Compendium of anonymised cases — Structural actions

EUROPEAN ANTI-FRAUD OFFICE

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14 January 2011

EUROPEAN ANTI-FRAUD OFFICE

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The Commission communication 'Prevention of fraud by building on operational results: a dynamic approach to fraud-proofing' [1] uses the European Anti-fraud Office's (OLAF) operational experience to deliver fraud-proofing methods to the benefit of other Commission departments and Member States. On the basis of this communication, OLAF delivers specific fraud-proofing products, like compendia of anonymised cases.

I am happy to present to you the first compendium of anonymised cases, in the area of the structural actions.

The compendium contributes to the fraud prevention strategy of the European Commission in the area of structural actions by systematically analysing the results of OLAF's operational activities carried out over the last 7 years in this area. The compendium should increase fraud awareness and support fraud-proofing in the relevant legislative proposals. Furthermore, OLAF's intelligence output is summarised. This output is based on an analysis of several sources, like the notifications of the Member States in the area of the structural actions.

Furthermore, the Commission is developing an overall anti-fraud strategy to better respond to the reality of fraud risks, to reflect the changes brought about by the Lisbon Treaty and to achieve the policy goals of the EU institutions. The Commission anti-fraud strategy, which is currently in preparation, will focus on fraud prevention but also address other aspects in a holistic approach that is necessary for fighting fraud successfully. The strategy will contain an action plan with operational measures. I consider this compendium to be a practical tool within this approach to support both the Member States and the Commission services, identifying the modus operandi of fraudsters and 'red flags'.

This compendium will therefore be made available to all relevant stakeholders: Commission departments and Member States' competent authorities.

I strongly believe that raising awareness of fraud is of the outmost importance for the managing and audit authorities, as well as for the Commission services responsible for the shared management of the structural actions. This awareness-raising will support their efforts to detect and mitigate fraud in order to better protect EU taxpayers' money.

Algirdas Šemeta
European Commissioner for Taxation,
Customs, Statistics, Audit and Anti-Fraud

As the recently appointed Director-General of OLAF, I am glad to have this opportunity to introduce to you the *Compendium of anonymised cases*.

OLAF is in the unique position of uniting in one Office both operational activities and anti-fraud policy.

Our investigators carry out administrative investigations in the Member States and beyond. Drawing on OLAF's operational experience, our fraud prevention staff can identify lessons which have been learned. The fruit of this experience is made available to our partners via different hands-on instruments, such as this compendium.

Member States report irregularities identified in the area of structural actions to the Commission. OLAF processes and analyses this information. The combination of this analysis with OLAF's own operational experience results in valuable information that helps the authorities responsible for management of the EU funds prevent and detect fraud.

Fraud prevention is essential if we are to protect the financial interests of the EU effectively. Fraud prevention and investigations are complementary. Investigating suspicions of fraudulent acts as a deterrent to fraudsters. Denying fraudsters the opportunity to commit fraud is the most cost-effective way to diminish the impact of fraud on society.

I am confident that this compendium will offer added value, enabling us to prevent and detect fraud better as part of the Commission's overall anti-fraud strategy. OLAF will be proactive in lending further support to other Commission services and to Member States with its expertise in fraud prevention, detection and investigation.

I urge all services concerned to put this compendium to good use and to share with OLAF their ideas and experience so that we can step up the fight against fraud.

Giovanni Kessler
Director-General of OLAF

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List of acronyms

AFISNG	Anti-fraud information system new generation
CF	Cohesion fund
DG	Directorate general
EAGGF	European agricultural guidance and development fund
ECA	European Court of Auditors
ERDF	European regional development fund
ESF	European social fund
EU	European Union
FIFG	Financial instrument for fisheries guidance
IAS	Internal Audit Service
IMS	Irregularity management system
IT	Information technology
JFPS	Joint fraud prevention strategy
NAO	National audit offices
NGO	Non-governmental organisation
OLAF	Office de lutte anti-fraude, European anti-fraud office
OP	Operational Programme
SMART	Specific, measurable, achievable, realistic, timely
TFEU	Treaty on the functioning of the European Union
VAT	Value added tax

1. Introduction

Article 325(4) of the Treaty on the functioning of the European Union (TFEU) provides for measures to be adopted in the fields of the prevention of and fight against fraud affecting the financial interests of the Union, with a view to affording effective and equivalent protection in the Member States.

On the basis of Regulation (EC) No 1073/1999 ([2]), OLAF's tasks are to carry out investigations and (according to Article 1(2) of Regulation (EC) No 1073/1999 ([3])) to contribute to the design of the European Commission's anti-fraud policy.

Against this background, the Commission Communication 'Prevention of fraud by building on operational results: a dynamic approach to fraud-proofing' ([4]) sets out a fraud-proofing method which draws primarily on the results of OLAF's operational and intelligence activities.

Learning from the results of investigative activities and intelligence analysis, and passing on the 'lessons learnt' to other Commission departments and, where appropriate, to EU institutions and to the Member States, is one of the pillars of the Commission's fraud prevention policy.

This compendium of anonymised cases covers structural actions and is part of the joint fraud prevention strategy (JFPS) in this field ([5]).

2. Aim of the compendium

The aim of this compendium is to identify the lessons to be learnt from the results of OLAF's investigative and intelligence experience on the ground and to communicate them to the services concerned at European Union and Member State levels in order to raise awareness of fraud and to identify the weaknesses and vulnerabilities of the legislation, the administrative procedures and the implementing system of the cohesion policy.

OLAF believes that awareness of the main modus operandi and of the weaknesses detected in the implementing systems will help the Commission and the national competent authorities to better orientate their control activities and to ensure more effective protection against fraud and irregularities.

This compendium has been designed to meet the needs of a variety of people involved in the fraud prevention strategy, including:

- authorising officers by delegation, responsible for management and control systems (DG Regional and Urban Policy and DG Employment, Social Affairs and Inclusion, but also DG Agriculture and Rural Development and DG Maritime Affairs and Fisheries);
- national agents responsible for management and control systems;
- internal audit capabilities, Internal Audit Service (IAS);
- OLAF investigators, follow-up agents and intelligence staff.
- These users have a variety of partially overlapping needs:
- risk management decisions at Commission and national level;
- improving management and control systems by taking into account the results of the analysis and setting priorities with regard to document verification, on-the-spot checks and audits;
- directing audits at European Union and Member State level and OLAF investigations;
- raising awareness among experienced staff ([6]).

Furthermore, the compendium will provide a synthesis/summary of the main conclusions from the anti-fraud perspective that can be drawn from the analysis of the investigations and strategic intelligence activity carried out by OLAF in the structural actions sector. Where appropriate, recommendations will be issued to improve fraud prevention.

The analysis has also been combined with the data and information provided by the Member States under their obligations according to EU legislation through the irregularity management system (IMS).

The systematic analysis of OLAF's operational experience also provides significant input to set up a knowledge base of the main characteristics of irregularities and fraud. OLAF's *Compendium of anonymised cases* will serve as an important tool for the purposes of risk analysis, awareness-raising and training targeted at the authorising departments in order to prevent irregularities and fraud.

3. Sector-specific assessment

Pursuant to Article 53(b) of the financial regulation [7] and the sectoral regulations in force, the Commission has — under shared management — delegated implementation tasks to the Member States, which are consequently responsible, in the first instance, for preventing, detecting and correcting irregularities [8]. Almost the entire structural actions budget is managed by the Member States.

In the area of structural actions a common legal framework applies at EU level; however, implementation varies from one Member State to another and from one region to another within the same Member State, and even between specific measures implemented by the different Member States. Although certain fraud [9] patterns are common to all programming periods and all funds, it is considered more practical to adopt an approach based on a programming period and funds, to ensure that the compendium is tailored for a specific group of users who are familiar with a given set of rules and practices.

The main Commission departments involved in structural actions are DG Regional and Urban Policy, DG Employment, Social Affairs and Inclusion, DG Maritime Affairs and Fisheries and DG Agriculture and Rural Development. The beneficiaries are public and private bodies.

The analysis of OLAF's investigations contained in the second part of this compendium reveals that fraud, corruption [10] and other illegal activities affecting the European Union's financial interests in the area of structural actions occur during one or more of the three main phases: the awarding stage (preparation for a call), the selection procedure and the implementing stage.

Potential fraudsters exploit the weaknesses of management and/or control systems, as well as the potential weaknesses of the national implementing legislation [11].

3.1. Statistical analysis of the irregularities and suspected fraud reported by the Member States — annual report under Article 325 TFEU

OLAF's intelligence analysis uses, among other sources, notifications of the irregularities [12] and suspected fraud [13] reported by the Member States [14]. Since 2006, the Member States, when notifying irregularities to the Commission, have been required to identify whether these cases involve 'suspected fraud'. The term 'irregularity' is a broad concept, which covers both intentional and non-intentional behaviour (and therefore conceptually includes fraud), whereas, in order to be qualified as fraud, a case of suspected fraud must be judged to constitute 'fraud' by a definitive criminal court decision (*res judicata*). Thus, it is the component of intentional behaviour/deceit which distinguishes fraud from irregularity.

