there are restrictive requirements and/or conditions favouring specific economic operators; some participants are rejected in contravention of the rules; the participant selected as a contractor does not meet the requirements of the contracting authority; unequal treatment of the participants in the procedure; not all irregular or invalid documents from envelope No 1 of the

	eliminated participants could be identified within the procedure under Article 68(7)–(9) of the ZOP). - There are signs that a member of the committee holding the procedure, or any other employee who is directly involved in its conduct, carries out economic activities (e.g. in the committee conducting the procedure, persons external to the contracting authority have been assigned as members, or the preparation of the documentation for participation was done by persons external to the contracting authority). - There are close contacts (including contacts known to the public) between a member of the committee conducting the procedure or any other employee directly involved in the procedure, and the appointed contractor. - A person participating in a grouping or consenting to be listed as a subcontractor in the bid of another participant has submitted a separate bid; - There is a change in the bid after its submission and after the deadline for the submission of bids; - There are objections/complaints/alerts from other participants claiming some of the indicators of fraud; - There is information that some of the bids were opened before the deadline for the submission of bids and before the public sessions for the opening of the bids/price proposals; - The participant appointed as contractor has supplemented/amended their bid after the deadline for the submission of bids, beyond the procedure under Article 68(7)–(9) of the ZOP.' These amendments ensure that the Managing Authority has met the requirements for strengthening the prevention of violations and irregularities in the conduct of public procurement procedures and for standardisation of the verification indicators and the

	performance assessment criteria between the audited person and the audit authority.
CZ	In compliance with Directive 2014/24/EU of the European Parliament and the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, Directive 2014/23/EU of the European Parliament and of the Council on 26 February 2014 on the award of concession contracts, and Directive 2014/25/EU of the European Parliament and of the Council on 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, the new rules were incorporated into the new proposal entitled Act On Public Procurement. The legislation has not been finished yet. The proposal has been discussed in the Chamber of Deputies and has been addressed to the Senate for discussion. The new legislation scheduled to come into effect on 17 April 2016 (as was required by the aforementioned Directives) will not be adhered to. According to the latest information, the new act will come into effect on 1 August 2016. Act No. 340/2015 Coll., on Special Conditions for the Efficacy of Some Agreements, Publication of These Agreements (and an Agreement Register that came into effect in 2015), will come into effect starting 1st July 2016. From the date the Act comes into effect, entities such as state-funded institutions, local government authority-funded institutions, health insurance companies and legal entities (in which the state or any local government authority has the majority ownership or ownership through another legal entity) will be obliged to publish private-law agreements, agreements on the provision of grants or repayable financial assistance via the Agreement Register in written form, provided that the limit concerning the amount of the lower agreements exceeds a value of 50 000,-CZK without VAT (approximately 1850 EUR).
DK	In Denmark, the Procurement Directive (Directive 2014/24/EU) has been implemented by Law No 1564 of 15 December 2015. Article 57(4)(e) of the Procurement Directive contains a voluntary ground for exclusion, whereby a bidder can be excluded if there is a conflict of interests that cannot be remedied with less radical measures. In Denmark's implementation, this voluntary ground for exclusion

	has been made mandatory. This is a more effective safeguard against conflicts of interest than that envisaged in the Procurement Directive. Moreover, this mandatory exclusion in the case of conflict of interests is also stipulated in Denmark's implementation of the Utilities Directive (Directive 2014/25/EU) and the Concessions Directive (2014/23/EU). In addition, Denmark has an Appeals Board for Public Procurement [Klagenævnet for Udbud], which ensures easy and cheap access for bidders to appeal against – among other things – conflicts of interest in tender procedures. This creates effective monitoring and also has a preventive effect with respect to conflicts of interests.
DE	General In Germany the new EU public procurement directives are being transposed into German law in a two-stage procedure. The basic rules have been transposed in Part Four of the Restraint of Competition Act [Gesetz gegen Wettbewerbsbeschränkungen], which was adopted on 18 December 2015 and will enter into force on 18 April 2016 (the time-limit for transposition). The new Act also contains the rules excluding companies from procurement procedures in the event of corruption, fraud or other serious misconduct. The more detailed procedural rules of Directive 2014/24/EU, including the definition of the term 'conflict of interest', are being implemented by amendments to the Public Procurement Regulation. On 20 January 2016 Germany's Federal Cabinet adopted a Government draft of the Public Procurement Regulation, which now has to be approved by the German Bundestag and the Bundesrat. The new Public Procurement Regulation will also enter into force on 18 April 2016. The Government draft of the Public Procurement Regulation contains the broad definition of 'conflict of interest' in the second subparagraph of Article 24(2) of Directive 2014/24/EU. In order to ensure that contracting authorities take appropriate measures to manage conflicts of interest, the Regulation stipulates that employees of the contracting authority (or a procurement service provider acting on behalf of the contracting authority) with a conflict of interest are not to be allowed to take part in a public procurement

	procedure. It also contains a detailed list of the persons who may be presumed to have a conflict of interest. The draft Public Procurement Regulation also includes a mechanism aimed at ensuring that competition is not distorted by the involvement of enterprises that were previously involved in preparing the procurement procedure. Overall, Germany's new public procurement law contains effective mechanisms for countering conflicts of interest. ESF Structural Fund As regards the European Social Fund (ESF), Germany attaches great importance at federal level to preventing and tackling conflicts of interest and their potential threat to public finances both in general and in public procurement procedures. In the 2014-2020 funding period Article 125(4)(c) of Regulation (EU) No 1303/2013 of 17 December 2013 requires the federal ESF managing authority and the administrative services of the federal ministries involved in the ESF to put in place effective and proportionate anti-fraud measures, taking into account the risks identified. This includes managing conflicts of interest. To identify the relevant risk areas, the federal ESF managing authority, in cooperation with a self-evaluation team, conducted a risk characterisation/risk assessment at the level of the ESF federal programmes of the 'Operational Programme ESF Federal Germany 2014-2020' and described and assessed the measures taken to combat fraud/corruption and to reduce risks - including managing conflicts of interests. The evaluation team is composed of representatives of the ESF managing authority, the administrations of the federal ministries involved (Employment and Social Affairs; Education and Research; Family, Elderly People, Women and Youth; Environment; Economic Affairs and Technology) and the implementing/intermediate bodies. In addition to the managing authority and the administrative departments, the line units of the federal ministries involved in the ESF were included. The ESF audit authority and the ESF certifying authority play an

	advisory role vis-à-vis the ESF self-evaluation team. The measures in the management and control systems (MCS) for preventing and fighting fraud and corruption are guided by a number of principles, such as separation of functions, and involve in-depth checks at application and implementation level. Further MCS measures consist in maximising transparency, training and providing materials to raise awareness of fraud and corruption risks. The description of management and control systems as a whole, also includes a wide range of other measures, obligations and approaches, such as risk management, aimed at supporting, flanking and complementing action to prevent and fight fraud and corruption and to manage conflicts of interest. These activities are also part of the strategy to prevent and fight fraud and corruption, which encompasses managing conflicts of interest. Preventing and fighting fraud and corruption and managing conflicts of interest is seen as an on-going process, encompassing planning, implementation, monitoring and improvement. This optimisation process covers the entire programming period and is applied at all ESF levels. Separation of functions is one of the most effective measures in fighting fraud and corruption and managing conflicts of interest. For this reason, almost all the programmes of the 'ESF Federal Operational Programme 2014-2020' apply the principle of separation of functions to, on the one hand, authorisation (checking applications and drawing up grant decisions) and, on the other, checking requests for payment and proof of expenditure. Consistently applying the dual-control principle with checks on factual and accounting accuracy and a separate payment function ensures a high degree of supervision and control over the implementation of support (authorisation, clearing, reporting and record-keeping, audits). The operations co-financed by the ESF are subject to a wide range of controls carried out by the managing authority and its intermediate bodies. These controls are supplemented by those carried out by the certifying authority and audit authority, the Federal Court of Auditors

	and, at European level, by the European Commission, the European Court of Auditors and the European Anti-Fraud Office (OLAF). The high number and density of audits and controls serves both repressive and preventive purposes by, respectively, increasing the detection of conflicts of interest and by deterring others from engaging in fraud/corruption in respect of ESF support. Audits at implementation level cover, in particular, calls for funds, public procurement documentation, intermediate and final payment requests and on-the-spot checks. These audits may, as a further measure to combat fraud and corruption, result in withdrawal of the funding granted, recovery and irregularity proceedings, thereby reducing the risk of conflicts of interest. Audits on calls for funds are carried out at the same time as public procurement audits. The comprehensive and exhaustive requirements and provisions of public procurement law represented by the Restraint of Competition Act (GWB), the Public Procurement Regulation (VgV), the Public Procurement Regulation for Construction Works (VOB/A), the Public Procurement Regulation for Services (VOL/A), the Public Procurement Regulation for Freelance Services (VOF) and the various sector-specific procurement manuals mean that Germany has a regulatory framework which, by imposing strict procedural rules and rules of conduct for the award of public contracts, counters fraud and corruption. Since these provisions have been widely incorporated into national funding legislation (No 3 ANBest-P or No 3 ANBest-Gk), they also serve to counter fraud and corruption and conflicts of interest in the award of contracts under projects co-financed by the ESF. The principle of transparency, as a measure for fighting fraud and corruption and conflicts of interest, is reflected in the 'Federal ESF Operational Programme 2014-2020' by the requirement to document the administrative procedure and the right of access to the files. Free access to the funding guidelines, the websites of the ESF authorities at federal and Land level and the regularly updated lists of beneficiaries also contribute to transparency.

	The principle of transparency is also served by the fact that suspicions of fraud or corruption can be reported via the functional mailbox of the federal ministry (e.g. the anti-corruption officer of the federal ministries involved in the ESF) or by telephone/mail both to the managing authority and all intermediate bodies involved in implementing aid. All reports of possible fraud and corruption connected with projects co-financed by the EU are immediately and thoroughly investigated - if necessary, with the help of the national law enforcement authorities - and followed up by appropriate action. Agriculture and fisheries The eligibility criteria for the accreditation of agricultural paying agencies and the designation audit of the managing/certifying authorities for the structural funds include appropriate measures to detect and remedy or prevent conflicts of interest. In addition to the existing measures (e.g. rotation of staff/personnel training), the non-binding Commission (OLAF) guides 'Identifying conflicts of interest in public procurement procedures for structural actions' and 'Identifying conflicts of interests in the agricultural sector' are, wherever possible, complied with by paying agencies and managing/certifying authorities in the agriculture and fisheries sector. Given Germany's federal system, individual measures can vary from one Land to another. In principle, however, most of the recommendations proposed in the two guidance documents are complied with. The relevant audit bodies ensure an on-going review of these measures.
EE	In 2015 Estonia commenced the official inter-ministerial consultation on the draft of the new public procurement act transposing the EU public procurement Directives in which the definition of "conflict of interest" is defined as stated in the Directive. Also, in their internal procurement rules there is an obligation for contracting authorities to define the best suitable measures for them to tackle the situations

	where the conflict of interest occurs. It is expected that the law will be adopted during 2016. Estonia has a public e-Procurement Register and is now exploring the possibiliy of making the Register obligatory for all non-contracting beneficiaries (starting from a stipulated amount).
IE	Ireland expects to have transposed the public procurement Directive into national legislation by the deadline in mid-April 2016. Following this, it can be expected that general guidance (administrative measures) will be prepared on the new Directive and it may contain measures that contracting authorities/entities may take to avoid conflicts of interest.
EL	ENTITY Single Independent Public Procurement Authority: Greece had taken the following steps with regard to the issue of conflict of interest mentioned in Recommendation 2 of the Questionnaire: Article 45 of Law 4281/2014 contains a provision dealing with the issue of conflict of interest in public procurement. However, the application of this provision has been suspended until 29 February 2016 by means of Article 5 of Law 4354/2015 (Government Gazette, Series I, No 176). Moreover, the conflict of interest provisions set out in the European Directives on public procurement will be transposed into national legislation by 18 April 2016.
ES	1) In 2015, the process of preparing a new preliminary draft Law on Public Sector Contracts (LCSP) was completed, one of the aims of which is to transpose Directive 2014/24/EU of 26 February 2014 on public procurement. The draft has been finalised and is available on the website of the Ministry of Finance and Public Administration. Almost all of the

	required reports have been published as part of the approval process, and the draft is now ready for the new government that takes office (following the recent Spanish general election); it can then be sent to the Spanish Parliament for processing and approval, after which it can enter into force. The definition of conflict of interest contained in the Directive is transposed in Article 64 of the aforementioned preliminary draft law, entitled 'Fight against corruption and prevention of conflicts of interest' and which lays down the following in paragraph 2: 'the concept of conflict of interest shall cover, at least, any situation in which a member of staff of the contracting body, who is also involved in the tendering procedure or who could influence the outcome of the procedure, has a direct or indirect financial, economic or personal interest that could appear to compromise his or her impartiality and independence in the tendering procedure.' In addition to transposing the definition of conflict of interest, the draft LCSP includes a provision expressly requiring contracting bodies to implement appropriate measures to combat fraud, nepotism and corruption. They are also specifically required to prevent, detect and effectively resolve any conflicts of interest that may arise during tendering procedures so as to avoid any adverse effects on competition and guarantee the transparency of the procedure and the equal treatment of all candidates and bidders (Article 64(1)). Also, the principle of integrity is expressly referred to in the Law for the first time (Article 1) as a principle that must inform the interpretation and application of the provisions of the Law on Public Sector Contracts. 2) Furthermore, an amendment was made to Article 60(1) of the current Law on Public Sector Contracts (Royal Legislative Decree 3/2011 of 14 November 2011). The aim of this amendment, which entered into force on 2 October 2015, is to strengthen the rules concerning conflicts of interest in public service contracts. The amendment was approved through paragraph one of the Ninth Final Provision of the new Law 40/2015 of 1 October 2015 laying down the legal arrangements applicable to the public sector (LRJSP). Specifically, the ban on tendering in the event of a conflict of interest - currently contained in Article 60(1)(g) of the revised text of the

	LCSP - is extended to cover 1) relatives in the ascending line, 2) relatives in the descending line and 3) other relatives up to the second degree of consanguinity or affinity of those persons directly affected by the ban. Until now, the ban only covered (a) spouse or equivalent relationship and (b) descendants for whom one is the legal representative (minors, essentially). This amendment applies not only at state level, but also applies to the Autonomous Communities and Local Authorities. 3) Lastly, in Chapter II of Law 3/2015 of 30 March 2015 governing the duties of senior officials in the General State Administration, which was approved on 30 March 2015, rules are laid down concerning conflicts of interest and incompatibility of the duties of senior officials. Below are some of the new aspects brought in by this new law: a) The definition of conflict of interest is more precise. A senior official is understood to be involved in a conflict of interest when a decision they are going to make could affect their personal interests, be they financial or professional, as the decision could benefit or harm these interests. The following are considered to be personal interests: - Personal interests. - Family interests, including the interests of the spouse or co-habiting partner and of relatives within four degrees of consanguinity or two degrees of affinity. - The interests of persons with whom one is involved in a legal dispute. - The interests of persons with whom one has a close friendship or manifest enmity. - The interests of legal persons or private entities with which the senior official has had ties through a working or professional relationship

	of any kind in the two years prior to their appointment. - The interests of legal persons or private entities with which the family members listed in the second point have ties through a working or professional relationship of any kind if they are working in a management, advisory or administrative role. b) An early-warning system to detect possible conflicts of interest is introduced. The system functions as follows: based on the information provided by the senior official in their declaration of activities, or using information they may be asked to provide, the Office for Conflicts of Interest will inform the senior official in advance about any issues or subjects that - as a general rule - they must refrain from dealing with in the course of their duties. The senior official may consult the Office for Conflicts of Interest as often as they feel is necessary and at any time regarding the appropriateness of avoiding certain issues. c) The restrictions on senior officials holding shares in companies are extended to include shares held by the senior official through an intermediary; an intermediary is understood to be the natural or legal person acting on the senior official's behalf. d) The role of the Office for Conflicts of Interest is strengthened. A key point in this regard is the new rule on the duty to collaborate with the Office for Conflicts of Interest; essentially this involves providing the Office with information so that it can check whether the details given by senior officials are correct. As such, all public institutions, bodies and organisations, as well as private entities, will be obliged to collaborate with the Office for Conflicts of Interest, with a view to detecting any instances of non-compliance with the incompatibility rules laid down in this law. Furthermore, the Office for Conflicts of Interest may request public information, files, archives or registers - particularly those from the tax or social security authorities - that it needs to carry out its duties. For example, the law lays down that the Office for Conflicts of Interest may regularly request information from the social security authorities to check the employment situation of senior officials who have been

	suspended. Furthermore, the Office for Conflicts of Interest has been upgraded to the level of Directorate-General and the procedure for appointing its Director has been tightened up. Candidates must appear before the relevant Committee in the Congress of Deputies before they are appointed so that the Committee can examine whether their experience, training and skills are suited to the job. e) All senior officials' assets will be inspected when their mandates come to an end. The inspection will be carried out by the Office for Conflicts of Interest to make sure that the obligations laid down in Law 3/2015 have been properly complied with and to check for any indications of unexplained wealth, bearing in mind the official's income during their mandate and any changes to their assets. The Office for Conflicts of Interest must record the findings of the inspection in the relevant report. f) The statutes of limitations for offences and sanctions in this area are extended (from three years for very serious offences, two years for serious offences, and six months for minor offences to five years, three years and one year respectively).
FR	The transposition of the 'public procurement' Directives (Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 and Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014) provided an opportunity to build on the procedures currently in place, in particular: • by specifying that the final conviction on corruption charges of a member of an administrative, management or supervisory body of a legal person, or of a natural person who has powers of representation, decision-making or control therein, shall lead to the exclusion from public procurement procedures of that legal person, as long as the natural person is performing these functions; • by enhancing transparency through the obligation to disclose any amendments that are made. • in reproducing the definition of conflict of interests as set out in the European 'public procurement' Directives 2014/24/EU and 2014/25/EU, as well as all the measures provided for by these directives to restore normality (in particular, exclusions of people who

