



Council of the
European Union

112494/EU XXVII. GP
Eingelangt am 16/09/22

Brussels, 16 September 2022
(OR. en)

12194/22

AGRI 413
AGRIFIN 91
FIN 898
INTER-REP 96

COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	European Court of Auditors' Special Report No 14/2022: The Commission's response to fraud in the Common Agricultural Policy: Time to dig deeper - <i>Presentation</i>

Delegations will find attached the presentation by the European Court of Auditors on its Special Report No 14/2022: The Commission's response to fraud in the Common Agricultural Policy: Time to dig deeper, which will be presented at the Working Party on Financial Agricultural Questions on the 21 September 2022.

This document contains a presentation by an external stakeholder and the views expressed therein are solely those of the third party it originates from. This document cannot be regarded as stating an official position of the Council. It does not reflect the views of the Council or of its members.

21 September 2022

Special Report N°14/2022:

The Commission's response to fraud in the Common Agricultural Policy: Time to dig deeper



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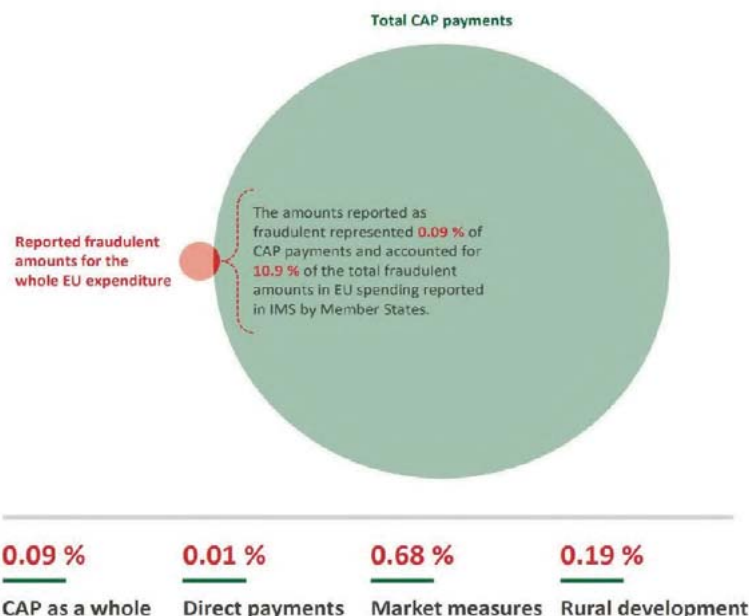


Our audit approach

- Audit question: whether the Commission properly identified and responded to fraud risks in the CAP
- We obtained evidence from:
 - DG AGRI, OLAF (not EPPO, as they had just started operations)
 - 3 Member States (France, Italy, Slovakia)
- Programming periods covered 2007-2013 and 2014-2020
- We build on our Annual Report results

Financial impact according to the Commission

Fraud detection rate by CAP component (2016-2020)



NOT a direct indicator of the level of fraud:

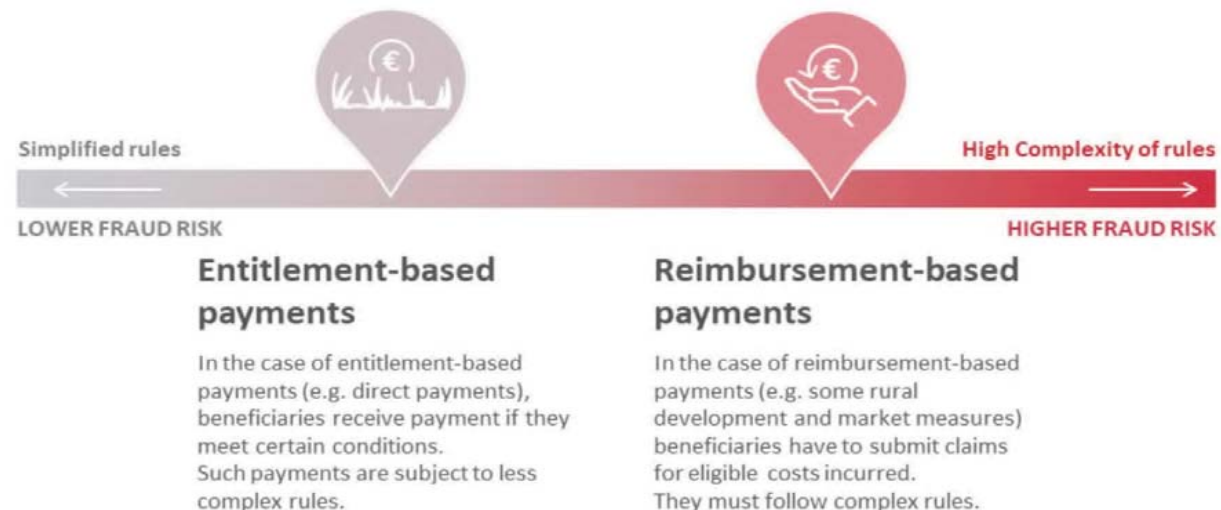
- These are detected cases
- Our previous special reports found weaknesses in the data reported by the Member States

Source: 2020 PIF report – Statistical evaluation (Part 1).