The first type of analysis based on the information provided by the Member States is a statistical analysis. OLAF takes as a basis the irregularities and suspected fraud cases notified by the Member States to the European Commission through the IMS ([15]).

The notification obligation is established by Article 28 of Regulation (EC) No 1828/2006 ([16]) for irregularities related to the programming period 2007–13 and by Article 3 of Regulation (EC) No 1681/94 ([17]), as amended by Regulation (EC) No 2035/2005 ([18]), for irregularities related to previous programming periods ([19]).

The statistical analysis of irregularities is one of the major sources for the preparation by OLAF of the Commission's annual report ex Article 325 TFEU, as well as for the purposes of the annual coordination meetings between the Commission and the Member States on coordination of the control strategies.

In the light of the analysis conducted as part of the Commission's last three annual reports (for the years 2007–09) in relation to the typology of fraud and irregularities in the sector of structural actions, the following patterns have been highlighted.

- The most frequent types of irregularities have remained practically the same over the years, confirming a degree of consistency in patterns and trends relating to structural measures and consistency in reporting by the Member States (the most frequent is 'non-eligible expenditure' and the second is 'infringement of public procurement rules').
- The generic code 'other irregularities' is still the third most used typology. Irregularities communicated under this code do not fit, in principle, any other description provided by the reporting system (therefore this is a 'residual code').
- 'Falsifications of documents' have been detected in a number of Member States, with one Member State standing out as the one where the highest number of cases presenting this modus operandi were identified and reported.

There are still differences between the Member States as to the types of irregularities reported and these differences have remained fairly consistent across the years.

As to the extent of fraud, the analysis conducted for the annual Article 325 report in relation to the programming period 2000–06 concluded that, of the 20 335 irregularities reported up to the fourth quarter of 2009 by all Member States, 2 234 had been qualified as 'suspected fraud'. In around 1 000 cases, the described modus operandi related to false or falsified requests for aid and falsified supporting documents. Furthermore, some 100 cases were reported as established fraud.

The overall fraud rate ([20]) was calculated at 0.25 % on the payments for the whole programming period. This rate is exclusively the result of the detected and reported cases of suspected and established fraud on the payments (not included are those cases of suspected fraud detected but not reported and all the undetected cases) of the national audit services or other control authorities at EU or national level.

The analysis conducted as part of OLAF's contribution for the annual bilateral meetings with the Member States' audit authorities made it possible to disseminate to the national authorities a number of fraud risk indicators, which can be categorised in four clusters as follows.

- Administrative indicators: they aim at measuring the adequacy of control and management structures to detect and report fraud.
    - Management deficits: can be measured by examining the recovery rate (the lowest being the worst), the delays in reporting irregularities following detection and the findings of audits conducted by the Commission services, the European Court of Auditors (ECA), national audit offices (NAO), etc.
    - Control deficits: controls may be assessed as poor because the irregularities are not communicated in a regular manner or because they produce very different results from those of 'external audits' (Commission services, ECA, NAO, national anti-fraud services), or because audits are delegated to private bodies without adequate supervision or review.

In the case of management and/or control deficits, the degree of decentralisation of the Member State concerned can constitute an aggravating factor.

- Geographic indicator: the analysis of suspected fraud reported for the programming period 2000–06 reveals that particular geographical areas stand out. In fact, the majority of suspected frauds were detected in the areas around capital cities; in the richest areas of the Member States; and in the less developed areas of the Member States.
- Economic and social indicators: sectors which appear more exposed than others to the risk of fraud are construction, waste disposal and, in certain countries, tourism. Among the social conditions taken into account, higher indexes of 'perceived' corruption or a higher number of convictions for crimes against the public administration constitute indicators of compliance with the principle of the rule of law.

- Specific indicators: in relation to a characteristic situation for each Member State (but also to regions within Member States), specific indicators can be developed which take into account particular aspects of the environment, of the economic and social conditions or of the administrative structures in place.

Finally, the statistical analysis carried out in the framework of this compendium concerning the reported irregularities in relation to the clusters described in section 4 confirms the conclusions of the abovementioned analysis of the annual coordination meetings.

Indeed, the most significant results of the statistical analysis highlight the fact that the most reported type of irregularity (19 %) and the one which accounts for the highest amounts (22 %) is 'non-eligible expenditure'. This might mean, on the one hand, that the eligibility rules are not clear enough to the final beneficiary and, on the other hand, that the first-level control is generally effective in relation to this type of irregularity.

'Infringement of public procurement rules' is the second most significant type of irregularity if the amounts are taken into account (16 %).

This irregularity is sometimes due to mere misinterpretation of the public procurement legislation or a lack of knowledge of the correct procedures; however, in some cases, criminal investigations highlight intentional infringement of public procurement rules that is meant to benefit a specific bidder due to corruption or a 'culture of favouritism'.

Analysis of the methods employed for detecting irregularities shows that the most reported methods of detection take the form of 'control of documents', 'administrative or financial control of a national authority', 'other controls', 'other facts', 'Community controls' and 'initial judicial enquiry'. Suspected frauds are mainly detected by judicial enquiries, by national fiscal controls and by the work of national anti-fraud services. All those controls are usually linked to the second-level activity and to the activities of anti-fraud authorities or law-enforcement authorities outside the normal chain of control established by the EU sector legislation.

3.2. Results of intelligence projects

Among the fraud risk assessment actions identified under the JFPS, OLAF undertook a pilot project focused on one EU region and one other project focused on an individual Member State.

The sources of information used for this analysis included the irregularities reported by Member States, investigations by OLAF, specific ad hoc contributions requested from national authorities, audit reports from the Commission services, the national audit office and the ECA, as well as official governmental reports available on the Internet and relevant press releases.

The analysis allowed for the design of a conceptual framework for identifying threat sources and specifying their threats in relation to the three main stages of the project cycle, as follows.

- In the awarding phase, when preparing a call for tenders, administrators may be approached by representatives of the political authority, or by members of criminal organisations or other groups seeking to influence the definition of the criteria and the terms of the call, so as to influence its outcome from the very beginning.
- In the selection phase, individuals or groups of individuals, acting on behalf of legal entities or belonging to criminal organisations, may take illegal action in order to influence the outcome of a procurement procedure or to obtain financing without possessing the required qualities or economic viability.
- During the implementation phase, the final recipient (acting as an individual or as part of a group/organisation) of the funds is clearly the main threat source and can put in place a number of activities in order to:
  - steal part of the planned funding;
  - embezzle part or all of the financial support;
  - prevent checks being carried out.

  In addition, given the high decentralisation of the implementation of co-financed measures at regional level and the personal links developed in relatively small geographical areas between beneficiaries of funds and persons in charge of implementing the actions, there is a greater likelihood of conflicts of interest, especially in relation to the first stages of a project's cycle.

On the basis of the two fraud risk assessments conducted so far, the following suggestions can be made.

- The Commission's transparency initiative, aimed at making public the names of the beneficiaries of European funds, should include the names of the companies that actually carry out the projects (i.e. that receive the largest amounts of financing) on behalf of the final beneficiary.
- Hiring external companies to carry out first or second level checks is a particularly sensitive issue. In these cases, we would propose that Member States set up specific centralised procedures for tenders leading to the selection of 'checkers'.
- To further improve the chances of fighting fraud, national or regional 'hotlines' could be set up for people to report their suspicions. This has already been proposed as part of the JFPS.

- Consideration should be given to complementing the Commission's approach to auditing. Project audits are still regarded as a necessary element and could be used to supplement system audits.
- Member State authorities should carry out more (and more effective) on-the-spot checking of projects.
- To prevent and detect fraud, it is essential to centralise all sets of data on EU expenditure. National anti-fraud services are, in general, centralised and they should be granted access to this information on a regular basis, especially in countries where the administration is highly decentralised.
- Make staff more aware of 'red flags' and fraud schemes.

3.3. Results of OLAF's operational activity

The statistical analysis concerns the quantitative and qualitative dimension of the cases of suspected fraud and irregularities detected at national level, while the anonymised cases reflect OLAF's investigative experience and give an overview of the most common modi operandi and vulnerabilities of the system implementing the cohesion policy.

The most significant weaknesses detected are as follows.

- Lack of specific sanctions for irregularities caused by negligence affecting the cohesion policy. Those sanctions could be introduced into national legislation based on Article 5(1) of Regulation (EC, Euratom) No 2988/95 ([21]).
- Threat to the independence of the managing and audit systems caused by external influence.
- Poor quality of the first-level controls.
- Possibility for the final beneficiary to present expenditure made in cash.

Furthermore, OLAF's operational experience on the ground shows the following.

- The use of bank institutions and/or financial bodies in the management and control of programmes as intermediary bodies might not ensure sufficient segregation of functions between the final recipient and the controlling entities, being the beneficiary in some instances and also private customers of the financial and/or bank institutions.
- The first-level controls performing merely routine documentary checks at the different stages of the project appear not to be effective in detecting possible fraudulent and/

or irregular activities. The lack of SMART (specific, measurable, achievable, realistic, timely) and binding objectives for projects increases the risk of misusing the financial aid and delaying the expected impact.