	are subject to a conflict of interests when the situation cannot be effectively remedied by less intrusive measures). Order No 2015-899 of 23 July 2015 on public procurement was therefore published in the Official Journal of the French Republic (internet link: Ordonnance n°2015-899). It must be supplemented by implementing decrees, the publication of which is scheduled for February 2016. Anti-corruption measures were already part of public procurement procedures, in accordance with Directives 2004/17/EC and 2004/18/EC of 31 March 2004. The issue of corruption and of the fight against it is essentially tackled through tendering bans, namely by excluding from the procedure those persons: • who have been convicted by final judgement on corruption charges; • who have attempted to influence the decision of a public purchaser; • or who have caused distortion of competition. Not only in cases where the law so provides and which relate to convictions for involvement in a criminal organisation, corruption, fraud or money laundering, but also in cases of professional misconduct or false declarations, the judge may impose a ban on taking part in public tenders. Persons who may be subject to a ban are those 'who have, in the last five years, received a final conviction for one of the offences provided for (...) in Article 433-1 [active corruption practices and trading in influence], (...) in Article 435-2 [active corruption of EU officials and officials of Member States], (...) of the Criminal Code'. This rule stems from the public procurement Directives themselves, which require a 'final judgement'. This replicates the requirement contained in the Agreement on Government Procurement (GPA) concluded within the framework of the WTO. The exclusion rules laid down in the European Directives were reproduced (Articles 45(1) and 48 of Order No 2015-899 of 23 July 2015 on public procurement). These measures apply to public procurement contracts concluded by the contracting authorities and to public

	procurement contracts concluded by contracting entities. The essential details of concluded public procurement contracts will be made available to the public free of charge (open-data). Implementation guides will include recommendations on the fight against corruption. Public procurement procedures will be conducted electronically for all purchasers, within the deadlines laid down by the directives. The fight against corruption and fraud in public procurement is also underpinned by factors that are not specific to rules governing public procurement, such as: • fast and effective redress mechanisms before the administrative court (pre-contractual interim relief in particular), with stronger powers for the judge, open to any person who may wish to contest a public-contract award decision (see the case-law of the Council of State, in particular the 'Department of Tarn and Garonne' judgement, sitting of 21 March 2014, reading of 4 April 2014, Case No 358994); • services focused on the detection of corruption cases (the TRACFIN Financial Intelligence Unit and, to a lesser extent, the Regional courts of accounts) and the prosecution thereof (in particular the National Financial Prosecutor, established by organic law No 1115-2013 of 6 December 2013); • protection procedures for people reporting corruption, under Law No 2007-1598 of 13 November 2007 on the fight against corruption and Article 35 of Law No 1117-2013 of 6 December 2013 on the fight against tax fraud and serious economic and financial crime; • the fact that a conviction for violation of probity (and in particular for corruption) may, as an additional penalty, lead to a prohibition on holding elected office, and thus the inability to participate in public procurement procedures, the exclusion of convicted businesses from public procurement, etc. It is for this reason that, ever since the circular dated 29 December 2009, versions of the 'public procurement good practice guide', drawn up by the Legal Affairs Department of the Economic and Finance Ministries, has contained specific recommendations on the fight against corruption. The guide reminds readers that a corruption conviction will result in a ban on taking part in tendering procedures, and also recommends that

	public purchasers adopt a Code of Practice governing the conduct both of their purchasing departments and of final decision-makers. For example, it contains rules relating to bans on accepting gifts or invitations, to the need to disclose connections of any kind between a public servant and a given supplier and to the requirement for purchasing managers to take sufficient leave, as well as rules relating to accessing, securing and storing all documents that record communications with suppliers. (Good practice guide) This information is repeated in the 'Handbook on Public Procurement'; put online on 7 July 2015 by the Legal Affairs Department, which brings together the following: the September 2014 version of the public procurement good practice guide; datasheets for the contracting authorities; tables of advertising, procedures and deadlines; and flowcharts of procedures (diagrams of the steps in the different public procurement procedures). In particular with regard to the measures taken in order to fight against conflicts of interest, the following elements should be highlighted: 1/ On 31 July 2015, the government introduced a fast-track procedure in order to allow early adoption of the draft law on ethics and the rights and obligations of officials, which was since adopted at first reading by the National Assembly and the Senate. This draft law provides for an amendment to chapter IV of Law No 83-634 of 13 July 1983 on the rights and obligations of officials, by inserting into this law an Article 25a, worded as follows: ' I. – Officials shall immediately put a stop to - or prevent - situations of conflict of interest in which they find themselves or in which they could find themselves. For the purposes of this Law, a conflict of interests is any situation of interaction between a public interest and public or private interests, which is likely to influence or appear to influence the independent, impartial and objective exercise of their duties. II. - To this end, officials who consider themselves to be in a conflict of interest situation: '1°If they are in hierarchical positions, inform their manager; the manager, after being informed, or on his or her own initiative, entrusts (where necessary) the handling of the file or the preparation of the decision to another person; 2 If they have been given a delegation of signature, they refrain from using it; 3 If they are a member of a collegiate body, they refrain from sitting on it, or, where necessary, from deliberating in it. 4 If they perform judicial functions, they shall be deputised for, in accordance with the rules of their jurisdiction; 5° If they exercise powers delegated to them, they shall be deputised for by any delegate, to whom they shall refrain from giving instructions.' Once the law has been definitively adopted, a decree of the Council of State will set out the rules for implementing these

	provisions. Furthermore, the same draft law provides that certain senior officials in management roles must, following the example of top national figures (who have been obliged since 2011 to submit a declaration of interests) also declare their interests to the High Authority for Transparency in Public Life [Haute Autorité pour la Transparence de la Vie Publique], created by Laws No 2013-96 and 2013-907 of 11 October 2013. 2/ With regard to public procurement by regional authorities and the public bodies established by them, the phrase 'conflict of interests' does not feature explicitly in the General Code of Local Authorities [code général des collectivités territoriales], but it is indirectly referred to in Article L 2131-11 of the Code, which stipulates that it is illegal for one or several members of the Council to deliberate on a matter in which they have an interest (whether the interest is in a personal capacity, or in their capacity as an agent). Similarly, if someone subject to this provision and who has an interest in the matter participates in the preparatory work and in the discussions preceding the adoption of such a deliberation, they could vitiate the legality of that deliberation. This is the case even if such participation is not followed by the person voting in the decision at issue, if the interested person was in a position to exercise effective influence on the decision at issue.' The decision through which a contracting authority has awarded a public contract can therefore be subject to an application for annulment before the administrative court. However, the administrative court has a fairly strict interpretation of the term 'interested adviser'. Thus, in its 'Commune de Saint-Maur-des-Fossés'(case No 355756) judgement of 9 May 2012, the Council of State, the highest French administrative court, ruled that 'the mere fact that a member of a municipal council is a shareholder in one of the companies competing for a municipal contract, and has a family tie with its manager, does not justify rejecting that company's bid on principle, if it is an ordinary works contract the usefulness of which is not in dispute, and there are no claims that the municipal councillor who took part only in the deliberation that authorised the procurement procedure exercised special influence on the vote'. However, in a judgement of 21 November 2012, 'M Chartier', (case No 334726), the Council of State ruled that a municipal councillor

	with an interest in a matter that was the subject of a deliberation must refrain from taking part in the vote on it (and in taking part in the preparatory work, if they are likely to have an effective influence on the decision from that stage). In that judgement, the Upper House brought its case-law closer to that of the Court of Cassation, which considers that elected local officials must take part neither in any sitting of the municipal council, nor in any meeting in which urban development documents (or any decision in which they might have an interest, directly or indirectly) are being prepared (see Cass. Crim., 23 February 2011, No 10-82.988). It should be noted that the court seised in this way may rule only on the validity of the disputed act. 3/ Independently of the action before the administrative court that is challenging the act - or at the same time as it - an action may be brought on criminal grounds where participation by an elected official in the disputed decision may constitute a violation of probity, as referred to in Article 432-12 of the Penal Code, or an 'illegal conflict of interest'. The purpose of this provision is to prevent any collusion, whether actual or presumed, between the public interest that the elected official must serve and his or her private interest. Decisions taken on behalf of the community must not be the subject of suspected conflict with the private interests - direct or indirect, financial, material or simply moral - of those who took part in the decision. It follows from Article 432-12 of the Penal Code, and from case-law laid down by the ordinary courts, that elected officials are guilty of an illegal conflict of interests if they take decisions on behalf of the community in a matter concerning them. This also holds true if the officials were merely present at the deliberations (without taking part in the vote) after which the decision was taken. It is also an illegal conflict of interests to take part in the preparatory works for a case, even if the elected officials do not subsequently deliberate on it. Consequently, officials may be held liable if they award a contract, are part of a decision-making body during the preparatory procedure or take part in the preparatory work, if they have an interest in the process within the meaning of Article 432-12 of the Penal Code. The same applies if the elected official holds a financial stake in the company to which the contract has been awarded if he or she has family ties with one of the managers. There is criminal liability on that basis, even if the procurement procedure governing the contract was strictly adhered to. Moreover, in order for there to be a violation, there is no requirement for proof to be provided that the person in question benefited from the process or that the community suffered any harm. Therefore, anyone likely to be interested within the meaning of Article 432-12 of the Penal Code must systematically stand aside from the

	beginning of the procedure. Illegal conflict of interests is punishable by five years' imprisonment and by a fine of € 500 000. The amount can be raised to twice the proceeds gained from the infringement. However, the criminal court may not annul the decision at issue, as this is the exclusive competence of the administrative courts. In communes with 3 500 inhabitants or fewer, mayors, deputies or municipal councillors who have been delegated as – or are acting in the place of – the mayor may each deal with the commune for which they are an elected official for the transfer of movable or immovable property or for the provision of services up to an annual limit of EUR 16 000. In addition, in these communes, mayors, deputies, or municipal councillors who have been delegated as - or are acting in the place of - the mayor may acquire a plot of a communal subdivision in order to build their personal dwelling or conclude residential leases with the commune for their own residence. These acts must be authorised, after valuation of the assets in question by the State Property Department, by a reasoned decision of the municipal council. Elected officials may acquire property belonging to the commune for which they were elected for the creation or development of their professional activity. The price may not be less than the assessment made by the State Property Department. Regardless of the value of the assets in question, the act must be authorised by a reasoned decision of the municipal council.
HR	1. Public Procurement The Ministry of Economy is in the process of drafting the new Public Procurement Act. The new Public Procurement Act will transpose into Croatian legislation provisions set in the Public Procurement Directives (2014/24/EU and 2014/25/EU), therefore provisions in Article 24 of the 2014/24/EU Directive and Article 42 of the 2014/25/EU Directive on conflict of interest will be transposed. Moreover, it should be stressed that the current Public Procurement Act (OJ 90/11, 83/13, 143/1, 13/14) contains measures with the objective of preventing conflict of interest. Measures are set in Article 13 and Article 176 of current Public Procurement Act: Preventing conflicts of interests

	Article 13 (1) The following relationships of contracting authorities/entities and economic operators shall be regarded as conflict of interest in the award of public procurement contracts: 1. if the representative of the contracting authority/entity at the same time performs management-related activities in the economic operator, or 2. if the representative of the contracting authority/entity holds a business share, stock or other rights entitling it to participate in management, that is, capital of the economic operator by more than 0.5%. (2) Representative of the contracting authority/entity within the meaning of this Article means: 1. the head of a body of the contracting authority/entity, member of the management or supervisory body of the contracting authority/entity, 2. the authorised representatives of the contracting authority/entity in the particular public procurement procedure referred to in Article 24 of this Act, and 3. other persons referred to in Article 24 paragraph 5 of this Act which have impact on decision making, and in particular the public procurement procedure. (3) Contracting authorities/entities may not award public procurement contracts to economic operators referred to in paragraph 1 of this Article as tenderers and members of a group of tenderers. Economic operators referred to in paragraph 1 of this Article may not act as subcontractors of the selected tenderer. (4) Paragraph 3 of this Article shall also apply where an economic operator referred to in the paragraph 1 of this Article is a person related to the representative of the contracting authority/entity referred to in point 1 paragraph 2 of this Article. Related persons are the spouse or

	life partner, a blood relative in the direct line, siblings, an adopted parent or child of the representative of the contracting authority/entity referred to in point 1 paragraph 2 of this Article. (5) Paragraph 4 of this Article shall not apply where a person related to the representative of the contracting authority/entity referred to in point 1 paragraph 2 of this Article acquired business share, stock or other rights entitling it to participate in management, that is, capital of the economic operator by more than 0.5% in the period of more than two years before the representative of the contracting authority/entity that is related to was appointed or took over its duties. Application of this provision does not prejudice other obligations that in such cases refer to persons obliged by the special regulation on suppression of conflict of interest. (6) Paragraph 3 of this Article shall also apply when a representative of the contracting authority/entity or person related to the representative of the contracting authority/entity referred to in point 1 paragraph 2 of this Article has transferred its ownership share to another person or specific body (trustee) pursuant special regulation on suppression of conflict of interest. (7) A situation where the representative of the contracting authority/entity or the person related to the representative of the contracting authority/entity referred to in point 1 paragraph 2 of this Article performs management-related activities in the economic operator as an official representative of the contracting authority, and not as a private individual shall not be regarded as a conflict of interest referred to in point 1 paragraph 1 of this Article. (8) Representatives of the contracting authority/entity shall sign a statement concerning the existence or non-existence of a conflict of interest within the meaning of their relationship or the relationship of person related to the representative of the contracting authority/entity referred to in point 1 paragraph 2 of this Article with the economic operators referred to in paragraph 1 of this Article. (9) On the basis of the statements referred to in paragraph 8 of this Article, the contracting authority/entity shall: 1 Publish on its website the list of economic operators with whom the representative of the contracting authority/entity referred to in point 1, paragraph 2 of this Article or persons related to it are in a relationship referred to in paragraph 1 of this Article or notification that there are no such operators. If the contracting authority does not own a website, the said list shall be published in its official bulletin or bulletin

	board or made permanently available to the interested public in some other way, 2. in the tender documents for the particular public procurement procedure, specify the list of economic operators with whom it is in the conflict of interest within the meaning of this Article or specify that there are no such operators, 3. the list referred to in point 1 of this paragraph must be continuously updated in line with any changes thereto. Nullity of a contract Article 176 A public contract shall be null and void if awarded contrary to the provision of Article 13 of this Act. 2. Concessions As regards the Directive 2014/23/EU of the European Parliament and the Council of 26 February 2014 on the award of concession contracts (the Directive), specifically Article 35 on combating corruption and preventing conflicts of interest, it should be noted that Directive's provisions are implemented in the Draft Proposal on Concessions Act. It is expected the public discussion on the Draft Proposal to be finished till 18.2.2016. Furthermore, it is expected to submit the Draft Proposal for adoption to the Government and Parliament by 7.3.2016, in order to be adopted on 16.4.2016, when the Republic of Croatia is obliged to implement the Directive.
IT	Italy will transpose the public procurement directives into national law by 18 April 2016. In the national implementing legislation (the new Public Procurement Code), a specific provision will transpose the provision on 'conflict of interest' in the Public Procurement Directive. Moreover the Italian national anti-corruption authority has specific expertise in preventing and combating corruption in public administrations and in monitoring public procurement.