How we deal with suspicions of fraud

- Our Annual Statement of Assurance:
 - shows a decrease in the level of error from 2,4% in 2018 to 2,0% in 2020
 - detects irregularities, some with indications of fraud.
- We report to OLAF suspected fraud cases that meet their criteria for opening investigations (i.e. amount, no other action ongoing):
 - in 2018-2020 we reported on average 4 cases per year from around 200 transactions audited.
- We are vigilant to fraud risks, but do not have an investigative role and cannot establish whether fraud has occurred or not.

Fraud risks and the complexity of rules and projects

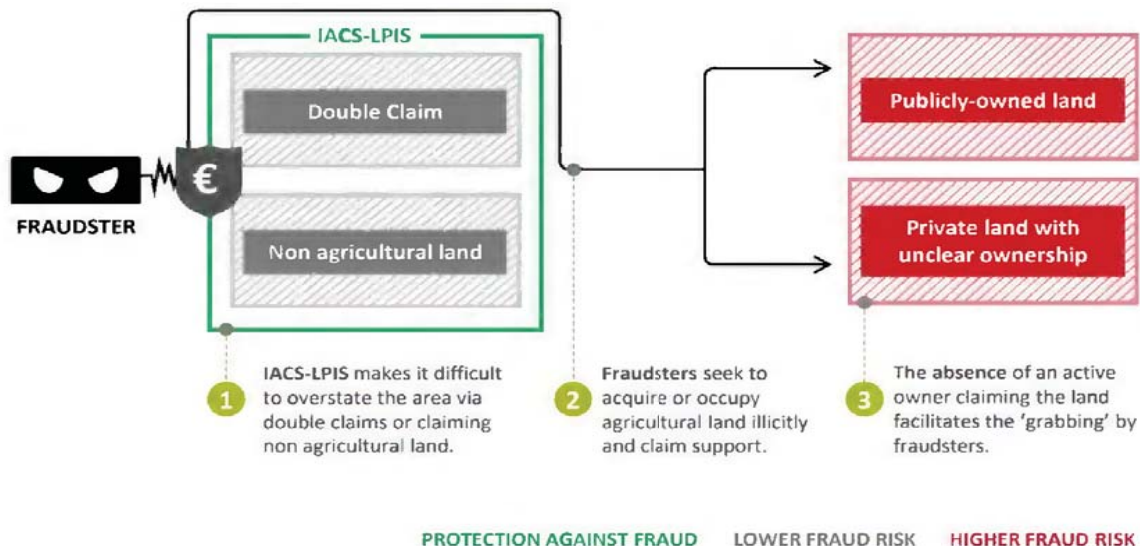


Source: ECA.

Some examples:

- False SMEs: failing to disclose their links with other companies
- Simulation of activities and falsification of documents
- Promotional actions outside the EU are challenging to check

The issue of illegal 'land grabbing'



Source: ECA.

- Difficult to overstate the eligible area, so fraudsters may:
 - acquire agricultural land illicitly, often publicly owned land or private land with unclear ownership;
 - target (poor) pasture land and pretend to have an agricultural activity.
- Paying agencies can play a role: red flags, cooperation with law enforcement authorities.

The Commission's assessment of fraud risks

- Latest CAP fraud risk analysis in 2016. DG AGRI plans a new fraud risk analysis before the new CAP enters into force in January 2023.
- Found that rural development investment measures and certain market measures are most at risk.
- DG AGRI did not complement its fraud risk assessment to cover 'land grabbing'.
- It provided guidance on checks on the notion of 'land at the farmer's disposal' in June 2021 (after ECJ judgement).

Commission's guidance and checks to address the risk of fraud

- The majority of paying agencies appreciated the guidance provided by the Commission, though some indicated a need for more practical advice.
- In 2016, the Commission provided certification bodies with guidelines on the accreditation criteria, but not on checks to be carried out on anti-fraud measures.
- DG AGRI carries out compliance and accreditation checks on paying agencies, which may cover anti-fraud measures:
 - Following allegations in 2016, DG AGRI/OLAF and national authorities carried out in-depth checks in Slovakia, leading to a suspension of payments and probation of the paying agency.

New technologies are not sufficiently exploited

➤ 'Checks-by-monitoring':

- At end 2021, 3 years after start-up, 'checks-by-monitoring' covered 13.1% of the total area receiving direct payments.

➤ Arachne :

- Launched in 2013, originally for Cohesion. A pilot on rural development projects in 2019.
- 7 out of 76 paying agencies have uploaded data and use the tool to some extent.

➤ Artificial intelligence and big data

- Member States face challenges: legal requirements on data protection, lack of expertise, cost.

Overall conclusion

The Commission has responded to instances of fraud in CAP spending, but was not sufficiently proactive in:

- addressing the impact of the risk of illegal land grabbing on CAP payments,
- monitoring Member States' antifraud measures,
- exploiting the potential of new technologies.

Recommendations

Recommendation 1: Gain and share a deeper insight of fraud risks and measures:

- Clarify the role of certification bodies
- Review paying agencies' checks on land at lawful disposal
- Update its assessment of fraud risks and anti-fraud measures

Recommendation 2: Promote the use of new technologies in preventing and detecting fraud:

- Checks-by-monitoring / Area monitoring system
- Fraud-detection tools, such as Arachne
- Artificial intelligence and machine learning

THANK YOU

for your attention!

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