- The multiple sources of public funding at national, regional and Union levels very often have overlapping objectives, and in the absence of an appropriate overview at central government level might be considered a high risk for double financing. This risk is even higher in Member States that certify expenditure for the so-called 'retrospective projects'.

4. Structure of the compendium

The data in the compendium are set out in a concise and condensed manner and based on the fraud prevention module.

OLAF has developed a fraud prevention IT tool which is an integrated module in its electronic case-management system. It enables authorised OLAF staff dealing with financial and administrative follow-up, and intelligence analysts, to study the results of OLAF investigations or other relevant data in a systematic, predefined manner. Data extracted from the fraud prevention module can be structured by reference to various criteria (e.g. fund concerned, Member State concerned, programming period concerned, directorate-general concerned, programme concerned, type of irregularity detected).

The fraud prevention module is used to compile data, including intelligence that OLAF uses to implement the Commission's fraud prevention policy. The data are mainly related to the financial follow-up to an OLAF investigation, but they also come from criminal assistance cases, monitoring cases and non-cases (where OLAF did not open an investigation), and, exceptionally, from ongoing investigations. Information about the typology of irregularities received by the Member States under the reporting obligations is also included. The module has been designed to be used for drafting recommendations, and it will also feed into the growing compendium of anonymised cases.

The purpose is not to provide full details, but to concentrate on the distinctive features of a given case so as to prevent future irregularities.

Supplementary information can be provided on a 'need to know' basis to Commission departments and institutions requiring more details of the modi operandi described in the compendium.

The information in the compendium is structured as follows.

Area
Policy domain. This compendium contains cases investigated by OLAF in the field of structural actions concerning European regional development fund (ERDF), European social fund (ESF), European agricultural guidance and guarantee fund (EAGGF) guidance and financial instrument for fisheries guidance (FIFG), and related to the programming periods 1994–99 and 2000–06.

Classification of irregularity
The type of fraud/irregularity is categorised by using a pick list.

Danger (overall assessment): yellow — orange — red
The anonymised cases have been evaluated by the scale of the threat to the EU budget or

the EU Institutions' reputation among EU citizens and economic operators. The assessment combines/factors in:

- the impact of the irregularity,
- the difficulty of detecting it or of taking preventive measures, and
- whether there is a recurrent pattern.

		Established fraud prevention measures ([22])	Recurrent pattern not necessarily in a specific measure	Impact on EU financial interests or image
Yellow	**Low**	Systematic control	Isolated case	Limited impact (e.g. a cost element eligible but inflated)
Orange	**Medium**	Control if specific risk identified	Limited number of OLAF operational cases	Medium impact (e.g. fraud in connection with pre-financing)
Red	**High**	No preventive measures in place	Substantial number of OLAF operational cases	Substantial impact (e.g. whole project faked, irregular procurement)

Description of modus operandi (fraud pattern, irregularity)

This field contains an anonymised description of the irregularity, alleged fraud, illegal activity or corruption, and how it was committed.

It sets out information that financial staff should take into account throughout the expenditure life cycle.

Vulnerabilities detected

This field describes any vulnerability of the management and/or control systems in the implemented national framework, etc., detected by OLAF, which have enabled or helped perpetrators to commit irregularities.

The implication is not that OLAF thinks the authorising department and/or Member State should provide for additional control or other measures, but it provides a pointer to OLAF's views on how the irregularities could have been prevented.

It is the responsibility of the authorising officer and/or the Member State concerned to take whatever measures are appropriate and proportionate to the risk.

Red flags

Red flags are indicators which serve to highlight developments or situations where there might be irregularities or suspected fraud.

Very strict specifications in a call for proposals, for example, might hint at 'tailor-made specifications' for one provider only. A large number of evaluations carried out by the same evaluator, or links between the evaluator and the organisation applying for funding, might hint at a conflict of interests.

The presence of red flags should make the Commission's financial management staff more vigilant and help them to identify similar modi operandi and to take measures such as additional verifications, notification to OLAF, etc.

The Commission's exclusion database, i.e. the early warning system (which is less relevant to structural actions), ensures that information is circulated on entities which should be seen as a threat to EU interests, whereas the aim of the compendium is to share information with stakeholders on irregularity patterns and red flags.

Recommendation (where available)

Following the analysis of certain cases or groups of cases, OLAF intends to produce specific and/or general recommendations. Several fraud prevention cases could be linked to/covered by a single recommendation.

5. Compendium of anonymised cases

FP number	Number of the fraud-proofing file
Area	Structural Fund affected by the suspected fraud or irregularity
PP	Programming period in which the irregular project has been implemented
Classification of irregularity	Type of suspected fraud or irregularity detected by the investigation
Irregularity code	Code used in the IMS for identifying the suspected fraud or irregularity
IMS reporting	Highlights whether the suspected fraud or irregularity has been reported by the Member State
Danger	Identifies the level of danger of the suspected fraud or irregularity detected by OLAF’s investigations
Description of fraud pattern	Describes the modus operandi of the suspected fraud or irregularity
Vulnerability detected	Spots the weakness of the system exploited by the perpetrator of the fraud or irregularity
Red flags	Identifies activities, circumstances or facts which might occur when a fraud or irregularity is perpetrated

5.1. Cluster 'False declarations — False or falsified documents or absence of supporting documents'

FP number	172
Area	ERDF
PP	1994–99
Classification of irregularity	False declaration
Irregularity code	818
IMS reporting	No
Danger	**Red**
Description of fraud pattern	A final beneficiary (a public body) submitted to the managing authority a project for renovating an old property and using it for 'public purposes'. The investigations highlighted the fact that, in order to comply with the eligibility criteria, the final beneficiary had submitted false declarations to the managing authority. The subsidy was retrospectively accounted for in the programming period 1994–99, as the project had already been implemented when the managing authority took the decision to finance it. Retrospective projects are projects that have been already implemented or are in progress and funded with national financial resources which the managing authority decides, *ex post*, to fund using the resources of the Structural Funds under the condition that the financial resources in question meet the aim of the measure and comply with the rules established by the EU regulation on implementation of the cohesion policy. Modus operandi: the final beneficiary submitted false declarations to the managing authority at the award stage of the project. More specifically, the 'public purpose' declared by the final beneficiary was never met and the final beneficiary falsely declared that it was the owner of the land and of the property to be renovated.
Vulnerability detected	Legislative: absence of anti-fraud rules for retrospective projects. Management/control system: the management system did not cross-check the declaration of the final beneficiary against the evidence of public land registers. Lack of internal guidelines on the checks to be carried out by the first-level control authority also related to verifying the actual use of the property. Reporting irregularity system not reliable as the irregularity has not been reported by the Member State.
Red flags	Project awarded retrospectively. Change of destination of the project deliverable.

FP	143
Area	ESF
PP	1994–99
Classification of irregularity	False declaration — Falsified documents — Beneficiary not having the required quality
Irregularity code	214 — 408 — 818
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	An economic operator applied for a subsidy for vocational training sessions without satisfying the general conditions on expertise, organisation and qualification required by the call for proposals. However, the operator submitted false documentation and false declarations to the managing authority in order to prove that it complied with the requirements of the call for proposals. Moreover, it overstated its costs by presenting an inflated declaration of expenditure to the managing authority. The fraud was facilitated by an acquaintance of the final beneficiary, who was a member of the evaluation board of the managing authority (i.e. the body responsible for selecting the projects to fund). Modus operandi: at the awarding stage, the economic operator applied for a subsidy, presenting to the managing authority false declarations and falsified documents relating to its eligibility criteria. Those false certificates and documents, together with the pressure exerted by a member of the evaluation board, enabled the economic operator to receive the subsidy and to become a final beneficiary of the operational programme. At the implementing stage, the final beneficiary presented to the managing authority a claim for expenditure that exceeded the actual costs of the project by submitting a false declaration of expenditure instead of invoices or equivalent documents providing proof of its expenditure.
Vulnerabilities detected	Management/control system: a person involved in the award proceedings brought pressure to grant the subsidy to a specific economic operator. There were no guidelines concerning the checks to be carried out at the award stage of the project in order to verify the capacity of the final beneficiary to implement the project. The managing authority did not ask members of the evaluation board to sign a disclaimer declaration. Documentation presented by the final beneficiary to support expenditure claims and accepted by the managing authority (declarations made by the final beneficiary without supporting evidence) was inconsistent with the rules governing the implementation of Structural Funds and with the principle of sound financial management.

Red flags	Declarations without supporting documents provided by the final beneficiary concerning eligibility requirements and/or expenditure incurred. Selection of projects outsourced by the managing authority. Implementation of the project by legal/natural persons other than the final beneficiary.