CY	The definition of conflict of interest as provided for in the new Procurement Directives is purely adopted in the harmonizing draft Laws. The Cyprus Public Procurement Directorate has prepared for the transposition of each Directive. Currently, the Draft Laws are under legal-linguistic process, provided by the Law Office of the Republic of Cyprus, in accordance the national law-making practice. After this completion, they will be laid before the Council of Ministers for approval and then before the House of Representatives for voting and entry into force. No further measures are taken in 2015, however the national provisions on General Principles of Administrative Law, do not permit the participation in or production of any administrative act, of a person having singular relationship or family relationship by blood or marriage up to the fourth degree or is acute hatred to the person concerned as the case might be, having an interest in the outcome (including procurement procedures).In this respect, we consider that the new Directives provisions are largely covered already.
LV	On 19 November 2015, the meeting of State secretaries announced the draft of the new Public Procurement Law, where the Public Procurement Directive is transposed. The draft introduces regulation on conflict of interest and condition that contracting authority shall exclude economic operator from procurement procedure if: - contracting authority official, - employee, - member of the board or council or - proctor, or - person which constitutes a procurement commission or sign a procurement contract, or which elaborate procurement documentation, - member of procurement commission or expert has a connection with the tenderers and a conflict of interest cannot be effectively remedied by other less intrusive measures. The Public Procurement Law already provides regulation on administrative liability in case of breach of rules of conflicts of interest

	elimination. Since 2014 administrative sanctions are imposed by Procurement Monitoring Bureau.
LT	Measures have already been taken in Lithuania to implement the second recommendation in the OLAF document about combating fraud and corruption in public procurement. These measures are set out in the draft laws drawn up by the Ministry of the Economy which transpose the provisions of Directives 2014/24/EU and 2014/25/EU of the European Parliament and of the Council and which were approved by the Government at the meeting of 4 November 2015. The draft laws in question, i.e. draft law No XIIP-3750 amending the Law on public procurement No I-1491 (hereinafter "the draft law") and draft law No XIIP-3751 on procurements made by procuring entities in the water management, energy, transport and postal services sector, are currently being discussed by the relevant parliamentary committees. In a bid to combat conflicts of interest in public procurement, the first of these draft laws transposes not just the provisions of the relevant Directives, but also proposes laying down additional national requirements to take account of, inter alia, the European Court of Justice judgment in Case C-538 eVigilo. A detailed description of the provisions in question follows. Article 21(1) of the draft law (which transposes Article 24 of Directive 2014/24/EU) defines a conflict of interest: "In procurement, situations shall be classified as conflicts of interest where staff members of the contracting authority or of a provider of an ancillary service, Commission members or experts, or observers involved in the procurement procedure who may have an influence on the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure." In a bid to prevent such conflicts of interest, Article 21(2) of the draft law proposes imposing a national obligation on contracting authorities to require that each person referred to in Article 21(1) of the draft law take part in procurement proceedings or take decisions relating to a procurement only after signing a confidentiality statement and an impartiality declaration in the form decided on by the Public Procurement Commission and the Supreme Official Ethics Commission. Paragraphs 37 and 39 of ECJ Case, C–538, eVigilo, state that the finding of bias on the part of an expert requires in particular the

	assessment of facts and evidence that comes within the competence of the contracting authorities and the administrative or judicial control authorities. The ECJ has consistently held that, in the absence of EU rules governing the matter, it is for every Member State to lay down the detailed rules of administrative and judicial procedures for safeguarding rights which individuals derive from EU law. In view of such clarifications by the ECJ, Article 21(3) of the draft law proposes stipulating what protocol the contracting authority must observe if it suspects a conflict of interest. If substantiated information suggests that an individual referred to in Article 21(1) of the draft law may be subject to a conflict of interest and has not distanced himself from the taking of decisions relating to the procurement in question, the head of the contracting authority or his authorised representative shall bar the person from participating in the decision-making process and carry out a check on this person's activities relating to the procurement. A contracting authority that has established that an individual is subject to a conflict of interest shall exclude him from taking decisions regarding the procurements in question and assess whether the conflict of interest constitutes grounds for excluding a supplier. Article 45(4)(2) of the draft law (which transposes Article 57(4)(e) of Directive 2014/24/EU) proposes stipulating that a contracting authority shall exclude a supplier from a procurement procedure if during the procurement procedure he has found himself subject to a conflict of interest and the situation cannot be remedied. The Lithuanian government takes public procurement infringements very seriously, which is why it opted for the stricter option provided for in Directive 2014/24/EU. The draft law proposes requiring contracting authorities to apply grounds for excluding a supplier in the event of a conflict of interest that cannot be remedied, or ban them from selectively including grounds for excluding suppliers in the procurement documentation. Conflict of interest is a new concept in public procurement regulations, which is why it is important to provide contracting authorities with methodological assistance with clarifying this concept and identifying conflicts of interest in practice. To this end, the Lithuanian government has suggested requiring the Supreme Official Ethics Commission, pursuant to Article 90(5) of the draft law, to draw up guidelines on issues relating to the identification of conflicts of interest in public procurement.
LU	Luxembourg is committed to effective protection of the EU's financial interests. The recommendations to the Commission’s report on the protection of the EU’s financial interests have therefore been discussed with all the relevant stakeholders and will be taken into account in

	the national anti-fraud strategy that Luxembourg is currently devising. A first meeting that brought together all the relevant authorities involved in managing EU funds had taken place. Luxembourg intends to have such meetings on a regular basis to ensure structured coordination.
HU	To make the new Public Procurement Act CXLIII of 2015 as consistent as possible with the new EU Directives, Hungary has incorporated the EU requirements of openness, transparency, and the proper management of public funds, and guarantee the widest possible competition. Incorporating these objectives into the Public Procurement Act contributes towards reducing corruption in the public procurement process and increasing the openness and transparency of public procurement procedures. In addition to transposing the Directive, the new Public Procurement Act contains several measures which facilitate fair public procurements, competition and the fight against corruption. Indeed, the Public Procurement Act lays down stricter rules on conflict of interest than the Directive. . By providing for conflict-of-interest rules going beyond those needing to be transposed from the Directive, the Public Procurement Act promotes the implementation of the measures set out in proposal No 2 of the 2014 PIF report. The conflict-of-interest rules have been supplemented to cover a few typical instances where the likelihood of a conflict of interest is greatest, and where the contracting authority must check for the existence of a conflict of interest particularly carefully. One instance covered is where an executive officer or supervisory committee member of an organisation is drawn by the contracting party into an activity connected with the procurement procedure or its preparation. Dignitaries and the heads of some competent national bodies have also been excluded from public procurement procedures, as have organisations under the ownership of relatives living in the same household as them. The 1 December 2015 amendment to the conflict-of-interest rule has made it one of the most stringent in Europe, and even stricter than the relevant EU Directives. The practical effectiveness of the conflict-of-interest rules is further facilitated by ex-ante checks on EU-funded public procurement procedures for contracts over the EU threshold value for supplies and services and contracts for over HUF 300 million for works. The public procurement checks under these procedures are conducted by the Public Procurement Supervisory Department (PPS) of the Prime

	Minister's Office. Pursuant to point 384 of Annex I to Government Decree No 272/2014 of 5 November 2014, the relevant conflict-of-interest declarations are one of the documents submitted by the contracting parties as part of these checks. The declarations are also inspected during ex ante checks. In other cases, follow-up checks of EU-financed public procurement procedures not falling within the scope of PPS checks (procedures under the threshold values mentioned above) are conducted by managing authorities. The conflict-of-interest declarations that the contracting parties are required to submit are also re-inspected during the checks by the managing authorities. If the checks reveal infringements, infringement proceedings may be initiated against the contracting parties or, in the case of infringements which cannot be rectified, judicial review proceedings may be brought before the Public Procurement Arbitration Board. Similarly, the Public Procurement Auditing Department (which audits the public procurements of budgetary institutions and institutions managed or overseen by the government, economic organisations in which the state has a majority ownership and public foundations of the government and public foundations managed or established by them) also checks the conflict-of-interest declarations submitted by the contracting parties as part of the audit. Prior to 1 November 2015, the contracting parties were obliged, under Annex 1 to Government Decree No 46/2011 of 25 March 2011 on the centralised control and authorisation of public procurements, to submit declarations for control and authorisation if they involved contracting for supplies or services with an estimated net value of at least HUF 25 million, or for works with an estimated net value of at least HUF 150 million. In the case of controls beneath this threshold value, the audit authority made a request pursuant to Section 4/A(1) of the above Government Decree for the further disclosure of information, demanding that the tenderers submit conflict-of-interest declarations. For checks initiated since 1 November 2015, tenderers are obliged, under Annexes 2-4 to Government Decree No 320/2015 of 30 October 2015 on the centralised control and authorisation of public procurements, to submit a conflict-of-interest declaration to the Public Procurement Supervisory Department at the time the check is initiated. Hungary notes that it has taken measures in conformity with the above provisions and practical solutions to implement proposal 2 as set out in the 2014 PIF report, to make the conflict-of-interest rules effective.
MT	The following terms will be included as part of the new Regulations transposing the Public Procurement Directives which come into effect

	in April 2016. In Regulation 2, the term is defined as follows: 'conflicts of interest' shall at least mean any situation where any person, including staff members of the contracting authority or of a procurement service provider acting on behalf of the contracting authority, who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure; Regulation 16(g): It shall be the duty of all contracting authorities: "to take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators;" As part of the Exclusion Criteria where in Regulation 194, it is stated that: A contract shall also not be awarded to an economic operator who, during the procurement procedure for that contract: (b) is subject to a conflict of interest as referred to under the definition in regulation 2 which cannot be effectively remedied by other less intrusive measures; Furthermore, Contracting Authorities are obliged to report in the individual reports on procedures for the award of contracts, as per Regulation 241 (2)(i), where conflicts of interests were detected (if any) and subsequent measures taken. Additionally in the Tender Documents, specifically in the General Rules Governing Tenders and also in the General Conditions, the following clauses to mitigate Conflict of Interest are included: 3.4 A company may act as a subcontractor for any number of tenderers, and joint ventures/consortia, provided that it does not

	participate individually or as part of a joint venture/consortium, and that the nominations do not lead to a conflict of interest, collusion, or improper practice. 21. Ethics Clauses 21.1 Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Central Government Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his candidacy or tender and may result in administrative penalties. 21.2 Without the Central Government Authority's prior written authorisation, the Contractor and his staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for the project. This prohibition also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor. 21.3 When putting forward a candidacy or tender, the candidate or tenderer must declare that he is not affected by any potential conflict of interest, and that he has no particular link with other tenderers or parties involved in the project. 21.4 The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He must refrain from making public statements about the project or services without the Contracting Authority's prior approval. He may not commit the Contracting Authority in any way without its prior written consent. 21.5 For the duration of the contract, the Contractor and his staff must respect human rights and undertake not to offend the political, cultural and religious morals of Malta. 21.6 The Contractor may not accept any payment connected with the contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.

	21.7 The Contractor and his staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor are confidential. 21.8 The contract governs the Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract. 21.9 The Contractor shall refrain from any relationship likely to compromise his independence or that of his staff. If the Contractor ceases to be independent, the Central Government Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation. 21.10 The tender(s) concerned will be rejected or the contract terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.
NL	The Public Procurement Directives will be transposed into national law in 2016 through the introduction of amendments to the Aanbestedingswet 2012 (2012 Public Procurement Act) as from 18 April 2016, including the definition of ‘conflict of interest’. In addition, once the Aanbestedingsreglement Werken (ARW, the Public Works Procurement Regulation) comes into effect, a ‘Model K Declaration’ can be required. By means of the Model K Declaration tenderers declare that their tender has not been influenced by an unlawful agreement with competitors (September 2015). Even if the ARW is not in effect, a contracting authority can ask for a (self-) declaration of ‘no conflict of interest’, ‘no insider dealing’ or ‘no agreement between competitors’. Furthermore, the Netherlands has great expectations of the ARACHNE programme introduced by the EC, which can offer an insight into the mutual relations between companies and their managers, shareholders or owners.

AT	No information provided
PL	Appropriate provisions for preventing and tackling conflicts of interest were introduced into national public procurement law before the relevant provisions were introduced into the EU Directives coordinating the award of public contracts. These provisions have been part of the Public Procurement Act (PZP) since its adoption, i.e. since 29 January 2004. The current PZP provides for solutions to prevent conflicts of interest, including for example the obligation to exclude employees of the contracting authority from a public procurement procedure if necessary, i.e. when impartiality is doubted. Appropriate provisions to prevent and tackle conflicts of interest have also been put into place with respect to employees of the Public Procurement Office (UZP) who supervise public procurement procedures. They provide for the possibility of excluding UZP employees from supervision tasks, and require such employees to inform the UZP President of the reasons for their exclusion. The grounds laid down in the PZA for excluding employees of a contracting authority from a public procurement procedure and UZP employees from supervision tasks cover all the situations identified in the definition of conflict of interest laid down in the new EU public procurement Directives and do not require further adaptation. Meanwhile, when transposing the above-mentioned Directives into Polish law, consideration is being given to providing for exclusion of contractors from the public procurement procedure when other measures (such as excluding employees of the contracting authority from the procedure) prove insufficient to eliminate a conflict of interest. In addition, managing authorities of operational programmes under cohesion policy are required, under the guidelines of the minister for regional development on the arrangements for monitoring implementation of operational programmes in 2014–20, to draw up documents outlining ways to prevent and tackle corruption and fraud. The procedures in question also include mechanisms to prevent conflicts of interest. In view the Commission's Recommendation, managing authorities will include in those documents the definition of conflict of interest as provided for in the Public Procurement Directive of the EP and the Council.
PT	Codes of Ethics and Conduct were drawn up at internal level and within each managing authority. These cover the question of conflicts of interest, in the form of a declaration of conflicts of interest and an internal organisational structure ensuring the segregation of duties. The national legislation, which defines the general rules for implementing operational programmes funded by the ESIF, requires

	beneficiaries to respect the principles of transparency, competition and good management of public funding in order to avoid situations involving potential conflicts of interests, notably in relations between beneficiaries and their suppliers or service providers (Article 24(k) of Decree-Law No 159/2014 of 27 October 2014). During 2015 the ADC issued guidelines on this subject, suggesting the adoption of specific procedures by the managing authorities, which set out the approach to take as regards identifying preferential relations and how to deal with them in the context of their monitoring and internal control functions. Mechanisms have also been set up for the receipt, circulation and sharing of information concerning notification of a specific situation of non-compliance or potential fraud, such as complaint information. Still on this recommendation, it should be noted that IFAP has developed and implemented an information system requiring beneficiaries to declare any special relations when submitting payment claims under EAFRD Investment. If this is the case, the claims are examined in order to assess the reasonableness of any costs related to such situations.
RO	1. In the light of the Romanian Government's obligation to fulfil the horizontal ex-ante conditionality relating to the reform of public procurement set out in Romania's Partnership Agreement for the 2014-2020 financial programming period, approved by Commission Decision C(2014)5515 of 6 August 2014, the National Public Procurement Agency (ANAP) has been set up as the main institution responsible for managing public investment and assuring the quality of public expenditure. One of the Agency's main tasks is to supervise the public procurement system, based on its monitoring function and ex-ante and ex-post activities, and to highlight system irregularities or problems in real time. When alerted to systemic shortcomings, ANAP will define the problems and refer them to the competent authorities to take corrective action. In 2015, ANAP developed the National Public Procurement Strategy, approved by Government Decision No 901/2015, in which it put forward measures to reform the national public procurement system between 2015 and 2020. The development of the strategy is a crucial

	step in the reform of the Romanian public procurement system, as it sets out a common vision at a key moment when the new Directives in the field proposes a paradigm shift for Member States, as public procurement is becoming the main tool for unlocking growth at European level. To transpose the new EU Directives, a legislative package on public procurement, containing provisions to fight favouritism, conflicts of interest and corruption, was launched on 27 October 2015: (i) Draft Law on public procurement (L628/23.11.2015); (ii) Draft Law on sector-specific procurement (L627/23.11.2015); (iii) Draft Law on concession contracts for public works or services (L630/23.11.2015); (iv) Draft Law laying down remedies and means of redress in relation to the award of public procurement contracts, sector-specific procurement contracts and concession contracts, and on the organisation and functioning of the National Complaint Resolution Council (L629/23.11.2015). The legislative package is currently under debate by the competent committees of the Romanian Senate. 2. In 2015, the National Integrity Agency (ANI), an institution with exclusive powers in the field of detecting incompatibilities, administrative conflicts of interest and unjustified wealth, continued its activities under PREVENT, the integrated information system used for preventing conflicts of interest in public procurement. The project was launched in 2014. The draft law has been approved by the Chamber of Deputies and is currently under debate by the relevant committees of the Romanian Senate. Technically, the PREVENT program has been finalised and tested successfully. 3. DLAF was also a member of the working group created by ANI to prepare the draft (PREVENT) law setting up a mechanism to prevent conflicts of interest in all public procurement procedures by putting an information system (interconnecting databases) in place.
SI	The Ministry of Public Administration took into account the need to increase transparency and reduce corruption risks when drafting the new Public Procurement Act (ZJN-3) was being drafted. The act was passed in the National Assembly on 18 November 2015, published in the Official Gazette of Slovenia (No 91/15). ZJN-3 will apply as of 1 April 2016 and thus ensure the timely transposition of the most recent directives into national law. In order to reduce the possible risk of corruption, ZJN-3 introduces stricter provisions regarding the prevention of conflicts of interest.

	Specifically, the Act requires any person responsible for a public procurement procedure to send — ahead of the award of the public contract — a written notice informing all parties involved in drawing up the documentation or parts thereof or in decision-making at any level of the selected contractor. Moreover, where the person responsible for the public procurement procedure has any direct or indirect ties with the selected contractor or any private, financial or economic interest that could affect its objectivity and impartiality in administering the procurement procedure or raise doubts as to its objectivity and impartiality, such a person must immediately notify the contracting authority of the conflict in writing and proceed as instructed. The head of the contracting authority must ensure in this context that any tasks are carried out in keeping with the law and impartially. ZJN-3 therefore provides that a direct or indirect link exists between a tenderer and the person responsible for the public procurement procedure if the latter is married to the tenderer or his/her registered partner or same-sex partner, or a member of the same household, or direct blood relative or collateral blood relative to the third degree inclusive, or relative by affinity to the second degree inclusive, or adoptive parent, adopted child, foster parent, foster child, or has business or labour relations with the tenderer or the tenderer's partner whose shareholding exceeds 5 % or the tenderer's legal representative or authorised signatory. In the previous version of the Act, the 5 % share was set at 25 %. ZJN-3 also provides that the contracting authority may disqualify any tenderer attempting to unduly influence its decision, without the need to specify this caveat beforehand. ZJN-3 further provides for the possibility of prior cooperation of candidates and tenderers, stipulating that where a candidate, tenderer or an enterprise related to the candidate or the tenderer has conducted preliminary market research for the contracting authority or has been in any way been involved in organising the public procurement procedure, the contracting authority must take all action necessary to ensure that the presence of that candidate or tenderer does not distort competition. These measures include the communication to the other candidates and tenderers of relevant information exchanged in the context of or resulting from the involvement of the candidate or tenderer in the preparation of the procurement procedure and the fixing of suitable time limits for the receipt of tenders. The Slovenian authorities are convinced that greater transparency significantly contributes to reducing corruption risks. In this respect ZJN-3 lays down a new obligation for public contracts that are exempt from public procurement procedures, making it mandatory to annually publish not only statistical data but also the details of all entities awarded a public contract valued at more than EUR 10 000, along with the subject of the contract and the exact price paid. From now on, all decisions to award a public contract and any notices of changes to the contract after signing will be published on the portal [sic]. The Ministry has also developed a major project on increasing transparency in

	public procurement. It is an IT solution called STATIST and available to the general public as of January 2016. STATIST is the first integrated, first-hand and updatable database of public contracts awarded in Slovenia. It contains details of every public procurement procedure since 1 January 2013, which can be searched according to a variety of criteria. The application displays, in terms of contract value, a list of the ten largest contracting entities, a list of the ten largest tenderers, a list of the ten areas in which most contracts were awarded, and the legal basis for awarding the contracts. Data can be exported in cvs format, which supports multiple uses. All the data displayed on the screen can be saved in pdf document. Transparency in public procurement has also increased by an upgrade of the Public Procurement Portal allowing users to access, as of 25 May 2015, information about public contracts, concessions and public-private partnerships (the legal basis for this is Article 10a(5) of the Access to Public Information Act – ZDIJZ). Since 25 May 2015 public contracts can be accessed through the Public procurement Portal: http://www.enarocanje.si/objavapogodb/iskalnik.aspx The amended version of the Access to Public Information Act (ZDIJZ-C) provides for greater transparency on the part of contracting entities engaging in public procurement. ZDIJZ-C requires all public entities bound by this act and appearing as contract authorities, concession grantors or public partners to publish, within 48 days of awarding a public contract or a concession, or selecting a partner in a PPP, any public information contained in the contract that they have concluded. These legal provisions are aimed at improving transparency in the use of public funds for public contracts, and follow the principles already established within the OECD and the Open Government Partnership. Indeed, one of the main recommendations from these organisations concerns a proactive approach to publishing the key documents and data on public contracts online.
SK	The transposition of the Directives on public procurement has provided each Member State with the possibility to enhance transparency in public procurement, inter alia, by the definition of conflict of interest in public procurement. On 28 May 2015, a new draft of the proposal for the bill on public procurement was submitted by the Government of the Slovak Republic to the National Council of the Slovak Republic (i.e. Slovakian Parliament) for adoption. The latest EU Directives on public procurement have been transposed into the wording of the bill. On 18 November 2015, the Slovakian Parliament approved the Government's proposal for a new bill on public procurement that entered

	into force on 18 April 2016. The latest Public Procurement Act contains a definition of conflict of interest, sets out appropriate ways for its elimination from the procurement process and also includes other steps that shall be applied by the contracting authority should the authority fail to eliminate conflicts of interest from the public procurement procedure. At the same time, on 6 May 2015, the Public Procurement Office issued an Interpretative Notice No 3/2015 of 6 May 2015 to the assessment of potential conflicts of interests between the contracting authority, contracting entity, the person specified in § 7 of the Public Procurement Act and the tenderer. The Interpretative Notice is published on the Public Procurement Office's website. The idea of this Interpretative Notice is that the Public Procurement Office recommends the contracting authorities, contracting entities and the persons specified in § 7 of the Public Procurement Act to always address, in the public procurement notice, the existence of a potential conflict of interest that could distort or restrict fair competition. It also recommends them to take appropriate measures to ensure that potential conflicts of interest are avoided. At the same time, the Office suggests that, as a further action taken for the purpose of proper assessment of the existence of a conflict of interests in the public procurement that is under inspection, each file shall also include a "conflict of interest form" comprising information on the evaluation of the existence of a potential conflict of interests in the public procurement that was subject to checks carried out by the Office. The Slovak Procurement Office's Interpretative Notice No 3/2015 of 5 June 2015 is available to both the general public and the professional public on http://www.uvo.gov.sk/app/Lists/file/row/132/col/col_1. The need to specify the conflict of interest in public procurement more precisely was implied by the Decision (EC) No C (2013) 9527 of 19 December 2013 on the setting out and approval of the guidelines for determining financial corrections to be made by the Commission to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement. That Commission Decision and individual types of non-compliance with the rules and principles of public procurement were transposed into the Central Coordination Authority's Methodological Guidance No 5 for determining financial corrections to be made by the managing authority in the case of non-compliance with the rules and procedures of public procurement. This Methodological Guidance defines conflicts of interest in a similar vein: "A conflict of interests between the contracting authority/beneficiary and the tenderer or the candidate has been established by the competent judicial or official body". Since in the context of the Slovak Republic, however, after the adoption of the Commission Decision No C (2013) 9527, there was neither definition of conflict of interests in public procurement nor a designated competent official

	body authorised to confirm the existence of a conflict of interests, the Central Coordination Authority (hereafter "CCA") issued the Methodological Guidance No 13 of 18 March 2015 for the assessment of conflict of interests in the process of public procurement for the PP 2014-2020. The aim of that Methodological Guidance was to define the concept of "conflict of interests", and to determine basic rules binding for the managing authorities responsible for the implementation of the operational programmes within the PP 2014-2020. These authorities are obliged to follow these rules when identifying and assessing conflicts of interest in public procurement. The concept of conflict of interests shall at least cover any situation where the persons on the part of the contracting authority, who are involved in the conduct of the procurement procedure, could influence the outcome of that procedure (regardless those persons are involved) have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. The Methodological Guidance applies solely to situations of conflict of interests at the level of the contracting authority and the tenderer/candidate. At the same time, the Methodological Guidance specifies the official body that is authorised to assess the area defined by a conflict of interests in public procurement. The designated bodies include the Public Procurement Office and, in certain cases, a managing authority. The Methodological Guidance also sets out an administrative procedure for the identification of potential conflicts of interests. It includes the specification of the most frequent forms of linkages and their traces in the procurement documentation. That Methodological Guidance contributes to prevention through the identification of the findings relating to conflicts of interest and provides managing authorities with guidance on how to effectively tackle a potential conflict of interests. An Annex to the CCA's Methodological Guidance contains a practical guide for managers issued by OLAF, which includes additional information on various forms of linkages and prevention thereto. In order to avoid a conflict of interests, the managing authorities, with a view to their previous practice, experience and the specificities of an operational programme, shall be obliged to implement the rules, procedures and recommendations in relation to the recipients/applicants. At the same time, it is necessary to specify requirements and the scope of verification of the conflict of interests. It is also recommended that all staff carrying out checks of the procurement procedures have a sufficient knowledge of a list of "red flags" that can be used to identify situations where a conflict of interests occurs. The CAA's Methodological Guidance recommends that the managing authority should require the beneficiary to submit, within the public procurement, the documentation that shall include a solemn declaration on the exclusion of a conflict of interests, with the caveat that should a conflict of interests be established in the future (ex post), the financial correction of up to 100 % shall be determined for the public

	procurement concerned.
FI	Ministry of Employment and the Economy: under the new procurement legislation, Finland will bring into force the obligations pursuant to the new Procurement Directive relating to the conflicts of interest referred to above as well as any other obligations under the Directive. No further regulation is envisaged in this respect. In Finland, disqualification is governed by a number of special laws. As regards administration, provisions on disqualification are contained in Sections 27-30 of the Administrative Procedure Act. The Act also concerns decision-making related to procurement, and it is already applied to procurement by authorities. Effective means of legal protection and redress are already in place under the Procurement Act and the Administrative Procedure Act. Once the Procurement Act has been adopted, its implementation will be notified to the Commission in the normal manner as required by the Directive. Since a comparative table, among other things, is required under the Directive, such a table will be included in the notification to the Commission. Finnish Agency for Rural Affairs (MAVI): a number of measures related to aid administered by MAVI are subject to Finnish legislation on the disqualification of an official, which lays down provisions on conflicts of interest involving contracting authorities. In connection with the national implementation of the procurement directives, the national legislator will consider how conflict of interests will be taken into account in the procurement procedure. MAVI will continue to issue instructions and regulations and carry out monitoring to ensure that the administration of aid complies with the requirements of existing legislation.
SE	In the legislative proposal implementing the new Directive on Public Procurement (201/24/EU), the Swedish government has made the assessment that Sweden fulfills the requirements of rules on conflict of interest in Article 24 of the Directive. According to its assessment it is neither necessary nor appropriate to include the special regulations on disqualification due to conflicts of interest. The Directive requires Member States to ensure that contracting authorities prevent, identify and remedy conflicts of interest that arise during the contract. There is no requirement for this to be done in the provisions of the procurement legislation. The situations of

	prohibited conflicts of interest that are identified in the Directive must be cared for in national law. Quite irrespective of the regulation on conflicts of interest of the Directive, it should be pointed out, that each contracting authority shall observe the basic principles of public procurement, i.a. the principle of equality, which includes a ban on taking irrelevant considerations. It follows from this principle that the authority is obliged to control whether there are any conflicts of interest and to take appropriate measures to prevent and detect such conflicts and to resolve them (cf C-538/123, eViglio, p. 42 and 47). The Administrative Procedure Act (1986:223), section 11, regulates the different legal bases for disqualification. Section 12 regulates the legal consequences of such disqualification. The Administrative rules of disqualification mentioned above are applicable to a large extent in public procurement and are more comprehensive than the provisions on conflicts of interest in the Directives. The Swedish government has decided that conflict of interest issues should not be regulated differently in procurement legislation than in other respects governed by the Administrative Procedure Act. Such legislation could cause uncertainty to the contracting authorities applying the provisions, since the provisions of the Administrative Procedure Act are subsidiary to the inconsistent provisions of any other law or regulation (section 3 of the Administrative Procedure Act). It would, inter alia, seem unclear if the rules only supplement or if they completely replace the Administrative rules of disqualification. Municipal authorities are not obliged to apply the Administrative Procedure Act, but they should apply the rules on conflicts of interest set out in the Local Government Act (1991:900). The provisions are adapted to local conditions and do not completely correspond to the Administrative regulations, but when it comes to procurement it meets the requirements of the Directives on the provisions that are focused on the 'financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure'. Accordingly, the Swedish government has concluded that no additional provisions on conflicts of interest in the public procurement

	legislation are necessary to fulfil the purpose of the corresponding provisions of the Directive.
UK	On conflicts of interest The UK government has implemented The Public Contracts Regulations 2015, which provides for 'appropriate measures to effectively prevent, identify and remedy conflicts of interest'. The UK Government implemented the new procurement Directive in February 2015, 14 months earlier than the transposition deadline of April 2016, in order to realise as early as possible the economic benefits of the new improved rules regime. Part 24 of the Public Contracts Regulations 2015 imposes a legally binding duty on UK contracting authorities to take appropriate measures to effectively prevent, identify and remedy conflicts of interest. It also includes the definition of conflicts of interest, please see: http://www.legislation.gov.uk/uksi/2015/102/contents/made The Regulation was subject to public consultation. The UK government also supported the implementation of the new rules with the roll-out of a blended learning package, including free face-to-face training for 4000 procurement staff, an e-learning package, and various on-line guidance resources, see: https://www.gov.uk/guidance/transposing-eu-procurement-directives To tackle conflicts of interest, the Government has placed a general obligation on all Government officials to use public money responsibly. All Government departments must ensure that funds raised using powers agreed by Parliament are well managed and spent wisely. In HMRC for example, the Commercial Directorate's guidelines set out procurement activities, checks and procedures, and relevant financial delegated authorisation limits. Specifically, guidance was provided with examples of good practice, such as where declarations are signed by procurement staff to confirm they have no outside interests with bidders. The regulations were not gold-plated

	with prescriptive rules on how contracting authorities should prevent conflicts of interest in order to avoid 'box-ticking' and encourage an outcomes-based approach. The UK also submitted a paper on managing conflicts of interest to COCOLAF which gives further detail on measures undertaken. General information on UK public procurement policy In terms of sourcing public sector goods and services, the Crown Commercial Service (CCS) is a Cabinet Office government agency which provides a central procurement service. It brings together policy, advice and direct buying, providing commercial services to the public sector and saving money for the taxpayer. In addition to expertise of CCS within individual Government departments, there are specialised procurement personnel or units to help identify and remedy conflicts of interest. In some departments, for example, HMRC (Her Majesty's Revenue and Customs, which deals with VAT and customs), there is an internal Commercial Directorate which provides comprehensive procurement, contract management and commercial risk management services. In other departments, CCS provides a fully managed commercial service and therefore do not require an internal commercial function. Information on all procurement spending over £25,000 is published on www.data.gov.uk. Information on all awarded contracts over £10,000 is published on the Contracts Finder website, a government portal which allows applicants to search for tenders for government contracts worth between £10,000 - £100,000. Awarded contracts of any value may also be published here. All commercial opportunities worth more than £10,000 are advertised on TED/Contract Finder/OJEU and all appropriate commercial publications (e.g. trade journals). More information on the UK Government's procurement process is available via GOV.UK website: https://www.gov.uk/government/organisations/cabinet-office/about/procurement

	https://www.gov.uk/guidance/public-sector-procurement-policy

2.2. Increasing detection: results and open issues

2.2.1. Expenditure

On the expenditure side, the fluctuation in the number of fraudulent irregularities reported over the last five years is difficult to interpret. However, apart from the years 2011 and 2012, the amounts concerned have remained relatively stable. This might reflect the fact that most spending programmes are multi-annual and the level of detection follows their cyclical nature.

The role of Managing and Paying Authorities in detecting fraud has grown since 2012 and should be further enhanced in the coming years, pursuant to the new regulatory framework for the period 2014-2020.

Fraud detection practices still differ between Member States and the Commission is concerned about the low number of potentially fraudulent irregularities reported by some countries. However, the number of Member States which report no, or very few, fraudulent cases has fallen in recent years. The Commission will continue to provide guidelines to improve the convergence of national systems and to raise awareness of fraud, in order to protect the EU's financial interests more efficiently.

In 2014, Italy and Romania were the most effective countries in detecting potential fraud in the agriculture sector[37]. Germany, Poland and the Czech Republic were the most effective in the cohesion policy area.

Overall, Germany was the most effective Member State regarding the detection of fraud.

Recommendation 3

As some Member States continue to report a very low number of fraudulent irregularities, the Commission recommends strengthening their work in relation to detecting and/or reporting fraud, in particular, as they have not reported any over the last five years:

- **in the area of agriculture: Slovakia and Finland.**

[37] Hungary reported the highest number of fraudulent irregularities uncovered during the course of an OLAF investigation.

- **in the area of cohesion policy: Denmark and Luxembourg.**

The Commission takes note of progress made in reporting by some Member States, such as France and Spain in the cohesion policy area, but believes that there is still considerable room for improvement.

Although satisfactory, the quality of the reported irregularities could be further improved, in particular in relation to the classification of fraudulent irregularities and the timing of reporting, as highlighted by the analysis of the Member States' replies to the questionnaire.

Given the new rules on the reporting of irregularities currently being adopted, and the remaining areas for improvement identified by the Commission following analysis of the information provided by the Member States, the Commission will prepare a working document on the practicalities of the reporting of irregularities, in close cooperation with the Member States.

BE	No information provided.
BG	No information provided.
CZ	Regarding the number of reported fraudulent irregularities in expenditures, the Czech Republic reported 3 established fraud cases and 43 suspected fraud cases in 2015. The Czech AFCOS team collaborated with all involved offices so as to improve the auditors' and inspectors' knowledge of frauds and suspected activities in order to develop efficient detection of suspicious activities and legal classification of these activities (conference of the Czech AFCOS department in September 2015). The Customs Administration of the Czech Republic actively uses the RIF system, which is also used by the other EU members. In 2015, the Customs Administration of the Czech Republic processed 5 records into the RIF system. This means that the Customs Administration made 2000 records of documents in total. These records included our own cases which had been detected in the Czech Republic, as well as a response

	to external records that had been inserted into the RIF system (evaluation and feedback). The external records inserted into the RIF system are subsequently used for assessment and creation of risk profiles. These risk profiles are regularly internally evaluated, and the risk assessment is inserted back into the RIF system.
DK	All irregularities are reported to OLAF in accordance with the applicable rules. The management authority has an internal procedure for the use of reports to ensure uniform access for treatment of Regional-Fund and Social-Fund cases. On the basis of the anti-fraud action plan drawn up by the management authority in accordance with Article 125(4)(c) of Regulation (EU) No 1303/2013, a large number of preventive measures were launched to fight fraud. An anti-fraud policy was drawn up. Among other things, it contains contact details for the management authority that can be used when fraud is suspected. The policy is distributed to all beneficiaries in connection with EU co-financing contracts and can also be found on the Danish Business Authority's website www.regionalt.dk. In order to strengthen the measures for the detection of fraud, a presentation was held for all the case handlers at the management authority and the certifying authority, to raise awareness about signs of fraud. In addition, an organisation was established within the management authority that will ensure an enhanced and consistent evaluation of cases of suspected fraud. Preventive administrative checks relating to fraud have been organised. Among other things, a chief auditor has been appointed responsible for monitoring the administrative capacities and the inspection environment in the projects. Furthermore, all applications for payment are signed and in that way approved by the auditor before evaluation of the case can proceed and payment can be made by the management authority. In addition, the management authority's on-the-spot checks are organised by random project selection combined with risk-based selection on the basis of identified irregularities. In 2015, a case of suspected fraud was reported that was handed over to SØIK (the Public Prosecutor for Serious Economic and International Crime). The Danish Business Authority continues to be of the view that Regional-Fund projects and Social-Fund projects in Denmark have a very low

	rate of fraudulent irregularity.
DE	Not applicable to Germany.
EE	Estonia's statistics on fraudulent irregularities are average. There were new cases of suspected fraud and the cases were finalised with a court decision in 2015. Estonia detects, investigates and solves cases because they have close and effective cooperation with the investigative institutions.
IE	No information provided.
EL	**ENTITY** **Ministry of Finance / State General Accounts Office / Fiscal Audit Committee (EDEL) / Directorate for Planning and Assessment of** The EDEL, through system checks carried out on managing authorities and intermediate management bodies, gives recommendations/instructions for the effective operation of the management and control system, which, *inter alia*, are aimed at the timely prevention and/or the effective detection of cases of fraud. In addition, if checks on transactions identify a similar suspicion, the EDEL communicates the results of the audit report to the Public Administration Inspectorate and, where appropriate, to the public prosecution authorities. As regards the communication of cases of fraud or suspected fraud, 40 cases of suspected fraud have been communicated to OLAF since 2012. In addition, training courses on fraud-related issues are being offered to the managing authorities.