FP	**265 — 165 — 169 — 186 — 187**
Area	ERDF
PP	1994–99
Classification of irregularity	False supporting documents — Falsified account
Irregularity code	213 — 214 — 103
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	A final beneficiary (a cooperative venture established among local governments) received a subsidy for carrying out an infrastructure project. The final beneficiary then appointed a natural person as project manager. The latter was neither a member nor part of the staff of the final beneficiary and his activity was not monitored by the final beneficiary. The project manager (who had the power to act on behalf of the final beneficiary) sub-contracted the works to a company. The contractor company not only disregarded the terms of the contract signed with the final beneficiary in order to cut its costs but also submitted falsified invoices to the final beneficiary and from him to the managing authority for costs that had never been met. As a consequence of the false invoices, the accounts of the contractor company were also falsified. Modus operandi: at the stage of awarding the subsidy, pressure was brought to bear by the final beneficiary on the managing authority to fund a specific project. The pressure was facilitated/compounded by the specific nature of the final beneficiary (local government), which had strong political influence. Following the award of the project, the final beneficiary appointed a manager to implement the project on its behalf without establishing a framework for the activity carried out by the project manager as regards checks, transparency and accountability. The project manager, who had full powers to act on behalf of the final beneficiary, not only delegated the work to his company (meaning that the party acting on behalf of the final beneficiary and the contractor company had convergent interests) but also inflated the costs of the project.

	The costs were inflated by submitting false invoices issued by the contractor company to the managing authority and failing to carry out some of the work provided for in the contract signed between the final beneficiary and the contractor company. The registration of false invoices in the accounting system of the contractor company automatically led to the falsification of its accounts.
Vulnerabilities detected	Management/control system: the fraud was possible because of the lack of checks, transparency and respect for accountability rules on the part of the final beneficiary, which allowed the project manager de facto to take decisions and to disburse the amounts allocated for implementing the project without any supervision. The managing authority failed to verify that the final beneficiary had put in place procedures and checks that could have ensured compliance with the principles of transparency and accountability. Final beneficiary not supervising the implementation of the project.
Red flags	Financial difficulties of the contractor. Request by the contractor to amend deadlines and contract terms.

FP number	**175**
Area	ESF
PP	2000–06
Classification of irregularity	False and falsified supporting documents
Irregularity code	213 — 214
IMS reporting	Yes
Danger	**Orange**
Description of fraud pattern	The final beneficiary inflated its costs, submitting false invoices to the managing authority for costs never incurred. Modus operandi: the shareholders of the final beneficiary (limited company) created another limited company which had no other aim than to issue false invoices to be passed on to the final beneficiary in order to inflate its costs. This non-operational limited company was based at the same premises and allegedly had the same staff as the final beneficiary.
Vulnerability detected	Management/control system: no system or analysis making it possible to flag up inconsistencies between the supporting documents submitted by the final beneficiary to justify its expenditure and other data collected by the managing authority (in this case there was a major inconsistency due to the fact that the address of the final beneficiary was the same as its main supplier).

Red flags	Relevant share of the costs of the projects related to only one supplier of the final beneficiary. Same shareholder for the final beneficiary and for its supplier. Same address for the final beneficiary and one of its suppliers. Supplier had ceased trading due to end of activity or bankruptcy.

FP	**285**
Area	ESF
PP	2000–06
Classification of irregularity	Falsified supporting documents
Irregularity code	213
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	A final beneficiary implemented several vocational training projects, receiving subsidies from different managing authorities within the same Member State. The final beneficiary claimed staff costs from the managing authorities of more than twice the actual costs. Modus operandi: the final beneficiary used two different methods to inflate its staff costs. — It declared a false (and inflated) hourly rate of staff costs. In fact, the real costs of the salary plus tax plus the social contribution and administrative expenditure for each employee turned out to be half of the costs claimed. — The number of working hours declared was inflated. To conceal the fraud, the final beneficiary enclosed with its declaration of expenditure a false certification of the accountability of its costs issued by a certified auditor.
Vulnerabilities detected	Audit system. The internal guidelines do not systematically provide for additional audits to be carried out for similar projects implemented by the same final beneficiary when the audit of a project highlights serious irregularities. Expenditure certified by an auditor who is employed or contracted by the final beneficiary (lack of segregation of functions principle). The managing authority, while carrying out the first-level control, did not check the payrolls and/or the contracts of the staff, but confined itself to accepting a certification of expenditure issued by the auditor of the final beneficiary.

Red flags	Difficult financial situation of the final beneficiary, which increased the need to commit fraud. One single transaction accounts for more than half of the total project costs. Expenditure certified by an employee or a contractor of the final beneficiary.

FP	**314**
Area	ESF
PP	2000–06
Classification of irregularity	Falsified documents — Non-eligible expenditure
Irregularity code	213 — 325
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	Projects were awarded to two final beneficiaries for carrying out actions to enhance cooperation between local administration and civil society. The shareholders of the final beneficiaries were politicians and local government representatives. The main activities carried out by the final beneficiaries were seminars and conferences. However, it transpired that those activities took place during weekends in holiday resorts, and often the activities were not documented by a register of attendance or by a summary of the events or some other documentation produced for or during the event. Moreover, the topics, the locations chosen for the seminars and studies and their timing (weekends) appeared to be completely artificial and, in any event, not of any utility for the aim of the project. Modus operandi: creation of non-governmental associations or limited companies with very low capital stock and poor infrastructure. Application for a subsidy by artificially creating the conditions required for obtaining that subsidy. Submitting to the managing authority expenditure that was not documented and not consistent with the aim of the project or of the operational programme, with the sole intention of justifying non-eligible expenditure. This expenditure consisted mainly of the costs of hotel accommodation and renting cars for the managers or shareholders (or their relatives) of the final beneficiary.
Vulnerabilities detected	Management/control system: political pressure focused more on granting the subsidy to specific beneficiaries than to the best projects. Lack of oversight of the supporting documents submitted by the final beneficiary for claiming the payments.

	Guidelines and internal rules on public procurement not followed and/or respected by the managing authority, which failed to detect infringements of the public procurement rules during its on-the-spot checks.
Red flags	Relationships/acquaintance between final beneficiary and managing authority. Final beneficiary set up immediately prior to the application for the subsidy. Management of the final beneficiary having little or no experience in the specific field of implementation. Final beneficiary describing in generic and vague terms the actions carried out. A lot of expenditure incurred during weekends or in places other than the location where the final beneficiary is based. Project presenting several and very similar deliverables.

FP number	**176**
Area	ERDF
PP	2000–06
Classification of irregularity	Falsified supporting documents
Irregularity code	213
IMS reporting	Yes
Danger	**Red**
Description of fraud pattern	A final beneficiary submitted false invoices to the managing authority in order to inflate its costs and thereby to obtain higher reimbursements. Modus operandi: the final beneficiary acted as follows. — She/he forged the invoices received from suppliers by simply adding a zero to the amount indicated on the purchasing invoice (e.g. invoice of EUR 100 falsified to become EUR 1 000). — She/he paid out the overstated amount to the supplier (in our example EUR 1 000). This was because, in the event of a check, the bank statement and the bookkeeping of the final beneficiary would have been found to be consistent. — She/he submitted the forged invoice for receiving the undue payment (EUR 1 000 instead of EUR 100) to the managing authority. — As soon as the managing authority had paid out the inflated amount (EUR 1 000), she/he asked the supplier for the difference (EUR 900 = EUR 1 000 – EUR 100) between the original and true amount of the invoice (EUR 100) and the overpaid and false amount (EUR 1 000), claiming that its accountant had made an error.

Vulnerability detected	Management/control system: lack of general rules and guidelines for cross-checking supporting documents. Lack of risk analysis focused on false invoices. Lack of knowledge of market prices for the items submitted by the final beneficiary.
Red flags	Invoice with amounts in round figures. Same supplier or many different suppliers. Supplier based abroad when the goods/services can be purchased on the local market for the same or lower price. Price far higher than the average market price.

FP	148
Area	ESF
PP	2000–06
Classification of irregularity	False documents — False invoices — Corruption
Irregularity code	213 — 850
IMS Reporting	No
Danger	**Red**
Description of fraud pattern	The final beneficiary overstated its costs by presenting false documentation and false invoices. The false documentation was related to training courses that were never carried out or carried out only in part. Modus operandi: the final beneficiary falsified some supporting documents in respect of the training courses: accounting books; presence lists; purchase invoices. It then submitted the documentation to the managing authority in order to claim the payments. The documents submitted should have been checked by the first-level control of the managing authority. However, the person in charge of these checks concealed the fraud because he was bribed by the final beneficiary.
Vulnerabilities detected	Management/control system: the management system did not function properly due to the corruption of a member of its staff. First-level control not reliable. Lack of information and transparency towards the trainees as regards the aim, duration and conditions of the training. Audit authority lacking a risk analysis system to detect potential cases of corruption or falsified documents.

Red flags	Large number of training courses awarded to the same final beneficiary for small amounts. Poor financial or operational capacity of the final beneficiary compared to the large amount of projects it implements.

FP	**147**
Area	ESF
PP	1994–99
Classification of irregularity	False supporting documents
Irregularity code	213 — 214
IMS Reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary falsified documents relating to the training courses implemented and gathered false invoices attesting to costs that were never met or only partially met. Modus operandi: the final beneficiary submitted to the managing authority documentation such as a record of attendance and invoices for renting teaching rooms or payment of trainers which were false or partially false in order to receive payment for training not carried out or carried out for a smaller number of students than the number declared.
Vulnerabilities detected	Management/control system: the first-level controls were poor and only partially carried out. Lack of information and transparency towards the trainees as regards the aims, duration and conditions of the training. Audit authority lacked a risk analysis system to detect false invoices. First-level control not carried out on 100 % of the expenditure submitted by the final beneficiary.
Red flags	Register of attendance with signatures that might appear to be made by the same person. Invoices with rounded amounts; invoices with a similar format but issued by different suppliers; invoices with a value added tax (VAT) number that is incorrect or inconsistent with other elements of the invoice.