	Audits **Ministry of Rural Development and Food / Directorate for Legislative Initiative and Management of Infringements**	In seeking to safeguard the Community's financial interests and ensure the verification of compliance with the conditions for granting aid, the departments of the Ministry of Rural Development and Food and the Paying Agency have adopted a series of measures and control procedures (e.g. administrative, on-site and central administrative computerised checks, including cross-checks) which contribute positively to the detection and prevention of irregularities and also the timely detection of cases of fraud before payment of the aid. Those checks have identified a number of irregularities and cases of suspected fraud. In particular, as regards agricultural funds: • in 2011, nine cases of suspected fraud were communicated to OLAF • in 2012, four cases of suspected fraud were communicated to OLAF • in 2013, 21 cases of suspected fraud and one case of fraud were communicated to OLAF • in 2014, 13 cases of suspected fraud were communicated to OLAF
ES	One of the possible areas that could be improved in terms of detecting and reporting suspected instances of fraud stems from the fact that the national authorities responsible for reporting irregularities do not always have clear criteria that they can use to determine whether an irregularity actually constitutes fraud or what the impact will be if the irregularity is classified as fraud. Nor is a system available for them to consult in order to resolve any queries they may have. In this regard, and as a specific measure that builds on the efforts already made by Spain in this area in relation to cohesion policy, we would highlight the creation of the Advisory Council for Preventing and Combating EU-related Fraud. One of the specific tasks entrusted to the	

	Council is to '*Help the National Anti-Fraud Coordination Service set out general criteria and establish procedures for handling specific cases of suspected fraud, as well as the procedures to be followed in each case depending on the particular circumstances in each individual case*'. As a result, this should provide a framework for drawing up recommendations or circulars - based on the OLAF guidelines - to send to managing, certifying and audit authorities so as to clearly define when an irregularity constitutes fraud, what the impact will be if the irregularity is classified as fraud and what procedure to follow in these cases. Furthermore, a system is due to be set up so that the authorities mentioned above can ask questions and receive answers regarding specific cases where they are unsure if the case in question constitutes fraud. At the time of writing, the National Anti-Fraud Coordination Service is drafting a briefing note regarding the reporting of suspected fraud in cases where legal proceedings are on-going.
FR	In response to recommendation No 3 on the notification of fraudulent irregularity and proposing further efforts in the detection and/or reporting of fraud, the French authorities have carried out the following measures: The **Inter-ministerial Commission for the Coordination of Inspections [Commission interministérielle de coordination des contrôles - CICC], France's audit authority for European structural funds,** continued in 2015 the efforts already begun in 2014: Thus, the CICC drew attention to the requirements related to the reporting of irregularities and allegations of fraud to OLAF in the handbook that it draws up every year for its operations controllers and that acts as their instructions for the smooth progress of their operational inspections. In addition, as part of the training seminar for operations controllers, CICC invited an OLAF representative to come and present the Commission's expectations with respect to the fight against fraud under the Structural Funds. There was also a presentation on the tools developed by OLAF for the detection of fraud during an audit mission. The supporting materials were widely distributed. - Moreover, **the Inter-ministerial Commission for the Coordination of Inspections of the operations of the European Agricultural Guarantee Funds (EAGF) and of their beneficiaries and those liable to make payment into them [Commission interministérielle de**

	coordination des contrôles sur les opérations et les bénéficiaires et redevables relevant des fonds communautaires agricoles de garantie (CICC- FEAGA)] is engaged in an on-going process to improve the detection and prevention of fraud. In particular, it does this by means of a risk assessment that it conducts every year and submits to the European Commission and that influences the EAGF ex-post inspection programme that is set up each year. This risk assessment takes into account several parameters, including the agricultural aid measures themselves, the amount of aid paid, and the outcome of previous checks. It helps to better predict and target cases where irregularities are most likely, thereby improving fraud prevention and detection. In addition, as part of their training, newcomers to the 'Mission COSA' inspection body (COSA - contrôle des opérations dans le secteur agricole - 'operations in the agricultural sector'), to which CICC-FEAGA entrusts most of the ex-post inspections, are made aware of the prevention and detection of 'suspected fraud'. The suspected fraud is then reported to the Public Prosecutor under Article 40 of the Code of Criminal Procedure, who alone in France is authorised to describe something as a fraudulent irregularity. Acting as a cross-fund coordination authority, the **Office of the Commissioner General for Territorial Equality [Commissariat Général à l'Egalité des Territoires - CGET]** and the European Commission set up training sessions on the ARACHNE tool for the French authorities. During these sessions, the different features of the tool were presented to the authorities that would decide to make use of it. The sessions also provided the chance to discuss and raise awareness about the procedures to be set up in order to detect and prevent fraud. In this context, there were regular exchanges with the European Commission. Finally, they were sent working documents and a list of questions, covering in particular subjects such as the content of ARACHNE, but also fraud detection. The CICC **(CICC-Structural Fund and CICC-FEAGA)** also took part in training courses organised by the Commission in order to master the tools that it had developed and that it proposes Member States should use, in particular for the ARACHNE system and the IMS (Irregularity Management System) registration mechanism. In both cases, members of the CICC administrative team with responsibility for these issues took part in the training. Since 2013, the CGET has set up an inter-fund working group on the regulation, management and monitoring of European Structural and Investment Funds, with a view to securing the management of European funds in France. In this context, several working documents have been produced that provide tools to assist the implementation and securing of the funds in France. The CGET is also leading a 'Preventing and fighting fraud' working group in connection with the management of European programmes. This group makes it possible to reconsider the

	regulatory requirements to which the management authorities must adhere. But the group also helps to circulate exchanges and best practices on the measures to be implemented regarding the detection and reporting of fraud. Where needed, the CGET takes part in network meetings on the subject of fighting and preventing fraud. This largely helps to raise the awareness of the management authorities about related issues. The CGET also supports the management authorities by responding directly to their requests (internal inspection, conflict of interest, whistle-blowers...) but also by drawing up documents to which they can refer, such as: the note recommending use of the ARACHNE tool. Finally, the national technical assistance programme 2014-2020 plans to fund training courses for programme management authorities, certification authorities and audit authorities on different areas, including public procurement. In this context, a national-level working group was set up in order to organise the implementation of these training courses, in particular in the following areas: • the applicable rules on public procurement; • the main irregularities detected and the financial corrections to be applied; • practical inspection exercises on public procurement. Finally, and more generally, in 2015 **the agricultural aid-paying agencies** (FranceAgriMer - FAM, Services and Payment Agency [Agence de services et de paiement - ASP]) bolstered their internal inspection action plan with anti-fraud actions (awareness-raising actions for agents, educational activities: analysis of fraud cases encountered and exchanges on these cases...). More specifically for FAM, a memorandum stressing the sensitive nature of the subject of 'fraud', and describing the action plan to be deployed, was circulated to all staff on 16 June 2015. It was accompanied by a memorandum on the establishment's internal inspection policy and by an introduction to the elements of the plan. Between now and the end of the first quarter of 2016, the specific actions thus identified will all have been taken. In addition, the **administrative simplification actions taken in France** led to the adoption of Order No 2015-507 of 7 May 2015 adjusting professional secrecy in information exchange between administrative authorities and ending the production of supporting

	documents[38]: From now on, the authorities will share with each other the information that they used to request repeatedly from companies/applicants/beneficiaries for every procedure. A decree will lay down the list of documents that the companies/applicants/beneficiaries will thus no longer have to produce. Thanks to the order, data exchange between authorities will make it possible, for example, to simplify the formalities for public procurement, aid files, grant applications, authorisations and declarations of various activities, agricultural procedures, environmental procedures, customs procedures, and procedures related to employment and vocational training. As a result, the work undertaken by the Secretariat-General for the Modernisation of Public Action makes it possible to progress quickly in making available information that is held by the administration and that was hitherto provided by the applicant/beneficiary. **This opening up of data between authorities significantly reduces the risks of fraud where the situation of the applicant and compliance with eligibility criteria are concerned**: The information, data, or document directly exchanged between the authorities in a secure system cannot be altered or modified to obtain a special advantage. **A decree laying down the list of supporting documents concerned should be published by the end of 2015.** FranceAgriMer (with SG-MAP) has experimented with the system since the first workshops, and is including the data or documents necessary

[38] Order No 2015-507 of 7 May 2015 thus amends Article 16a of the law of 12 April 2000.

1° A sentence that reads as follows has been added to the first paragraph of section I: *'The administrative authorities that receive this information or data may not, as regards companies, invoke professional secrecy once they are conducting duties that have been entrusted to them by legal or regulatory provisions and are authorised to have access to information or data exchanged in this way.'*

2 After section II, there follows a section III, worded as follows: *'III - When the information or data necessary to deal with a request made by a company, or the declaration made by a company, can be obtained directly from another administrative authority under the conditions laid down in I, a declaration on the honour of the company representative concerning the accuracy of the declared information replaces the production of supporting documents. A decree lays down the list of documents that the companies no longer have to produce.'*

	to support the aid files as they become available.
HR	As regards reporting on fraudulent irregularities, the Republic of Croatia fulfills its obligation by having all necessary tools and mechanisms in place (legal basis /institutional set up, guidelines, procedures, regular meetings /round tables of the AFCOS Network, continuous maintaining of the AFIS-IMS). In order to update and improve the Guidelines for managing irregularities and fraud in the context of EU Structural Instruments environment (programming period 2007 – 2013) from 17 April 2014, SCIF drafted Guidelines for managing irregularities and fraud in the context of EU Structural Instruments environment (programming period 2007 – 2013) and for ESI Funds (programming period 2014 – 2020) (Guidelines). Guidelines were adopted by Minister of Finance on 13 August 2015 and are integrated within Manuals of procedure of Irregularity Reporting System bodies. Guidelines describe the methodology for comprehensive process of irregularity management, particularly for prevention, detection, treatment and reporting of irregularities and provide with the more detailed instructions for activities of irregularity management process and examples of the cases thereof. The Guidelines are targeted at development of coherent practice in application of legal framework and further clarifications for handling fraud cases within projects financed from EU Structural Instruments environment (programming period 2007 – 2013) and for ESI Funds (programming period 2014 – 2020).
IT	No information provided.
CY	No information provided.
LV	No information provided.
LT	No information provided.
LU	Luxembourg is committed to the effective protection of the EU's financial interests. The recommendations to the Commission's report on the protection of the EU's financial interests have therefore been discussed with all the relevant stakeholders and are going to be taken into account

<table>
<tr><td></td><td>in the national anti-fraud strategy that Luxembourg is currently devising. A first meeting that brought together all the relevant authorities involved in managing EU funds had taken place. Luxembourg intends to have such meetings on a regular basis in order to have a structured coordination.</td></tr>
<tr><td>HU</td><td>No information provided.</td></tr>
<tr><td>MT</td><td>No information provided.</td></tr>
<tr><td>NL</td><td>Not applicable in Netherlands.</td></tr>
<tr><td>AT</td><td>No information provided</td></tr>
<tr><td>PL</td><td>No information provided.</td></tr>
<tr><td>PT</td><td>Although this recommendation is not addressed to Portugal, the national authorities wish to highlight the efforts made to step up efforts to detect and report cases of irregularities with indications of fraud.

Last year there was an increase in the reporting of irregularities with indications of fraud by Portugal in the area of cohesion policy (including the EFF). Between the first and third quarters of 2015, 19 cases out of a total of 233 were reported, which is far higher than in previous years.

<table>
<tr><td></td><td colspan="6">PP 2007 - 2014 Indications of Fraud</td><td></td></tr>
<tr><td>Figures from Public Prosecutor's</td><td>CF</td><td>ERDF</td><td>EFF</td><td>IF</td><td>ESF</td><td>GRAND</td><td></td></tr>
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Office						TOTAL	
2010							
2011					2	2	
2012		1	1	1	4	7	
2013					4	4	
2014			1	1		2	
2015			7	6	6	19	*
Grand Total		**1**	**9**	**8**	**16**	**34**	
*includes 3 cases involving 81 projects (OLAF investigation)							

The ESF continues to play a bigger role - it was the main source of detection at management level. Besides stepping up administrative and on-the-spot checks, cross-checks of suppliers also made a major contribution.

	In this connection, it is worth stressing the importance of closer cooperation between the authorities where beneficiaries and suppliers are located in several Member States. The legal and institutional structures have been set up to that end by designating the respective AFCOS.
RO	No information provided.
SI	Slovenia routinely reports irregularities, some of which are also labelled as cases of suspected fraud. Slovenia as a country is not exposed in this respect. We therefore take the view that a reply is not needed, since we comply with the recommendation on reporting and classification of reports.
SK	As of 1 January 2015, the Slovak Republic has changed the methodology for the moment of determining the IRQ2 and IRQ3 qualification, which was done through a more detailed definition of the first administrative and judicial finding (PACA) in the context of the Slovak Republic, which was reflected in the higher number of identified fraudulent irregularities and, proportionally, the increased number of fraudulent irregularities reported to the Commission, both in the agricultural and structural measures. The Agricultural Paying Agency also changed the methodology for reporting irregularities qualified as being IRQ3. Therefore, it has amended its internal methodological procedures, i.e. it updated the provisions on the identification, processing and reporting of irregularities qualified as being IRQ3, within the paying agency, in its Directive No 5/2015 of 13 August 2015 on addressing the irregularities and the recovery of funds. This Directive provides the basic framework for addressing the problem. The procedures for addressing the issues of detection and subsequent treatment of irregularities qualified as being IRQ3 have also been updated in the Manual of 15 September 2015 of the Payments Section's Division of Irregularities and Debts Administration of the Agricultural Paying Agency. In 2015, according to the latest data, the competent departments registered in the AGIS/MFR 44 cases of irregularities qualified as being IRQ3, in the total granted amount of EUR 2 998 396.74. The methodology developed by the Deloitte Audit s. r. o. company to address the issue of fraud and fraudulent conduct has the following

	breakdown: 01 The methodology for the detection and prevention of fraud 2015 PPA 02 Guides for the fraud risk self-assessment, including a matrix of fraud risks 2015 PPA 03 The fraud risks matrix – Instructions for the completion of the form 04 Matrix of fraud risks 05 The list of recommendations for the prevention of fraud The methodology has been drawn up following the implementation contract No OVO1-2015-000121-063 "Provision of professional consultancy services for the Ministry of Agriculture and Rural Development of the Slovak Republic in its capacity as managing authority for the Programme of Rural Development of the Slovak Republic 2014-2020, and the services related to the accreditation of the Agricultural Paying Agency for new funding and procedures within the framework of the European Agricultural Fund for Rural Development and the European Agricultural Guarantee Fund", in particular, point 6 of Annex 1 to the Contract – "The risk analysis with a focus on the prevention of fraudulent conduct in project and non-project funding and proposal for the methodology for fraud prevention and detection". By 23 November 2015, the competent PPA service, i.e. Internal Control Department, reported 9 cases of suspected fraud to the law-enforcement authorities of the Slovak Republic.
FI	In 2015, MAVI took a number of measures to prevent and fight more efficiently against fraud. It has drawn up a fraud control plan, organised training on fraud control and reporting within the Paying Agency and for all the entities handling delegated tasks, identified fraud risks related to the different aid schemes managed by it, and actively distributed anti-fraud information to all the entities carrying out Paying Agency tasks. MAVI/Finland considers that effective national legislation and effective management and control systems in combination with the local knowledge of regional authorities have produced and will continue to produce results specifically in the field of fraud control.

SE	No information provided.
UK	No information provided.

2.2.2. Revenue: Updating control strategies

In 2014, on the revenue side, the number of detected irregularities and, in particular, the level of the established amounts increased significantly in comparison with previous years. Considering the risks of cross-border fraud, the Commission believes that close cooperation between the Member States and exchange of information beyond the borders for purposes of customs controls is to be welcomed. Exchange of information on customs transactions, economic operators or debts should ensure that all customs transactions and economic operators are included in the populations for post-clearance controls, regardless of the place of physical importation of goods, or the place where the economic operator is located. Information received from other Member States should be integral to risk management and supplement the national populations used for risk management purposes. Absence of such cooperation might result in financial liability in the area of Traditional Own Resources.

Based on the figures for 2014, it can be concluded that cases of fraud and irregularities are detected much more often after the clearance of goods. It should be kept in mind that a combination of different control strategies is required. However, post-clearance controls are the most effective method of detection, both in terms of the number of cases detected and in terms of established amounts. Controls at the time of clearance of goods and inspections carried out by anti-fraud services are crucial to the detection of certain types of existing fraud and new types of fraud.

Furthermore, mutual assistance notices issued following Joint Customs Operations conducted by OLAF are an important source of information for detection of irregularities in transactions involving certain types of goods.

Recommendation 4

To fight customs fraud, Member States are invited to inform the Commission of the measures taken to strengthen cooperation in order to ensure that all transactions, and all economic operators, are included in the population for post-clearance controls, irrespective of whether or

not the importer is located in the Member State of the physical importation. **Considering the decreasing number of customs controls at the time of clearance, Member States are invited to exchange experiences where customs authorities were particularly successful in detecting fraud or irregularities at the time of clearance.**	
BE	The Belgian customs authorities are not taking any specific additional measures based on Commission Recommendation 4. Belgian customs already complies with the recommendation and is the number one in Europe in terms of the GDP to duties collected ratio. Moreover, Belgian customs regrets the fact that financial responsibility is being increasingly shifted onto the Member States, especially in the area of post-clearance controls. In the case of post-clearance controls in particular, it is difficult to recover the duties at issue, often after lengthy fraud investigations. Yet the Commission invariably takes the date when the fraud is discovered as the date when the duties fall due and calculates the late-payment interest from that date. In so doing, the Commission bases itself on the 'own resources' regulation. That regulation is unfair to Member States in several respects and very counter-productive as regards fraud investigations. The Commission has been repeatedly reminded of this by various Member States, but the initiatives it takes with a view to amending the 'own resources' regulation fail to address this problem.
BG	In order to strengthen the cooperation in the fight against fraud, customs officers are using 'MAB mail' more frequently to exchange information on specific cases and investigations, as well as when subsequent inspections are required. Analysis is conducted and risk areas and economic operators are defined for the purposes of carrying out subsequent control on economic operators conducting customs activities within the country. Subsequent inspections are done for economic operators that are not established within the territory of the country but are registered for VAT purposes and conduct customs activities in the country. If necessary, additional information is requested, under international cooperation, from the country where the company is established. Economic operators were selected for inspection after the participation of experts from the Bulgarian customs administration in a joint EU/Turkey mission on administrative cooperation, as well as in response to alerts received via the Anti-Fraud Information System

	(AFIS) from the European Anti-Fraud Office. In most cases, identified risks are confirmed by subsequent control. The selection of economic operators for subsequent control is made entirely within the productive environment of the integrated module 'Subsequent Control'. The module analyses and assesses vast amounts of data, improves the analysis and risk assessment process for the selection of the economic operators to be subjected to control, and automates and supports the activities of the specialised subsequent control units in compliance with customs legislation.
CZ	In 2015 the Customs Administration of the Czech Republic was very active in sharing information between EU Member States regarding conducted inspections following the release of goods. In terms of the Customs 2000 Programme, the members of the Czech Customs Administration visited a few countries (Finland, Lithuania and Germany) in order to develop cooperation between these offices and share information concerning the latest trends in frauds. Bilateral meetings with representatives from Slovakia take place every year. Since 2014, the new expert group for exchanging information in the field of inspections following the release of goods has been established amongst the Visegrad Group (Czech Republic, Slovakia, Poland and Hungary). The main topic of the meetings is the mutual presentation of the most interesting fraud cases that are detected during the inspections following the release of goods. The aforementioned sharing of information is used for establishing whether similar fraud cases were committed in other countries. In many cases in which inspections were conducted on a suspected party, customs debt was assessed, fined, and as a result the suspected party relocated its business activities into other EU member states. Regarding the identification of significant risk during inspections following the release of goods (provided that there is a possibility to create negative fiscal impact on other EU member states) the risk is reported to other EU members by issuing either a RIF or via an AM report to the OLAF office.
DK	As regards the first part of Recommendation 4 on 'measures taken to strengthen cooperation in order to ensure that all transactions, and all economic operators, are included in the populations for post-clearance controls, irrespective of whether or not the importer is located in the Member State of the physical importation. The authorities are invited to exchange experiences from cases where they were particularly

	successful in detecting fraud or irregularities,' Denmark has the following comment: In the Danish Customs and Tax Administration's overall risk assessment of businesses, one of the risk parameters must be designed specifically to ensure that the control also includes all transactions and economic operators. For businesses that have a single authorisation relating to the local clearance procedure, a control plan is prepared between the Member States concerned. As regards the second part of Recommendation 4, which refers to examples concerning physical checks, the following should be noted: In relation to physical checks (at the border), the Danish Customs and Tax Administration has encountered a variety of cases of under-invoicing, where the import was stopped at the border after the Customs and Tax Administration imposed safety conditions before releasing the goods. In two cases, the businesses' first attempts at importing were stopped as a result of risk profiles established in the national risk-analysis system, whereby considerable losses were prevented (the received contract revealed plans for up to 700-1 500 imported containers per year). In the course of January 2016, risk-profiles will be established re: Chapters 61, 62 and 64 in relation to under-invoicing.
DE	The customs administration currently uses the IT tool ATLAS (Automated Tariff and Local Customs Clearance System) for the automated clearance and recording of trade with third countries. This IT tool is used to handle all customs clearance operations required by customs law (both standard and simplified procedures). All the particulars required for the relevant customs procedures are entered in ATLAS and available for the purposes of computerised clearance. This means that the IT application contains complete data on all transactions and economic operators, irrespective of whether or not the importer is located in the Member State of importation. The customs administration uses the clearance data stored in ATLAS for the computerised, risk-oriented selection of operations for post-clearance controls. It should also be noted that both Regulation (EC) No 515/97 and the various EU regulations in the milk and sugar market organisations provide for requests for information and spontaneous reports, enhancing the exchange of information between Member States.

EE	Estonia did not add any functionality to the SELECT system neither changed our working order or legislation in 2015.
IE	In Ireland, electronic systems are used to target risk at pre-clearance, clearance and post clearance. All consignments are subjected to electronic risk analysis which targets all forms of risk including safety and security, financial, prohibitions and restrictions, IPR, fraud etc. Where a consignment is selected for intervention, it will be controlled either on arrival, at clearance or in a post clearance setting. We review our procedures on an on-going basis Counterfeit goods can pose risks to consumers' health and safety and undermine legitimate businesses. In 2015, Revenue interventions under the EU Regulation 608/2013 resulted in 2713 detentions involving 138,182 items. The estimated market value of the genuine equivalents of the detained items was €2.25 million. In addition in 9 joint enforcement operations with the Garda NBCI targeting criminal gangs, importing commercial volumes of counterfeit goods resulted in high volume seizures with an estimated genuine equivalent value of €3.2m. Investigations are on-going in each of the cases. The main categories of goods seized for intellectual property rights infringements included consumer products such as handbags, sports shoes, watches, mobile phones and phone accessories. Furthermore, 2 significant consignments of mis-declared perfumes destined for the Christmas markets were seized to the value of €10m. Cigarettes would also be major value items seized by Customs each year. For 2015 we seized 68M cigarettes at €36M in street price.
EL	**ENTITY** **Ministry of Finance / Secretariat-General for Public Revenue / Directorate-** The relevant customs administration directorate has noted the following: With regard to post-clearance controls, all transactions and economic operators have been included and the relevant profiles imported in the national risk analysis system. In addition, information obtained from different sources and also from the authorities of other Member States is being processed and sufficient checks are being carried out by customs

	General for Customs and Excise	officials. Another circular and a manual concerning the performance of post-clearance controls have been issued and distributed to all customs officials, in order to enhance their efficiency and effectiveness in the performance of their duties. Since October 2015, three additional mobile teams have been activated, dealing *inter alia* with post-clearance controls throughout Greece. Despite their short operational period, they have achieved truly remarkable results. For example, following a coordinated operation between two mobile groups acting in Northern Greece and Athens, a criminal network of illegal bottling and marketing of alcoholic beverages was dismantled. Last year, the Greek customs authorities discovered and seized the following goods at the time of customs clearance: cigarettes declared as wooden furniture, shoes, ornaments, plastic items, sheets, towels, clothes, etc.; counterfeit goods in containers, mixed with other goods or sent by post; CITES products (clothes made of North American lynx/bobcat/*Lynx rufus* fur/skin) hidden in containers between other goods; More CITES products (handbags made of python leather and garments made of North American lynx/bobcat/*Lynx rufus* fur/skin) were also found in the boot of a car traveller. They were also found to be transported as goods in the luggage of airline passengers.
ES	The system of post-clearance checks in Spain does not include any restrictions as regards the operators on which checks can be made. Specifically, there are no legal or administrative rules excluding operators established in other Member States, nor are there any special	

	programmes of checks on operators that are not established in Spain. As such, the same risk factors apply to all operators, although the level of activity of operators not established in Spain is obviously lower, meaning that the likelihood of them being subject to checks is also significantly lower. Furthermore, Regulation No 515/97 on mutual assistance in customs matters is applied. In particular, regular contact is made with our neighbouring countries (France and Portugal), which account for the vast majority of activity carried out in Spain by operators established in other Member States. Regarding the decreasing number of checks made at the time of clearance, Spain is developing IT systems to automatically approve the certificates required for the import of goods. This does not mean that fewer checks will be made, but rather that checks on documents will be replaced by prior approval using the IT system. The Spanish government uses the RIF application to report any detected incidents when these are considered significant. Regarding the recommendation to provide examples of successful operations at the time of clearance, the Commission is aware of the fraud and irregularity cases sent through the OWNRES system, and there is nothing particular to highlight in this regard.
FR	In response to recommendation 7, put forward by the European Commission in its 2012 Annual Report, the French authorities explained in great detail the inspections policy of the General Directorate of Customs and Indirect Taxes (Direction générale des douanes et des droits indirects- DGDDI) and the system that had been put in place as a result. The structure of the organisation that was presented, and which is based on a targeted approach to inspections and preliminary risk assessment, did not undergo any major changes in 2015. The *ex ante* controls are indeed very targeted, but they are supplemented by an *ex post* control system on two levels: Level 1 *ex post* within 4 months after the release warrant of the goods, and *ex post* 2 focused on the fight against fraud over the whole non-time-barred period. **The French customs authorities are involved in informing the other Member States following the detection of fraud and irregularities.** Thus, as regards revenues, the DGDDI reports a growing number of cases of fraud compared to cases of irregularity. This shows - on the one

hand - the dynamism of the customs authorities in terms of controls and observation. On the other hand, the trend reversal is the result of improved classification of reported cases after the distribution of new instructions and the reorganisation of the case-reporting system. Wilful intent has not always been determined when the initial notification document is drawn up, and it is this document that is used to decide whether a case should be reported via OWNRES and the information updated. The services in charge of entering fraud and irregularity reports in OWNRES-Web pay particular attention to this issue.

The appearance of new instructions on RIF (Risk Information Form) messages and on mutual assistance cases in 2015 made it possible to raise awareness among the departments once again about this issue of information transmission between Member States. Several examples of files can be brought up to show the involvement of the French customs authorities:

as part of the SNAKE joint customs operation (JCO), the transmission of RIF messages during investigations made it possible to inform the other Member States of the risk of fraud shifting to other entry points to the EU and to observe operations designed to reduce the customs value;

as part of an investigation into under-valuing, the department observed that part of the consignment cleared customs in Belgium under customs procedure 42 and was then brought into France. The department then communicated its findings to the Belgian services so that they could correct the differential in customs duties for procedure 42 declarations submitted in Belgium.

More generally, it has been specified that risks associated with the protection of financial interests (PFI) are part of the targeting criteria and inspection criteria for customs clearance operations by the DGDDI.

The table below presents an evaluation of it for the past four years:

Years	2012	2013	2014	2015

Declarations made by foreign importers targeted for PFI risks (Criteria used 1+2+3)	106061	97582	99539	112524
Numbers of foreign importers placed under control ex ante out of the PFI-risk SADs (criteria used 1+2+3+4)	1569	2081	630	627
Rate of foreign importers submitting in France placed under control ex ante out of the PFI-risk SADs (criteria used 1+2+3+4)	1.47 %	2.13 %	0.63 %	0.56 %

The decrease in the rate of those placed under control can be explained by the reform and streamlining of the policy on placing declarations under control.

The study of the targeting of these declarations shows that a very large proportion were selected according to criteria related to procedure 42 and also to RIFs.

This shows that Community cooperation has been taken into account in the control of these operators.

Consultation of the control dossiers concerning these selected declarations shows that they led to documentary and physical checks.

With regard to prospects for improvement, two factors must be taken into account:

	in the future, and in particular with a view to the establishment of the Union Customs Code (UCC), it would appear necessary to have access to the declarations of economic operators clearing customs in another Member State. At the same time, it seems feasible to make available to other EU customs authorities the data on declarations made in France by the operators of other Member States; The DGDDI is currently experimenting with a new national framework for analysing operator risk, an **ex-ante** - but also an **ex-post** - control-guidance tool. Unlike the previous framework, this new framework takes into account foreign operators clearing customs in France. It is therefore a significant focus for improving control guidance, in particular for high-risk foreign operators. The possibility of exchanging information with other customs authorities based on the results of the risk analysis using this framework could be considered, provided that it was legally possible.
HR	The Republic of Croatia is actively involved in specific working groups of the European Commission through its representatives. Experience gained from participation is taken into account in order to review the control strategies to ensure that well-targeted, risk-based customs controls are in place which make possible efficient detection of fraudulent import operations. In that sense, Customs Administration of the Republic of Croatia (CA) applies EU and national risk indicators. In relation to post-clearance controls, CA follows the Annual plan for controls that includes the list of companies that are at risk. Additionally, everyday customs work in the field brings a great number of new risk information. It is noticeable that information and data gained through mutual assistance are of help and that mutual assistance makes it possible to effectively detect fraudulent import operations. For example, such operations are often conducted during the Joint Customs Operations. **Furthermore, CA participated in the project with the Republic of Austria under the title *Harmonization of the Croatian Customs Administration with the standards, organization and operational methodology of EU post-clearance control and audit*. The results of the project (*a number of documents were drafted such as regulations and guidelines in order to help and improve everyday work of customs officers*) are taken into account when planning and executing operations.**

IT	*Contribution of the Customs and Monopolies Agency* In recommendation No 4 OLAF asks the Member States to adopt cooperation instruments in order to ensure that all transactions and economic operators are included in post-clearance checks, irrespective of whether or not the importer is located in the Member State of 'physical' importation of the goods. Furthermore, in view of the decreasing number of checks on clearance, the Member States are also encouraged to exchange experiences about discovering fraud at the time of customs clearance. In general, the Customs and Monopolies Agency has a computer system that processes all customs declarations, which, in turn, are transmitted electronically. This also allows the extensive mapping of the operators involved in the exchanges. The computerised management of customs declarations has been implemented for several years as part of the 'Customs One-Stop Shop' adopted under national laws, with checks of documents, certificates etc. coming from other administrations and annexed to the customs declarations as required for customs clearance. The on-line dialogue between the national administrations involved in customs clearance makes it possible to verify ex ante the authenticity and the existence of the documents annexed to the customs declarations, download them and, in cases of selection for checks also involving other authorities (e.g. health, veterinary, CITES, etc.), to coordinate the checks on the different actors by concentrating them at the time of customs clearance. Other instruments of cooperation between bodies of the financial administration (Customs and Monopolies Agency, the Revenue Agency, Guardia di Finanza) have been in place for some time in the context of a 'control booth' to coordinate their actions, mainly through post-clearance checks on samples of taxpayers analysed with respect to their tax fraud/customs risk. A further specific anti-fraud cooperation instrument for assessing and addressing the risks of money laundering and financing of international terrorism and any other related risks has been implemented through a specific Memorandum of Understanding with the Financial Intelligence Unit (FIU). This also allows activities aimed at sharing methodological and analytical tools for the identification of schemes and indicators of anomalies in cash movements, for the control of which the Agency is responsible. Most of the other cooperation activities with the police and the judiciary form part of the activities carried out by the customs offices with

	powers of criminal investigation, in order to reinforce anti-fraud protection both in analyses aimed at planning and carrying out on-line checks and in post-clearance checks. The customs control system is based on risk analysis: every customs declaration presented is processed by the system and examined by the Customs Control Circuit, which allocates it to one of the five control channels on the basis of thousands of risk profiles associated with one or more aspects of the declaration (e.g. origin, provenance, goods, packaging, etc.): RED CHANNEL – physical check on goods providing also for documentary checks (VM); ORANGE CHANNEL - scanner check (X-ray) on vehicles and containers providing also for documentary checks and the possibility, in the event of anomalies, of a physical check on the goods (CS); YELLOW CHANNEL - documentary check providing also for the possibility of further checks in the event of anomalies (CD); GREEN CHANNEL - automated check allowing for immediate release of the goods once the system checks have been passed (CA); BLUE CHANNEL - post-clearance check with review of one or more transactions carried out by one or more higher-risk operators. The BLUE CHANNEL is selected as a centralised post-clearance tool based on the risk analyses. The risk analyses therefore include both objective profiles (e.g. anti-dumping duties, preferences, postal and courier consignments, etc.) and subjective profiles (operators active in these risk areas, operators indicated on the basis of the local, national and Community risk analyses). This selection system has been equipped with a sophisticated system of monitoring and an e-mail alert system that sends a message directly to the office where the declaration is registered. The Blue Channel monitoring system gives, virtually in real time (timing deferred by one day) an overview of the review activities, indicating the execution time (in days) from the beginning to the conclusion of the individual review activity as well as the result of the check and the increase in duties established. The definition of the risk profiles for the selection of checks both on clearance and post-clearance is also based on constant intelligence activities to gather, link and assess information obtained from the analysis of transaction flows and from numerous national and Community databases. A cyclical process of assessment/updating of risk profiles based on the results of checks, all of which are recorded in the system,

	allows the system to 'learn' from the results obtained in order to enhance the effectiveness and selection criteria for the checks and gradually reduce the number of checks carried out. The subjective profiles (white/blacklist of operators engaging in transactions) reduce or increase the risk, depending also on the status of the economic operator (e.g. authorised economic operator, approved exporter, etc.). Management of the profiles is also based on information received from EC services (e.g. RIF, INF-AM, EUROFISC reports) and that obtained under mutual assistance between customs administrations (e.g. Reg. No 515/97, Naples II Convention) and, more generally, from other qualified sources, including those abroad, on the basis of a relevant legal framework. This brief description of the customs control system highlights the double approach - operation/operator — on the basis of which the actions are decided. These actions cover the whole range available, taking into account the numerous objective and subjective profiles entered in the system and the numerous arrangements for the exchange of data, documents and information between national and foreign administrations and bodies. Based on the brief and general description of the customs control system, below is a summary of certain information relating to the specific instruments being used to implement the recommendations: *adopt cooperation instruments to ensure that all transactions and economic operators are included in post-clearance checks, irrespective of whether or not the importer is located in the Member State of 'physical' importation of the goods* The Agency ensures this protection through cooperation with other institutions and bodies. See answers on: Cooperation with other national bodies Control booth with Revenue Agency and Guardia di Finanza Cooperation with monetary authority and FIUs Cooperation with police and judiciary