FP	145
Area	EAGGF guidance section
PP	1994–99
Classification of irregularity	False declaration — False supporting documents
Irregularity code	213 — 214
IMS Reporting	Not notified
Danger	**Orange**
Description of fraud pattern	A municipality acting as final beneficiary received a subsidy to renovate and preserve an old historic building. It delegated the implementation of the works to a contractor company. However, the contract signed between the final beneficiary and the contractor provided for the renovation of the building in order to turn it into a hotel. Therefore, contrary to what had been declared by the final beneficiary and in breach of the call for proposals and of the aim of the operational programme, the subsidy was used to turn the building into a hotel, rather than preserve the heritage it represented. Moreover, the final beneficiary submitted false invoices to the managing authority in order to inflate its costs. Modus operandi: the municipality submitted to the managing authority its application for a subsidy for the purpose of renovating an old historic building. However, the application was supported by false declarations and false documents seeking to prove that the applicant fulfilled all the eligibility criteria laid down by the call for proposals. The false declarations referred to the ownership of the land and of the building to be renovated, as well as to the real aim of the project (to convert an old historic building into a hotel rather than preserve the local heritage). Due to the political pressure exerted on the managing authority by representatives of the municipality and to the false documentation submitted, the project was accepted for funding. The final beneficiary committed the works to a contractor company in which the major and other representatives of the municipality had an economic interest. Finally, during the implementation stage of the project, the final beneficiary submitted false invoices produced by its contractor in order to inflate its costs.

Vulnerabilities detected	Management/control system: managing authority influenced by political parties. Absence of guidelines as regards the official documents which applicants must submit to prove compliance with all the criteria laid down in the call for proposals. Absence of checks on the documents and declarations submitted by the applicant at the award stage. Absence of on-the-spot checks at the end of the project.
Red flags	Declaration made by the final beneficiary instead of the official certificate issued by the competent authorities (in this case the declaration made by the applicant replaced the land registry certificate on the ownership of the land and the building). Deliverable of the project which can easily be put to a use other than that accepted for funding.

FP	**144**
Area	ERDF
PP	2000–06
Classification of irregularity	False request for aid — Failure to respect other regulations
Irregularity code	208 — 612
IMS reporting	Yes
Danger	**Orange**
Description of fraud pattern	A project was awarded to a final beneficiary to build tourism infrastructure on the basis of a false declaration and fake documents submitted to the managing authority. The final beneficiary used the subsidy to build flats rather than tourism infrastructure in breach of the terms of the call for proposals and of the purpose of the measure in the operational programme. It also implemented the project without regard for the relevant EU environmental legislation. Modus operandi: the final beneficiary was able to influence the managing authority due to the political pressure exerted by a local administrator who had an economic interest in the final beneficiary. As a result of the false declarations and project submitted to the managing authority, the subsidy was granted. The subsidy was used for a purpose other than the one declared to the managing authority at the awarding stage of the project in order to maximise the profit.

Vulnerabilities detected	Management/control system: capability of the final beneficiary to influence the managing authority. Managing authority failing to verify the final result of the project. Missing transcription in the land register of the binding condition relating to the deliverable of the project. Lack of specific guidelines on checks to be performed and documentation to be obtained in order to ensure that the final beneficiary complies with the EU legislation. Poor first-level checks on the expenditure claims submitted by the final beneficiary.
Red flags	Projects funded under tourism measures. Declaration made by the final beneficiary not supported by specific certification. Deliverables of the project potentially usable for purposes other than that declared in the project.

FP	**142**
Area	EAGGF guidance section — ERDF
PP	2000–06
Classification of irregularity	False declarations — Action not implemented
Irregularity code	208 — 810
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	Structural Funds were allocated for young people willing to start an agricultural activity. The call for proposals set out several eligibility criteria. The investigation highlighted the fact that, on the one hand, the majority of the final beneficiaries did not comply with the requirements laid down in the call for proposals and, on the other hand, many of them did not exercise an agricultural activity or were already farmers. Modus operandi: the final beneficiaries submitted false declarations to the managing authority in order to prove that they met all of the criteria set out in the call for proposals. On the other hand, the managing authority was influenced by the local government to grant the subsidy in order to help mainly unemployed people.
Vulnerabilities detected	Management/control system: managing authority under the influence of the local political authority.

	Managing authority accepted declaration made by final beneficiary without carrying out any document checks. Audit authority not independent from the managing authority.
Red flags	Declaration issued by the final beneficiary instead of the certificate of the competent authority. Many small subsidies awarded to a large number of final beneficiaries. Depressed area or area with a level of unemployment above the Member State average.

FP	**141**
Area	ESF
PP	2000–06
Classification of irregularity	False declarations — Action not implemented
Irregularity code	208 — 810
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary (limited company) received a subsidy for vocational training courses under the condition that it would employ the trainees on open-ended job contracts at the end of the training period. The project was awarded by the managing authority on a 'first come, first served' basis. The final beneficiary did not inform the trainees that it had an obligation to hire them at the end of the contract, nor did it pay the mandatory allowances. The shareholder of the final beneficiary appeared to be the shareholder of another limited company which was receiving subsidies for similar projects. Modus operandi: the economic operator applied for the subsidy, falsely declaring to the managing authority that it had the operational capacity to hire the trainees at the end of the training. The final beneficiary then submitted to the managing authority a false declaration relating to payment of the trainers' allowances as well as to the 'open-ended job contracts' signed with the trainees. At the same time, the final beneficiary concealed the aim of the training from the trainees, as well as their rights at the end of the training. A large proportion of the payments made for implementing the project were in cash.

Vulnerabilities detected	Management/control system: absence of an efficient evaluation process at the awarding stage of projects; the managing authority did not check the operational capacity, the turnover and the business organisation of the economic operator in order to assess its capability to implement the project. The criterion of 'first come, first served' established by the managing authority at the awarding stage appears to be inconsistent with the principles of sound management, efficacy and efficiency. Lack of scrutiny of declarations made by applicants. No publicity about the aim of the projects. Lack of guidelines for the managing authority to check whether the final beneficiary had informed the trainees of the aim of the project and of their rights at the end of the training.
Red flags	Inadequate business organisation of the final beneficiary. Payment made in cash by the final beneficiary. Lack of adequate selection procedures for awarding the projects.

FP	**270**
Area	ERDF
PP	2000–06
Classification of irregularity	Falsified supporting documents
Irregularity code	213
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary was awarded a project for the construction of sport infrastructure. The project was contracted to a temporary association of enterprises. The contractor invoiced for identical works more than once. Moreover, in order to build the sport infrastructure, the contractor used raw materials which were less expensive and of lower quality than those stated in the contract with the final beneficiary. Staff of the final beneficiary monitored and certified the correct execution of the works. Modus operandi: the contractor (temporary association of enterprises) submitted to the final beneficiary different invoices for identical works.

	These invoices described the works using slightly different terms in order to conceal the fact that they referred to identical works. On the other hand, the use of materials other than those established in the contract and described in the invoices submitted to the final beneficiary enabled the contractor to unduly maximise its profit.
Vulnerabilities detected	Final beneficiary: the mandatory checks that the final beneficiary must carry out on the quality of the works executed by the contractor were unable to detect any of the irregularities highlighted by OLAF's investigation. Management/control system: the managing authority did not ensure proper verification of the quality of the works and of the correct implementation of the project before paying out the subsidy. The control system of the managing authority did not detect any of the false invoices submitted by the contractor.
Red flags	Postponing the deadline for execution of the works. Invoices paid in cash. Invoices containing inconsistent information.

FP	192
Area	ESF — EAGGF guidance section
PP	2000–06
Classification of irregularity	False declaration
Irregularity code	818
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary overstated staff and training costs to the managing authority. Modus operandi: the final beneficiary submitted declarations of expenditure for staff to the managing authority which were considerably higher than the actual costs incurred. Cross-checking of the official accounts of the final beneficiary, on the one hand, and of the payrolls of the staff and the declaration submitted to the managing authority, on the other hand, highlighted the inconsistency between the aforementioned documents. The hours charged to projects far exceeded the contracted hours paid by the company to its employees. The costs for the trainers were also inflated by a considerable percentage (70 %).

Vulnerabilities detected	Audit system: the national audit authority detected this fraud for one project, but it neither extended its audit to the other projects awarded to the same final beneficiary nor informed the managing authority. Management/control system: lack of administrative guidelines establishing that the declaration of costs for staff and trainees should be supported by evidence, such as payrolls and similar documents. First-level control poor as no cross-checking of the supporting documents was carried out.
Red flags	Declaration of expenditure for staff exceeding the average labour market price. Number/cost per hour of staff higher than that required by other similar projects. Many similar projects awarded to the same final beneficiary.