	Cooperation with other national administrations in the framework of the Customs One-Stop Shop Cooperation with foreign bodies European Commission (RIF, INF-AM, EUROFISC) Other European customs administrations or third countries with which there are agreements on mutual administrative assistance Results: In particular, the positive results obtained following implementation of the instruments mentioned above include the results in the following sectors at high risk of customs/tax fraud: Undue use of Reg. 42 (release of goods for free circulation without payment of VAT on imports of goods stated as being destined for another Member State). Undue use of Reg. 45 (release of goods for free circulation without payment of VAT on import of goods stated as being destined for the tax warehouse procedure) Undue use of the VAT ceiling (carousel fraud and missing traders) *exchange experience on the discovery of fraud at the time of clearance* The activities to combat fraud detrimental to the EU budget include the results obtained through the massive efforts to counter under-invoicing by false indication of customs value. This under-invoicing is often combined with the production of false documentation when presenting the customs declaration, with evident effects in terms of evasion, duties and VAT on imports. It also affects national VAT and income tax on the

	subsequent 'internal' movements of the goods, often instrumented through movements not declared for tax purposes. Significant results have been obtained from the activities to combat under-invoicing carried out by the Agency, in particular since 2005 (raising of the average values declared for imports per kg of goods, especially in the sectors and countries at most risk of fraud (clothing, footwear, bags, etc. imported from China), which, between 2003 and 2013, rose from around EUR 5.3 to around EUR 21.52 without there being any particular inflationary factor in China-Italy trade in the period in question. The following are the direct results of this increase: an increase of around EUR 5.3 billion in revenue from customs duty and VAT between 2005 and Jan/June 2013, in the clothing, footwear and bag sectors alone, and only concerning goods from China; release for consumption of goods on which a triple amount of duties and VAT have been paid on importation. In addition to the above results, the following data should also be considered: 1 - seizure of around 53.6 million items (clothing, pairs of shoes, bags, etc.) in the period 2005-2013; 2 - in 2009-2013, 632 cases of reported smuggling submitted to the judicial authorities; 3 - additional duties established in reports on smuggling by under-invoicing from 2005 to 2013, of around EUR 412 million including penalty payments. The Italian customs' experiences in combating under-invoicing were brought to the attention of the EU bodies and other Member States in all relevant forums in order to promote cooperation and exchange of information so as to prevent, or at least limit, a shift to other Community customs offices of under-invoiced import flows which, as far as could be ascertained, are often managed by the same organisations working with bases in several Member States

	Contribution by the Guardia di Finanza Recommendation No 4 refers to post-clearance controls, i.e. to inspection activities designed to verify the overall legality of customs transactions, implemented not only at the stage of entry or exit of the goods into/from the national territory but also subsequently at economic operators engaged in foreign trade. In this respect, in accordance with Article 2 of Legislative Decree No 68 of 19 March 2001, the Guardia di Finanza are also required to prevent, investigate and prosecute infringements of 'customs duty, border duty and other own resources and expenditure from the EU budget'. To this end, without prejudice to the provisions of the Criminal Procedure Code and other applicable laws, the Guardia di Finanza avail themselves of the rights and powers provided for by Articles 32 and 33 of Presidential Decree No 600/1973 and Articles 51 and 52 of Presidential Decree No 633/1972. In addition, specific responsibilities in the area of customs are assigned to the Guardia di Finanza under Article 64(3) of Decree Law No 331 of 30 August 1993, enacted by Law No 427 of 29 October 1993. This provision, in line with the equivalent provisions on value added tax and the assessment of income tax, states that 'the Guardia di Finanza cooperates with the customs offices in identifying and acquiring useful elements for the checks carried out by the offices, in accordance with the legislation and with the powers provided for in Article11(9) of Legislative Decree No 374 of 8 November 1990'. Under the latter provision, the Guardia di Finanza cooperates by carrying out 'full or partial checks for reviews of several customs operations'. In 2014-2015, 99 'customs checks' and 286 'customs controls' were carried out. These activities are additional to the set of measures put in place by the Guardia di Finanza in the customs sector: by way of an example, in 2015 the Guardia carried out 8 411 measures. 5 885 persons were reported to the judicial authorities and 8 455 infringements were found. In the same section, 470 investigations delegated by the public prosecutors were carried out, including international investigations, 378 of

	which have already been concluded.
CY	The Department of Customs and Excise of the Republic of Cyprus has an effective system of risk assessment in place which allows carrying out checks targeted at high – risk imports at the time of clearance. More specifically computerized Risk Analysis on imported goods at the time of clearance is performed in three ways: Weight based. Specific profiles. Random selection. Additionally, there are five (5) standard criteria used, namely, importer, clearing agent, country of origin, commodity code, and procedure code. Moreover local criteria are used as well, established and fed into the system by the Intelligence Unit Based at Customs Headquarters. Also all incoming intelligence is evaluated and utilized: For the mapping out of the Departments policy and priorities To modulate the active risk profiles or to create new risk profiles in the electronic risk analysis system To disseminate alert messages to the customs officers and other competent authorities local and foreign. There is a process in which information is continuously updated, analyzed, acted upon and reviewed according to the feedback. Moreover, and based on the powers vested by the Customs Code Law, 94(I) of 2004, the officers of Department of Customs and Excise of the Republic of Cyprus, can perform at any time, checks on any goods imported, exported and or transited to, from or through the Republic of

	Cyprus, irrespective of whether or not the importer is located in the Republic of Cyprus. Also the Department of Customs and Excise of the Republic of Cyprus, upon written requests from any Member State, based on Mutual Assistance Request, the Naples II Convention, and the Regulation 515/97, can perform on the spot checks and post clearance checks on entities located in the Republic of Cyprus. Below please find the relevant articles of the Customs Code Law 94 (I) of 2004: Article 4 (1) - Under the exclusive competence of the Department of Customs and Excise are the following: (i) the implementation of the provisions of this Law, of the Customs Community Code and its Implementing Provisions, the Cyprus and corresponding relevant Community Legislation which relates to taxes, the assessment and collection of duties, taxes and other charges imposed according to the above legislation, the administration of the intelligence system as well as the exchange and processing of intelligence, retrieved from an electronic system or any other means, which refer to matters of its competence; (ii) The implementation of any legislation that has been vested in it. (2) The Department of Customs and Excise is also competent, through its Director, at the points of entry and exit, at the customs yards and in all customs territory, to protect public health and society, examine people, baggage, goods and means of transport. This includes the tracking down of illegal movement of narcotics, psychotropic or toxic substances, weapons, explosives, nuclear material, funds from economic criminal activities, cultural goods, pirated and counterfeit goods, obscene goods. It is also competent for customs and other contraventions and criminal offences which refer to transportation, fishing, protection of the environment, movement of goods of intellectual property, wild fauna and flora, chemical precursors, as well as any other customs or other contraventions and criminal offences which are not mentioned in this subsection and are verified during the checks which have been assigned to it by the specific provisions of the Community and the Cyprus Legislation, International Treaties and Agreements for the protection of the interests of the Republic and of the European Union. (3) Under the exclusive competence of the Department of Customs and Excise is the supervision and the control of the places which are

	recognized as customs yards and temporary storage facilities or have been approved as free zones or free warehouses. (4) The Department of Customs and Excise is cooperating with other authorities of the Republic and outside the Republic in matters of its competence and offers its assistance to them. Police officers have the duty to provide any assistance for the implementation of the customs and the other legislation. (5) The Director and or the authorized officers shall not be liable to any control by a private security or guarding firm of a place which is subject to customs control, provided their capacity is declared and their identification card is shown. Article 75 – Power of entry, visit, inspection and control. At any time authorized officers may enter and visit any place subject to customs supervision, such as customs warehouses, temporary storage facilities, free zones, free warehouses and any other facilities for inspection and control of the goods placed therein, and for exercising controls of the records, books, documents or particulars, even in electronic form, of any natural or legal person. Article 76 – Power of exercising controls. Authorized officers, in order to verify or secure compliance with the customs or the other legislation, may exercise controls on all goods related to the entry or importation, exit or exportation, or movement or deposit thereof in places of business activities, as well as on any records, books, documents or particulars, even in electronic form, of any natural or legal person: Provided that the authorized officers have the power to demand any information related to the above Article 77 – Power to use appropriate scientific means for control purposes. Authorized officers, on carrying out control to verify or secure compliance with the customs or the other legislation, may use any proper scientific or other mechanical means or other apparatus.

	Article 79 - Power to enter and search premises. (1) In order to exercise any of the powers vested in him under the customs legislation or the other legislation, any authorized officer may, at any reasonable time, enter any premises, other than a dwelling house or place, and inspect and search these premises as well as any goods, records, books, documents or particulars, even in electronic form, therein. (2) Notwithstanding any other power vested by the customs legislation or the other legislation, where there are reasonable grounds to suspect that in any premises, other than a dwelling house or place, an offence is being committed or has been committed or is about to be committed which is provided for by the customs or the other legislation or that evidence of commission or probable commission of such offence will be found, any authorized officer may enter these premises, other than a dwelling house or place, and search it. (3) Without prejudice to the foregoing subsection or to any other power vested under the customs and the other legislation, when a judge of a District Court is satisfied by an oath statement in writing of any authorized officer that there are reasonable grounds to suspect that in any premises, including a dwelling house or place, an offence is being committed or has been committed or is about to be committed which is provided for by the customs or the other legislation or that evidence of commission or probable commission of such offence will be found, the judge may by warrant under his hand authorize that officer or any other person named in the warrant to enter and search any premises or place, as well as a dwelling house or place, so named. (4) Every search warrant must bear the signature of the judge who issues it, the date and time issued, as well as the judge's assurance that he has been reasonably satisfied for the need to issue the warrant . (5) The authorized officer who has the power to search under the provisions of subsections (1) and (2) or has been authorized by a warrant under subsection (3) to carry out the search may - (a) detain, seize as liable to forfeiture, or remove any goods or detain or seize any records, books, documents or particulars, even in electronic form, which were found in the premises and for which he has reasonable grounds to believe that they can be used as evidence for the purpose

	of any court proceedings; and or (b) Search or have of any person searched who is in the premises for which he reasonably believes that he possesses such goods or records, books, documents or particulars Provided that a person shall be searched by an authorized officer of the same gender (6) The authorized officer or any other person having the power under this section to enter any premises may use such force as may be deemed reasonably necessary for exercising this power Article 80 - Power to search premises where anything liable to forfeiture is lying therein. (1) Without prejudice to any other power conferred by this Law, where there are reasonable grounds to suspect that any goods liable to forfeiture under the customs or the other legislation or any records, book, document or particular, even in electronic form, which is related to the commission of an offence under the customs and the other legislation are kept or concealed in any premises, other than a dwelling house or place, any authorized officer may enter these premises, at any time, whether by day or night, and examine, search for, detain, seize as liable to forfeiture or remove any such goods and or detain or seize any records, books, documents or particulars, even in electronic form, and in addition, so far as is reasonably necessary for the purpose of such entry, to break open any door, window or container and force and remove any other impediment or obstruction (2) The provisions of section 79(3) to (6) shall apply mutatis mutandis for the purposes of this section **Considering the decreasing number of customs controls at the time of clearance, Member States are invited to exchange experiences where customs authorities were particularly successful in detecting fraud or irregularities at the time of clearance.** On 7th of April 2015, a container arrived at Limassol Port, from Singapore, declared to contain artificial grass. Based on risk analysis and information received, it was decided that the container should be physically examined. From the physical examination conducted it was

	established that the container was full of cigarettes (6.162.000 of Richman and 3.440.000 of Rocco) which were seized as liable to forfeiture. The case is a classic example where OLAF (the administration that gave the information) and the Customs Administration of the Republic of Cyprus, cooperated closely and had a successful result.
LV	National Customs Board of the State Revenue Service (hereafter- National Customs Board) ensures post-clearance control based on the received risk information and also performing random controls. In cases when risk information has been received or identified during risk analysis of the transactions, National Customs Board informs Tax Control Board about identified risk and asks to evaluate identified risk and perform risk reducing measures (e.g. customs audit or thematically controls for selected transactions). This ensures more closely cooperation and risk information exchange at the moment of clearance and post-clearance time and helps to ensure that all transactions and economic operators are included in post-clearance control framework. At the time of clearance customs control is performed based on centralised automatic risk profiles and identified risks from local (manual) analysis (customs officer at the customs control point). In cases when at the moment of clearance revenue risk has been identified, the National Customs Board informs the Tax Control Board. Although in cases when the Tax Control Board identifies risks that can be reduced or identified only at the clearance moment, the Tax Control Board sends this risk information to the National Customs Board and the National Customs Board ensures risk necessary actions for identification and reducing of the risk. E.g. the Tax Control Board has sent the risk information about possible fraud with revenue when fictitious export has been done for high valuable goods, e.g. jewelleries. National Customs Board based on received information about goods and companies created automated risk profile. During the action of profile customs officers ensured that the goods declared in the export declaration really has left the territory of European Union. In close cooperation between customs and tax authorities risk of tax evasion has been reduced. Also on the bases of the received risk information risk reducing measures can be performed for import procedures, e.g. if the Tax Control Department sent the information that the economic operator has been included in the list of fraudulent companies, the National Customs Board performs all necessary action to ensure that during the clearance moment a centralised automated risk profile hit`s the

	company and additional control measures has been ensured.
LT	We would point out that Lithuanian Customs (hereinafter "Customs"), in the course of its duties, makes use of the RIKS3.AUDIT risk assessment and control system, which covers all persons who have filed at least one customs declaration with Customs, regardless of in which EU Member State they are established. The system evaluates individuals according to a number of risk areas and characteristics (e.g. risk analysis based on individuals or the goods they are transporting) and, taking into account risk rating and likelihood, ranks them on a list of individuals subject to post-clearance control. Individuals are selected for checks even where the requisite additional information has been received from other information sources – Lithuanian control bodies, the Commission services and the competent authorities of other EU Member States, account also being taken of the information provided by RIKS3.AUDIT (albeit with low risk ratings). If post-clearance identity checks call for an assessment of risk areas relating to the customs declarations filed by the persons in question with the customs authorities of other Member States, the customs administrations of those other EU Member States are contacted where necessary and a request made for the necessary additional information, or they are informed about the irregularities (infringements) identified, which the customs authorities of the other EU Member States may be unaware of (as the records on the person being checked are kept in Lithuania). Furthermore, in 2014 the project "*Use of data mining to identify customs risks and detect possible violations within the competence of customs authorities"* got under way, having been launched by Customs. The aim of this project is to share experience between Member State customs authorities using "data mining" methods to identify possible infringements (including those relating to taxes). Data mining methods are successfully applied to anything arousing suspicion (declarations, goods, people) during post-clearance checks, e.g. historical information that has been collected on identified tax infringements is used to identify possible infringements of a similar nature. Customs also use data mining methods to plan post-clearance checks on the codes, origin or value of goods that may have been declared incorrectly. This project was launched with a view to setting up similar joint models in other Member States, and brings together representatives from Austria, Belgium the United Kingdom, Spain, Italy, Latvia, Poland, Lithuania, the Netherlands, France, Finland, Hungary and Germany, as

	well as representatives from the European Commission's Directorate-General for Taxation and Tax Union (DG TAXUD), the Commission's Joint Research Centre (Ispra), the University of Vilnius and OLAF. A start is now being made on creating experimental international data mining models designed to identify cases where the origin of goods may have been wrongly declared during execution of the procedure for the free circulation of goods. A related set of import data from four countries (Lithuania, Belgium, the Netherlands and Poland) is used for the experimental model, with plans to develop this to include data from other countries.
LU	Luxembourg is committed to the effective protection of the EU's financial interests. The recommendations to the Commission's report on the protection of the EU's financial interests have therefore been discussed with all the relevant stakeholders and will be taken into account in the national anti-fraud strategy that Luxembourg is currently devising. A first meeting that brought together all the relevant authorities involved in managing EU funds had taken place. Luxembourg intends to have such meetings on a regular basis in order to have a structured coordination.
HU	In terms of strengthening cooperation among Member States, the Hungarian Customs Authority has concluded bilateral agreements with several EU Member States on the mutual exchange of data on customs procedures for the purpose of customs checks. Bilateral agreements are currently in force between the Hungarian Customs Authority and the customs authorities of Slovakia, Romania, Slovenia, the Czech Republic, Poland and Croatia. Pursuant to these agreements, the customs authority of the other Member State provides data on customs procedures initiated in that Member State by traders established in Hungary, and the Hungarian customs authority regularly provides data on customs procedures in Hungary by traders established in the other Member State, by way of spontaneous assistance. The data files are subjected to a comprehensive analysis by the central risk analysis body every year, and if a risk is identified, it is flagged up for customs administration and auditing purposes. Relevant information on the risk is also provided to the customs authority of the foreign country within the context of spontaneous assistance.