FP	**275**
Area	FIFG
PP	2000–06
Classification of irregularity	False supporting document — Expenditure not eligible
Irregularity code	213 — 325
IMS reporting	No
Danger	**Red**
Description of fraud pattern	The final beneficiary submitted to the managing authority a large number of invoices for costs which were not in compliance with the rules on eligible expenditure. Modus operandi: the final beneficiary requested a company based outside the EU to issue false invoices which it submitted to the managing authority in order to inflate the costs of the project. Those items of expenditure had been accepted by the managing authority and paid to the final beneficiary. The invoices were provided to the final beneficiary by other companies based outside the EU for works that were never carried out or services that were never provided.
Vulnerabilities detected	Lack of administrative guidelines on the eligible costs and on the red flags to spot false invoices. Lack of guidelines for the reporting of irregularities under Regulation (EC) No 1681/94.

Red flags	Different shape/colour of invoices issued by the same supplier or same shape/colour of invoices issued by different suppliers. Description of the billed item/service not consistent with other available data (e.g. invoice for renting a machine when the same machine is being repaired; for services or work that cannot be provided given the know-how/industrial capacity/human resources of the company). Billed item/service not consistent with the trade business objectives of the company. Services/goods available on the local market but purchased on other geographically distant markets.

5.2. Cluster 'Double funding'

FP number	172
Area	ERDF
PP	1994–99/2000–06
Classification of irregularity	Double funding
Irregularity code	606
IMS reporting	No
Danger	**Red**
Description of fraud pattern	A final beneficiary (a municipality) applied for a subsidy for a project that was already implemented (a so-called 'retrospective project'). Retrospective projects are projects submitted to the managing authority during or after their implementation. They are funded by EU financial resources on condition that they meet the aim specified and comply with the eligibility criteria laid down in the legislation covering that programming period. The project related to the renovation of an old property to convert it into a public building. During the same period, a second beneficiary (a private company which turned out to be the contractor of the first beneficiary) applied for another subsidy to be financed from the resources of the 2000–06 programming period, in order to renovate a property and turn it into a hotel. The investigations revealed that the works carried out under the first project (retrospectively accounted for in the programme period 1994–99)

	were part of the works of the second project, which received another subsidy for the programming period 2000–06. Modus operandi: two final beneficiaries present two projects to two different managing authorities. At first glance, the two projects do appear different because they are submitted by two different final beneficiaries, they declare different aims (the first was a public aim, the second was a private business) and they fall under two different programming periods and measures. However, the two projects concerned the same works for the same property. The two final beneficiaries submitted false declarations and certificates to the managing authorities in order to prevent the fraud being detected.
Vulnerability detected	Legislative: lack of clear rules and controls to prevent fraud for retrospective projects. Management/control system: the managing authority holds no historical data systems or tools for checking the existence of previous funding in order to avoid the risk of double funding. First-level control very poor as they were based on the declaration of the final beneficiary, rather than on official documentation such as a certificate from the land registry. Reporting irregularity system not reliable as the irregularity has not been reported by the Member State.
Red flags	Retrospective project. Shareholder of a final beneficiary having an economic interest in another final beneficiary. Supporting documents constituting declaration issued by the final beneficiary instead of certificate issued by public authorities.

FP number	**176**
Area	ERDF
PP	2000–06
Classification of irregularity	Double funding
Irregularity code	606
IMS reporting	Yes
Danger	**Red**
Description of fraud pattern	A final beneficiary received a machine needed for implementing its research project, which was provided free of charge by a non-governmental organisation (NGO) (based in a different Member State).

	It did not pay out any amount to the NGO, because the machine had been purchased with national subsidies. However, the final beneficiary concealed this state of affairs from the managing authority and submitted a false invoice to prove its purchase. Modus operandi: the final beneficiary saw that there was a possibility of receiving, free of charge, a machine that it needed in order to implement its research project. It then issued a forged purchase invoice using a mythical supplier located in the same Member State as that of the actual supplier and submitted this invoice to the managing authority.
Vulnerability detected	Management/control system: no general rules and guidelines for cross-checking supporting documents. No analysis focusing on the potential risk of double funding and false invoices. No information system between managing authorities participating in the cohesion policy enabling the detection of double funding.
Red flags	Unusual cross-border purchase — Inconsistent information on the invoices. Payments made in cash.

5.3. Conflict of interests

FP	271 — 196
Area	ERDF
PP	2000–06
Classification of irregularity	Conflict of interest
Irregularity code	Type of irregularity not classified in the IMS
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The managing authority delegated to an intermediate body (private company) the management of operational programmes and, more particularly, the selection of projects to be funded. The members of the board of the intermediate body were also members of a partnership which included the representatives of the final beneficiaries of the operational programme. Modus operandi: a partnership is created among public bodies (in charge of management of the Structural Funds) and economic operators. Following the creation of the partnership, the managing authority

	appoints a private limited company as an intermediate body in charge of managing one or more operational programmes. The board of the limited company (intermediate body) is drawn from the members of the partnership. Thus, the members of the board are representatives of public authorities and of economic operators. These economic operators have a seat on the board of the intermediate body, and thus take part in the decision-making process for the granting of EU funds. On the other hand, in their capacity as economic operators, they submit projects to the intermediate body.
Vulnerabilities detected	Management/control system: no specific checks on the involvement in the decision-making process of individuals who might have a personal/economic interest in the decision which they have to take in their capacity as members of the board of the intermediate body. National authorities take the view that this dual role played by the economic operators does not fall within the definition of a conflict of interest. Indeed, although the general principle of sound financial management, including segregation of functions, would militate in favour of not using such a scheme, the legislation in force does not explicitly forbid this kind of practice.
Red flags	No specific guidelines on segregation of functions. Economic operators sitting on the board of the intermediate body.

FP	**143**
Area	ESF
PP	1994–99
Classification of irregularity	Conflict of interest
Irregularity code	Type of irregularity not classified in the IMS
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	An economic operator successfully applied to deliver vocational training projects. However, the operator did not possess the expertise and qualifications required by the call for proposals. Therefore, the operator (final beneficiary) delegated the implementation of the project to a contractor company, without informing the managing authority and in breach of the terms of the call for proposals. The fraud was facilitated by a final beneficiary — a member of the evaluation board (the body in charge of selecting the projects) of the

	managing authority — who had an economic interest in the contractor company that implemented the training courses. Modus operandi: the economic operator applied for a subsidy after having been contacted by a member of the evaluation board. As a result of the pressure exerted by the member of the evaluation board, the economic operator received the subsidy. The final beneficiary then contracted out the implementation of the project to a company in which the member of the evaluation board had a major economic interest.
Vulnerabilities detected	Management/control system: a person involved in the award proceedings brought pressure to bear for awarding the subsidy for the project to a specific economic operator. No guidelines issued on conflict of interest and what checks and actions should be undertaken by the managing authority to avoid it. Lack of oversight, at the selection stage, of the actual financial and operational capacity of the final beneficiary to implement the project.
Red flags	Final beneficiary company created immediately prior to the application for the subsidy. Declaration issued by the final beneficiary for claiming its expenditure or proving its qualifications. Evaluation of projects outsourced by the managing authority.

FP number	**265 — 165 — 169 — 186 — 187**
Area	ERDF
PP	1994–99
Classification of irregularity	Conflict of interest — Implementation of the project not in accordance with the rules
Irregularity code	Type of irregularity not classified in the IMS — 812
IMS reporting	No
Danger	**Red**
Description of fraud pattern	A final beneficiary (a cooperative venture established among local governments) obtained a subsidy for building an infrastructure and appointed a natural person as project manager. The project manager was entrusted with all the powers of the final beneficiary without the final beneficiary taking any measures for checking or monitoring his activity. The works for implementing the project were entrusted to a contractor company in which the project manager had a relevant economic interest, since he was its principal stakeholder.

	Therefore, the party appointed by the final beneficiary as manager of the project and the contractor of the final beneficiary had interests that conflicted with those of the final beneficiary. The convergence of interest between the project manager and the contractor company, together with the absence of controls on the activity of the project manager, allowed actions to be taken which were not in accordance with the contract drawn up between the final beneficiary and the contractor and which contributed to maximising the profit of the contractor company. Modus operandi: at the stage of awarding the subsidy, the final beneficiary brought pressure to bear on the managing authority to fund a specific project. The pressure was facilitated by the specific nature of the final beneficiary (local government), which had strong political influence. After the award of the project, the final beneficiary appointed a project manager to implement it. The project manager — having the full capability to act on behalf of the final beneficiary — on the one hand delegated the works to a contractor company largely owned by him and, on the other hand, maximised the profit of the contractor company by concealing the failure to comply with the terms of the contract stipulated between the contractor and the final beneficiary.
Vulnerability detected	Final beneficiary: the final beneficiary did not set up any supervisory system for checking the implementation of the project. Management/control system: first-level control poor because, among other weaknesses, no on-the-spot checks were carried out to verify the correct implementation of the project. Breach of principles on segregation of functions, accountability, and transparency.
Red flags	Consortium of public bodies without an adequate organisation for implementing and/or supervising the implementation of the project. Liquidity difficulties of the contractor. Complexity of the project to implement.

FP	194
Area	ERDF
PP	1994–99
Classification of irregularity	Conflict of interest
Irregularity code	Type of irregularity not classified in the IMS

IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary (a public body) was awarded a project for the implementation of a new information system. The project was contracted to a private company (the contractor) whose activities had to be monitored by a Monitoring and Reception Committee appointed by the final beneficiary. However, the Chairman of the Monitoring and Reception Committee (responsible for certifying the proper functioning and the contractual conformity of the software supplied) was the scientific advisor of another company associated with the project and paid by the contractor. The Monitoring and Reception Committee, following the pressure brought to bear by its chairman, certified the conformity of the project deliverable, even though it was not functioning properly. Modus operandi: the contractor officially paid a third company for its help in implementing the project. The real purpose of this payment was to pay the scientific advisor of the third company, who falsely declared that the software provided by the contractor was working properly and was in conformity with the terms of the contract signed. The advisor turned out to be the Chairman of the Monitoring and Reception Committee of the final beneficiary. Lastly, the final beneficiary accepted this certification of conformity despite the fact that its staff had already highlighted operational problems in the system provided, and submitted the claim for payment to the managing authority nevertheless.
Vulnerabilities detected	Management/control system: a member of the body certifying the project (Chairman of the Monitoring and Reception Committee) also participated in the implementation of the project. The management/control system did not verify that there was sufficient segregation of functions in the implementation of the project. Responsibility for certifying the conformity of the project should be delegated to an authority that is independent of the final beneficiary and chosen by means of proceedings that guarantee transparency and publicity.
Red flags	Amendment of the terms of reference of the contract signed between the final beneficiary and the contractor. Sub-contracting of part of it.

FP	313
Area	ESF
PP	2000–06
Classification of irregularity	Conflict of interest Abuse (content of project does not correspond to the aim of the operational programme (OP))
Irregularity code	Type of irregularity not classified in the IMS — 851
IMS reporting	No
Danger	**Red**
Description of fraud pattern	Subsidies were awarded to final beneficiaries for carrying out actions to improve the efficiency of local administrations. The shareholders of the final beneficiaries were politicians and local government representatives. The managing authority was part of a national administration led by people belonging to the same political party as the shareholders of the final beneficiaries. The implementing actions organised were mainly round-table events and seminars held during weekends and in holiday resorts, as well as the publication of information pamphlets. The investigation established that those actions were inconsistent with the aim of the operational programme. The contractors of the final beneficiaries were relatives of the shareholders of the final beneficiaries or their employees. Modus operandi: creation of non-governmental associations or limited companies with a very low capital stock and poor infrastructure. Submitting an application by artificially creating the conditions required for obtaining that subsidy.
	Political pressure on the managing authority to grant the subsidy on the grounds of the apparent fulfilment of the terms of the call for proposals. Awarding service contracts to relatives or acquaintances of shareholders of the final beneficiary. Implementing actions that are inconsistent with the aim of the project but able to create an undue benefit for the shareholders of the final beneficiary or for their relatives.
Vulnerabilities detected	Management/control system: political pressure on the managing authority focused on granting the subsidy to specific beneficiaries. Lack of first-level controls as regards the supporting documents submitted by the final beneficiary for claiming the payments.

	On-the-spot checks carried out by the managing authority did not detect the conflict of interest, the inconsistency between the aim of the project and the actions actually implemented or any of the other serious irregularities affecting the project. Lack of guidelines concerning conflicts of interest.
Red flags	Few applicants for a call for proposals — relationships/acquaintance between final beneficiary and managing authority and between final beneficiary and contractors. Final beneficiary created immediately prior to the application for the subsidy. Management of the final beneficiary with little or no experience in the specific field of implementation. Final beneficiary whose organisation, human resources and/or assets are inadequate for implementing the project. Description of the actions carried out by the final beneficiary in generic and vague terms.

5.4. Infringement of public procurement rules

FP	315
Area	ESF
PP	2000–06
Classification of irregularity	Infringement of public procurement rules
Irregularity code	614
IMS reporting	No
Danger	**Red**
Description of fraud pattern	Projects were awarded to non-governmental organisations. The shareholders of the final beneficiaries were politicians and local government representatives. The final beneficiaries, without launching a tender procedure and thus disregarding the legislation on public procurement, implemented the projects through contractors. However, the final beneficiary signed several contracts with the same contractor. Each contract refers to a share of a single action. The aim of splitting the contract into several contracts of lower amounts was to avoid European and national rules on public procurement.

	Modus operandi: the final beneficiary artificially split the project into several actions, in order to circumvent the European and national legislation on public procurement. Indeed the amount envisaged for implementing each single action was below the threshold established by the law for launching tender procedures. The implementation of the single actions was, accordingly, contracted to the same contractor.
Vulnerabilities detected	Management/control system: possible political pressure focused on granting the subsidy to a specific beneficiary. Project describing in generic and vague terms the actions to be carried out. Guidelines and internal rules on public procurement not followed and/or respected by the managing authority. The managing authority did not detect the infringement of the public procurement rules during its on-the-spot checks. Reporting system not reliable as the irregularity has not been reported by the Member State.
Red flags	Relationships/acquaintance between final beneficiary and managing authority. Final beneficiary created just before the application for the subsidy.

FP number	**255**
Area	ERDF
PP	1994–99
Classification of irregularity	Infringement of public procurement rules
Irregularity code	614
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	Projects for 'waste water treatment' were awarded by a final beneficiary to a contractor company in breach of EU and national legislation on public procurement. More specifically, the rules on public procurement were disregarded both at the awarding and at the implementing stage by a final beneficiary (a public body). Advance and final payments were also made in breach of the contractual provisions. The contractor did not keep the supporting documents detailing the works executed (e.g. construction costs book, records of inspections of remedial measures).

	Modus operandi: the final beneficiary included in the tender procedure various criteria to the benefit of a specific bidder who won the tender. During the implementation of the project and disregarding the rules on public procurement, the final beneficiary agreed to increase the original costs and to amend the terms of reference and the deadlines of the contract. The documentation that should have proved the need for all those amendments (e.g. construction costs book) was not kept by the contractor, in order to avoid any questioning of the decisions taken by the final beneficiary in its favour.
Vulnerability detected	Management/control system: lack of guidelines and checks on the observance of public procurement rules by the final beneficiary. Absence of risk analysis or risk indicators for projects which need to be implemented using public tenders.
Red flags	Amendment to the terms of the contract. Capability of the contractor company to influence the decision-making process of the final beneficiary. Compulsory documentation on the works carried out by the contractor not kept or only partially kept. Book accounts of the contractor not accurate.

FP	**142**
Area	ERDF
PP	2000–06
Classification of irregularity	Infringement of public procurement rules
Irregularity code	614
IMS reporting	No
Danger	**Red**
Description of fraud pattern	The managing authority, using the resources of the technical assistance measure, committed IT service contracts directly to a specific private company without organising a call for tender, thus disregarding both EU and national legislation on public procurement. The managing authority acts as an economic operator (final beneficiary) in cases where it uses the technical assistance funds. Therefore, in this area, any compulsory rule for the final beneficiary applies also to the managing authority, and any mismanagement of the managing authority might result in an irregularity under Article 1(2) of Regulation (EC) No 2988/95 or under Article 28 of Regulation (EC) No 1828/2006.

	Modus operandi: awarding IT service contracts directly to a contractor without organising any call for tender, and thereby disregarding the public procurement rules laid down by Directive 92/50/EEC ([23]) and by the implementing national legislation.
Vulnerabilities detected	Management/control system: no guidelines for the managing authority on public procurement. No specific training for the managing authority staff on the subject of public procurement legislation. Audit authority lacking a risk analysis system for technical assistance measures. Lack of audits on compliance with public procurement rules. Ability of the contractor to influence the decision-making process of the managing authority.
Red flags	Typology and amount of the contract falling within the obligation for launching a tender procedure. Price paid for the services higher than the average market price.

FP	269
Area	EAGGF guidance section
PP	2000–06
Classification of irregularity	Infringement of rules concerned with public procurement — Action not completed — Infringement of competition rules
Irregularity code	614 — 811 — 612
IMS reporting	No
Danger	**Red**
Description of fraud pattern	A project for building an irrigation system was awarded to a final beneficiary (a public body). Before the awarding date the final beneficiary had already contracted the implementation of the project to a third company without holding any tender procedure, thereby disregarding EU and national legislation. Moreover, a clause of the contract signed between the final beneficiary and the subcontractor obliged the latter to buy a large part of the supplies from a specific third company. This third company was buying the goods requested by the contractor from another company trading in the same market. The result was an inflating of the cost of the supplies.