	The Hungarian customs authority is also pursuing cooperation within the EU and national legislative frameworks and, with their authorisation, with its partners in Hungary, in order to support customs audit activities. As regards pooling experience among Member States, the Visegrád (V4) countries (the Czech Republic, Poland, Hungary and Slovakia) exchange experience through regional cooperation in customs matters at annual meetings of the heads of their respective customs authorities or through discussions or data exchanges within expert groups. At meetings of customs chiefs, the experience gained in the previous year is evaluated and decisions taken on tasks for the following year. Questions related to the under-invoicing of textile products and footwear from the Far East and the mitigation of fraud committed with excise goods are permanent topics of discussion. This type of fraud accounts for a very significant shortfall in those countries' budget revenue. The results of working group on the customs value of goods imported from Asia can be considered a success. In line with the Visegrád Four's Trenčín Declaration, concluded as a collective step against under-invoicing, the V4 undertook to apply a threshold price (established on the basis of reliable prices at EU28 level determined by the AREP Automated Monitoring Tool (AMT)) to a certain number of products by 1 January 2016. The efficiency and effectiveness of cooperation will then be assessed in discussions among experts. The first meeting of the V4 working group dealing with follow-up customs checks was organised in Prague in December 2014 at the initiative of the Czech Customs Authority. The working group recommended that V4 customs authorities strengthen follow-up customs checks by sharing risk information, best practices and legal interpretations. In December 2015 the Slovak customs authority organised a meeting on items on the agenda of the previous meeting of the working group. The sub-working group worked efficiently and productively. The next meeting will take place at the end of 2016 according to schedule. In addition, it should be pointed out that in previous years, OLAF held meetings of a working group on judicial review (customs law) – Judicial Appeals in Connection with OLAF Customs Investigations), which also considered issues of customs law falling within the scope of follow-up checks and cases and judicial review proceedings relating to investigations conducted or coordinated by OLAF. The Hungarian

	customs authority supports OLAF's initiative and urges that similar meetings also be organised in future.
MT	The strengthening of cooperation in customs matters is not a unilateral action of any member state. It takes place within mutually established legal parameters that are equally applicable to all Member States, such as the Authorised Economic Operator concept, where the status of authorised economic operator granted by one Member State is recognised by the other Member States for the purposes of risk profiling and liability for controls. Post-clearance controls take place on the basis of declarations submitted via an Economic Operators Identification and Registration System (EORI), wherein access is currently limited to locally VAT-registered operators. However, where investigations are required that involve operators who are not located in Malta, effective use is made of legal tools for mutual assistance between different MS customs administrations, such as Council Regulation (EC) No 515/97 and Naples II Convention.
NL	The Netherlands has been applying the possibility of post-import checks for many years. These are based on the presumed risk, i.e. checks are carried out after import on the basis of risk analysis and risk detection. Post-import checks are already carried out on importers which are not established in the Netherlands; in such cases the use of mutual assistance channels (within the meaning of Regulation 515/97) is one factor that comes immediately into play and is actually implemented. As far as the Netherlands is concerned, we can mention the customs authorities' success in tackling the import fraud involving solar panels in which large amounts of anti-dumping duty were evaded. The operation was put into effect by a dedicated team monitoring and directly flagging all relevant developments allowing new fraud methods to be quickly identified and tackled. A number of MA reports were produced on this based on the results of the investigation by Dutch customs. This case involved very close cooperation with OLAF.
AT	

PL	In order to strengthen cooperation as recommended, the Polish Customs Service has taken the following action: • Within the *Eurofisc* network for the exchange of VAT information between Member States, particulars of customs declarations subject to procedures designated by codes 42 and 63 are exchanged and the threshold value of goods covered by a single customs declaration[39] is not applied. • Under bilateral agreements with the Czech Republic and Slovakia (since October 2014) and with the Hungarian administration (since January 2015), data entered in selected boxes of the SAD, concerning every import and export clearance relating to entrepreneurs located in a country that is a party to the agreement, are exchanged via AFIS on a monthly basis. Moreover, the Customs Service is particularly interested in strengthening cooperation on the exchange of data, and in particular: • as far as the recommended cooperation within the *Eurofisc* information exchange network is concerned, it would like the Commission to take further steps to ensure that all EU Member States join the system. It is also important that information relating to containerised cargo is exchanged without the application of the threshold value of goods covered by a single customs declaration, • it would like the Commission to consider the possibility of extending the system of data exchange between the Polish Customs Service and the Visegrad countries via AFIS to include other EU Member States.

[39] Council Regulation (EU) No 904/20 I 0 of 7 October 201 0 on administrative cooperation and combating fraud in the field of value added tax (OJ L 2010, No 268, p. 1) regulates the exchange of information through *Eurofisc*. The customs procedure designated by code 42 concerns simultaneous release for consumption and for home use of goods which are the subject of VAT-exempt supply to another Member State and, where applicable, suspension of excise duty. The customs procedure designated by code 63 concerns reimportation with simultaneous release for free circulation and for home use of goods which are the subject of VAT-exempt supply to another Member State and, where applicable, suspension of excise duty

	In view of the need to protect the financial interests of the EU, it is particularly important that the Member States in which major European freight-handling ports are located participate in the exchange of information. The Polish Customs Service is ready to cooperate on the exchange of data on an equal footing with all EU Member States, as is the case with the Visegrad countries. The Customs Service will step up its efforts to date to provide other Member States with information on cases of significant fraud or irregularities detected at the time of clearance. For actions in this area, the Common Customs Risk Management System is used.
PT	In 2015, with computerised import declarations, the Tax and Customs Authority decided to increase the number of customs declarations subject to automatic analysis and risk assessment in order to step up controls. This was possible because from 11 July 2015 the electronic import system included customs procedures 7100 and 4071 and from 30 August 2015 it included procedures 51, 53 and 91. Consequently, in terms of risk, these procedures are now assessed by the automatic selection system. As regards fraud prevention and the fight against organised crime, the Tax and Customs Authority also pointed out the following: In criminal law, under the 2015 Budget Act, legislative changes were made to the General Law on Tax Offences with the objective of punishing offences as customs crimes, regardless of the value of the tax due or the value of the goods involved in the offence, where there are indications of organised crime or with an international dimension, or where there are qualifying circumstances in which the legal right to be protected has nothing to do with asset values (for example, the CITES Convention — Protection of species). In addition, the special crime of smuggling of rough diamonds, punishable by three to eight years' imprisonment, was included in the measures to implement Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds, designating the Tax and Customs Authority as the EU authority for certification purposes; As regards money laundering (in accordance with the position of the IMF and FATF, for the purposes of stepping up the fight against money laundering) the proposal to increase the minimum sentences for customs crimes to one year and the maximum sentences to four years was

	formalised in order to include customs crimes as crimes preceding money laundering and also for other reasons, including systematisation. A proposal to provide in law for a new form of customs crime, connected with the non-declaration of cash, was also formalised. Lastly, the proposal to establish a specific criminal category applicable to export or import goods subject to international restrictive measures was formalised.
RO	***Time of clearance:*** The Directorate-General for Customs (DGV) implements risk management with the aim of ensuring that all customs transactions are subject to an equivalent level of control and, at the same time, that customs fraud is prevented and combated. Electronic risk analysis is one stage in processing a customs declaration, irrespective of whether the economic operator's registered office is in Romania or another Member State. In conducting a national risk analysis, available information and data provided by OLAF, DG TAXUD and other Member States are used to create national risk profiles and enter them in the electronic risk management application. The electronic risk analysis selects customs declarations submitted by any economic agent based on the national risk criteria entered into the national risk management application, called Risk Management Framework (RMF), which is permanently interconnected with the systems/applications used for processing customs declarations. In 2015, the electronic risk analysis implemented at the time of customs clearance selected 40 852 import customs transactions (at item level) carried out by economic operators with a registered office in a Member State other than Romania (e.g. the Netherlands, Italy, the Czech Republic and the United Kingdom). Of those import customs transactions, 2 566 (at item level) were selected based on the national risk profiles for physical checks of the goods while on the means of transport, and 412 (at item level) were assigned, based on the 'first customs clearance' criterion, to the red customs clearance channel, involving a physical check of the goods.

Post-clearance control:

Under Council Regulation (EC) No 515/97 [*tr. note: cited as 515/1999 in the original*] on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, requests for data and information on customs transactions in a Member State must be based on suspected infringements of customs law. Romania makes frequent use of this mechanism to obtain data and information that it needs in order to manage cases that are subject to the post-clearance verification procedure.

A significant proportion of all post-clearance verification activities relate to the selection for post-clearance verification of transactions carried out in Romania following alerts received from OLAF.

We would mention, for example, two risk profiles created based on information received from OLAF: No 115617_SIVCU_14, set up based on a suspected misdeclaration of the tariff classification of goods to avoid customs duties, and No 16954_1_SIVCU_15, set up following a suspected undervaluation of the goods in customs. Underlying the measure was a risk analysis carried out by OLAF based on the SURV II program and the ISPRA-OLAF database.

In 2015, DLAF processed a total of 108 AM alert messages relating to various OLAF investigation cases, of which 14 were new, and for which post-release verification was performed after the Directorate-General for Customs examined the information available in the national database.

In 2015, as a result of post-release checks triggered by AM messages from OLAF, 41 cases of fraud/irregularities involving amounts greater than EUR 10 000 were entered into the OWNRES online system. The total amount in customs, anti-dumping and countervailing duties, representing traditional own resources (TOR), was established at EUR 6 852 511.

As, apart from Regulation (EC) No 515/97, there is no uniform European methodology regulating notifications of data and information from customs databases among Member States for preliminary risk analysis purposes, no operation carried out in another Member State has been

	included in our control plans so far. The only exception is Hungary, with which Romania has concluded an information sharing protocol. When carrying out checks at registered offices of economic agents within their jurisdiction, verification teams check all the transactions in the financial and accounting records of the operator concerned that fall within the risk profile identified. To ensure that the financial interests of the European Union in the field of traditional own resources are protected efficiently, and taking into account the human, material and logistical resources available, the customs authority gives priority to the post-release verification of customs declarations which have been evaluated on the basis of risk analyses and which have the highest financial impact.
SI	Given that Slovenia mostly uses the simplified declaration procedure, which means fewer checks during the clearance stage, there is more emphasis on post-clearance checks, specifically customs audits and post-clearance controls. At the beginning of every year, the Financial Administration of Slovenia, which is also the national customs authority, draws up an annual plan of inspections and post-clearance controls and sends it to financial inspectors to be implemented. The annual plan is based on risk indicators, which in turn draw on the results of clearance checks, inspections and post-clearance controls in the previous year. A list of entities where risk is the highest is obtained by analysing the risk indicators. The annual plan also takes account of the risk of customs debt, which means that it also comprises certain entities that have not been inspected for the last two years and dispose of a large number of import declarations or were found to have committed irregularities in the past. The annual plan includes customs authorisations (AEO, simplifications, customs warehouses, etc.). It includes entities established in Slovenia, but also those based in other Member States, which appear as importers in the customs clearance procedure in Slovenia. Documentation and the requisite information are obtained from foreign customs declarants during a post-clearance check, while administrative documents (e.g. customs record and decisions) are sent to their address abroad. When necessary, data may be requested from another Member State as part of administrative assistance under Council Regulation (EC) No 515/97. In addition to regular inspections, there are also non-routine inspections and post-clearance controls following reports or requests from other

	organisational units within the Financial Administration; in fact, these are post-clearance check requests under Council Regulation (EC) No 515/97 (AM-messages, inspection requests from other Member States) and inspection requests from third countries (under other international agreements). A certain number of post-clearance checks (for the customs procedure 42) is carried out on the basis of feedback from Eurofisc WF3 and also WF1 and WF2 as part of the information exchange programme under Council Regulation (EU) No 904/2010 on administrative cooperation in the field of VAT. We have detected irregularities in the following areas during customs clearance checks: – incorrect tariff code assigned to goods (e.g. sanded wood of a thickness exceeding 6 mm assigned code 4421909790 and zero duty instead of the correct code 4407994000 and a duty rate of 2.5 %; colour printing ink in plastic containers assigned code 8443999000 and zero duty instead of the correct code 3215900010 and a duty rate of 6.5 %; stamping foils assigned code 9612101010 with zero duty instead of the correct code 3212100000 and a duty rate of 6.5 %); – undue application of a reduced preferential duty rate (e.g. fruit from Israel); – incorrectly declared quantity, and consequently value, of goods; – value of goods declared too low (e.g. second-hand machinery and tools, chewing tobacco, etc.).
SK	In order to facilitate legitimate trade, the competent authorities across the European Union endeavour to reduce barriers in the international trade through introducing the use of information and communication technologies, while these technologies should enable all customs and trade transactions to be carried out in the environment of paper-free documents. The objective of introducing the modernised approach by the customs authorities is not only to introduce the full computerization but also to reduce the number of physical customs checks and carrying out them on the basis of risk management. Protection of the financial interests of the Union, which are closely linked to the interests of the Member States, is provided in the form of checks and audits carried out after the release of the goods. Carrying out the ex-post checks shall be based on risk analysis, which in practice means that the entities where the check is being carried out after the release of the goods shall be

	selected on the basis of a certain risk. Determining the risk areas shall be based on analytical documents that respond to trends in the area of frauds and circumvention of customs and tax legislation. Each risk area is further elaborated in the context regarding the area of risk, description of frauds, and the legislation concerned. From the perspective of efficient conduct of audits after the release of goods, it is therefore necessary to focus the attention already on the selection of subjects on the basis of determined risks, while using the databases and new information systems that would be able to very precisely identify risk behaviour of an entity, undervalued goods or any other risks. International co-operation between the V4 Countries, which started in Prague last December, is one of the key areas for constant improvements of control mechanisms. The objective of the V4 expert group is: to present the most interesting cases of commercial fraud identified within the audits and checks already carried out after the release of the goods, as well as to exchange information about risk entities releasing the goods in one Member State while being established in another Member State; to exchange information about practical experiences in carrying out the audits; to present the national case law and the EU case law related to the area concerned; to exchange experience in the so-called non-fiscal checks (e.g. dual-use goods, military material); and other related activities in other fields, such as the education system. The presentation is carried out, for example, by means of comparing the output performance and effectiveness of controls. In this context, it is necessary to mention regular meetings of representatives of the Financial Directorate of the Slovak Republic with the representatives of the Customs Administration of the Czech Republic. The recent meeting took place in October 2015 and it followed long-term cooperation in the area of conducting audits after the release of goods. The purpose of those meetings is to streamline inspection activities, which results in a fiscal benefit for both the national budgets of the participating Member States and the EU budget. In 2015, the last event in the calendar of the international meetings was the meeting at the level of experts of the V4 Countries. The meeting took place on 8 and 9 December 2015 at the premises of the Financial Directorate of the Slovak Republic.
FI	In order to protect the EU's Traditional Own Resources (TOR), efforts are made to perform post-clearance controls on high-risk products and operators where the tax interest is significant. Finnish Customs performs regular risk analyses on its own resources, while the Corporate Audit carries out post-clearance controls. The risks detected by other Member States are used in risk analyses as well as checks. As regards anti-dumping duties, Finnish Customs works

	regularly in cooperation with the Swedish and the Danish customs authorities, for example by exchanging information and experiences on risk analysis and post-clearance controls. In addition, Finland uses the RIFs, i.e. the risk information forms and findings of other countries, in risk analysis and post-clearance controls. National working methods have been developed for processing this RIF information.
SE	A vital part of Swedish Customs control strategy is the relation between risk based customs controls and various communication measures. Controls shall focus on errors that are intentional and serious, well targeted analysis are therefore significant. A decision to perform a post-clearance control is based on a risk analysis. During 2015 a new framework of intelligence has been implemented in Swedish Customs. The framework describes how intelligence on an overall basis will be conducted. In addition to the new framework, officers are receiving training to strengthen their analytical ability. Swedish Customs is currently developing a new risk management system. The new system will enable selecting and analysis of the information that is submitted to Customs in every different stage of the goods flow. The system is expected to be implemented in October 2016. Integration with the present system and future systems will be made as soon as possible after October 2016. In addition, Swedish Customs participate actively in different project groups, e.g. CRMS/RIF, to develop information exchange between MS and COM, as well as within ConTraffic (Contraffic/SAD). Furthermore, Sweden emphasises handling MA (Mutual Assistance, in accordance with RF 515/97) and RIF (Risk Information Form).
UK	As part of the 2016 Budget, the Chancellor announced a range of measures to help tackle customs and VAT abuse and fraud including: introducing legislation to make Non Established Taxable Persons have a fiscal agent, with joint and several liability, as their representative in the UK

	making e-commerce platforms share tax liability with the on-line retailers using their services carrying out a public consultation exercise on a registration scheme for Fulfilment Houses to ensure that they meet certain standards and carry out due diligence checks on the importers using their facilities consulting internationally about what additional steps can be taken to prevent fraud in the e-commerce of goods.