	Modus operandi: pressure brought on the managing authority to select a specific project. This 'preliminary agreement' between managing authority and final beneficiary was also demonstrated by the fact that the project was contracted before the managing authority took the formal decision to grant a subsidy to the project. Then, the final beneficiary committed the works to a contractor without organising a call for tender. The contract signed by the contractor established that the latter was bound to purchase its supplies from a specific economic operator in order to unduly benefit it. However, this economic operator purchased the supplies from another firm trading in the same market. The scheme worked as follows: contractor A was obliged (by the final beneficiary) to buy the supplies from B who bought them from C (B competitor of C on the same market). The final effect of the condition established in the contract was to manipulate the competition and to inflate the costs of the supplies.
Vulnerabilities detected	Management/control system: final beneficiary able to influence the decision-making process of the managing authority as regards selection of projects. First-level checks did not detect the infringement of EU competition rules and national public procurement rules. Lack of guidelines and training for managing authority staff regarding tender procedures.
Red flags	Lack of financial or operational capacity of the contractor. Final beneficiary not experienced with projects that need to be implemented using tender procedures.

5.5. Action not implemented or not completed or not carried out in accordance with the rules

FP	143
Area	ESF
PP	1994–99
Classification of irregularity	Action not carried out in accordance with the rules — Lack of supporting documents
Irregularity code	812 — 210
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	An economic operator submitted to the managing authority a project for implementing vocational training courses. Once selected, the operator contracted out the implementation of the projects to third companies as it did not have the necessary infrastructure and expertise. However, the legal framework did not allow such delegation and the final beneficiary did not inform the managing authority about it. The fraud was facilitated by an acquaintance of the final beneficiary who was a member of the evaluation board (the body in charge of selecting the projects) of the managing authority. Modus operandi: the economic operator submitted its projects to the managing authority. Because of the pressure exerted by a member of the evaluation board, the economic operator received the subsidy and became a final beneficiary. Then, the beneficiary delegated the implementation of the projects to third contractors. The final beneficiary was able to conceal this state of affairs from the managing authority because it made declarations in order to claim its expenditure, rather than submitting invoices or other equivalent documentation. The absence of supporting documents relating to the expenditure also allowed the final beneficiary to overstate the costs.
Vulnerabilities detected	Management/control system. A person involved in the award proceedings brought pressure to bear for the subsidy to be given to a particular economic operator. There were no guidelines regarding the checks to be carried out during the awarding stage of the project in order to verify the capability of the final beneficiary to implement the project. Absence of checks on the actual capability of the final beneficiary to implement the project. Failure to comply with the rules on payment of the expenditure submitted by the final beneficiary (the expenditure was accepted on the basis of declarations issued by the final beneficiary).

Red flags	Absence of guidelines to avoid possible conflict of interest. Final beneficiary set up just prior to submission of the project. Management of the final beneficiary not having experience in the specific field of vocational training.

FP	139
Area	ESF
PP	1994–99
Classification of irregularity	Action not implemented — False supporting documents — Undeclared revenue
Irregularity code	810 — 213 — 840
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	Two final beneficiaries (limited companies) sharing the same premises and infrastructure received a subsidy to implement several projects aimed at delivering vocational training courses for improving the qualifications of unemployed workers. Instead of attending the training events, the trainees were employed by third companies (so-called 'guest companies') as labour force, working in the production chain. In this manner, part of the labour costs of the guest companies was paid by the EU subsidy. Moreover, the goods produced by the trainees were sold and the profits were not declared to the managing authority. Modus operandi: the final beneficiaries, on the one hand, submitted to the intermediate body projects meeting all the criteria established in the call for proposals and, on the other hand, employed the trainees as labour force in the production chain of third companies, providing few, if any, training courses. Then, the final beneficiaries presented false declarations to the intermediate body and falsified supporting documents claiming regular implementation of the projects, in order to obtain the payments. More particularly, the final beneficiaries falsified the register of attendance and signatures and they issued false invoices for training activities never carried out. The use of the premises of the guest companies for all the 'training' activities facilitated the fraud.
Vulnerabilities detected	Management/control system: the control activity carried out by the intermediate body (first-level checks) did not detect any irregularity. Lack of publicity and transparency related to the aim of the projects.
Red flags	Limited capability of the final beneficiaries to implement the projects. Training courses carried out exclusively in the premises of third firms.

FP	197
Area	EAGGF guidance section
PP	1994–99
Classification of irregularity	Action not implemented — False declarations
Irregularity code	810 — 818
IMS reporting	No
Danger	Yellow
Description of fraud pattern	A final beneficiary received a subsidy to purchase a machine needed for improving its industrial process. The costs of the project had to be covered by an EU, national and private contribution. Therefore, the final beneficiary had to pay for part of the investment. However, the final beneficiary did not have the financial resources to cover the share of its own contribution to the co-funded project. Therefore, it concealed its financial difficulties from the managing authority and covered its share by issuing fake cheques made out to the supplier of the machine. As a consequence of the fake cheques, the supplier launched a court action to seize the machine sold to the final beneficiary. The machine was, indeed, seized and therefore the aim of the project was not met. Modus operandi: the final beneficiary presented a false declaration to the managing authority in order to prove by artificial means that it had the financial capability to pay its share of private contribution. The fraud was detected because of the legal action taken by the supplier of the final beneficiary for not having received payment for the machine delivered.
Vulnerabilities detected	Management/control system The managing authority did not check the financial capacity of the final beneficiary at the awarding stage.
Red flags	Financial difficulties of the final beneficiary.

FP	196
Area	ESF
PP	2000–06
Classification of irregularity	Action not carried out in accordance with the rules — Non-eligible expenditure
Irregularity code	812 — 325
IMS reporting	No
Danger	**Red**
Description of fraud pattern	The managing authority delegated the management of operational programmes to an intermediate body (a private company). The private company in question (intermediate body) went into liquidation after the programmes had been implemented. The managing authority unduly paid, under the technical assistance measure, a share of the deficit in the pension fund of the staff of the intermediate body, as well as a share of its lease costs. The share was equal to the co-funding rate (45 %) for the technical assistance measure. Modus operandi: the managing authority used the financial resources of the technical assistance measure for purposes other than those laid down in Article 23 of Regulation (EC) No 1260/99 ([24]), and also in clear breach of national rules which explicitly excluded winding-up costs of the intermediate body from the eligible costs.
Vulnerabilities detected	Management/control system: the managing authority, in its capacity as final beneficiary of the technical assistance measure, misused part of those resources. Lack of guidelines for the staff of the managing authority on the scope and correct use of the technical assistance measure. Audit authority did not detect this serious irregularity affecting the whole programme. Certifying authority certified costs that were not eligible.
Red flags	Liquidation of the intermediate body. Intermediate body claiming winding-up costs from the managing authority.

FP	194
Area	ERDF
PP	1994–99
Classification of irregularity	Action not implemented — False declarations
Irregularity code	818 — 810
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary (a public body) was awarded a project for the implementation of a new information system. The project was subsequently contracted to a private company ('the contractor') whose activities had to be monitored by a Monitoring and Reception Committee appointed by the final beneficiary. OLAF's investigations highlighted the fact that only a small part of the whole project had actually become operational. The main part of the information system had not been operational since the date of its acceptance into service. However, the final beneficiary did not contest the malfunction of the software; on the contrary, it submitted a claim for payment to the managing authority. Modus operandi: the contractor set up a partnership with a third company in order to implement the project. The contractor and its partner company were able to influence the Monitoring and Reception Committee of the final beneficiary, who certified that the software provided by the contractor was working properly and was in conformity with the terms of the contract. The final beneficiary accepted this conformity certification despite the fact that its staff had already drawn attention to operational problems in the system, and submitted a claim for payment to the managing authority.
Vulnerabilities detected	Management/control system: unable to detect that the project was not being implemented properly. Poor first-level control as the on-the-spot check at the end of the project to certify its correct implementation was not properly carried out. Managing authority unaware that the project had been partially subcontracted.
Red flags	Sub-contracting the implementation of the project or part of it. Complaints from final users of the project deliverable.

FP number	**208**
Area	ESF
PP	2000–06
Classification of irregularity	Action not carried out in accordance with the rules — Non-eligible expenditure
Irregularity code	812 — 325
IMS reporting	No
Danger	**Red**
Description of fraud pattern	The total financial allocation of a structural measure was committed retrospectively through the funding of projects declared by the managing authority as being consistent with the aim and goals of the European Social Fund. However, the projects that were retrospectively funded proved to be affected by several irregularities as they infringed the rules on transparency and accountability established by the EU regulations on the Structural Funds and were not consistent with the Structural Fund objectives. Modus operandi: the decision to declare projects already implemented consistent with the Structural Funds operational programme was taken by the managing authority on the basis of an administrative decision which mistakenly established that those projects fulfilled the scope and the other criteria required by the EU and national legislation on Structural Funds. However, OLAF's investigation revealed that all the obligations regarding awarding procedures, first-level checks, transparency and holding of supporting documents had been infringed or disregarded.
Vulnerability detected	Management/control system: the managing authority did not oppose or question the administrative decision wrongly interpreting the rules established in the EU regulations on Structural Funds. Management/control system not effective or independent. Although the audit of a private company and of an audit service of the national ministry highlighted the irregularities, the managing authority certified the expenditure under pressure from the local government coalition.
Red flags	Retrospective projects. Depressed economic area.

FP	137
Area	ERDF
PP	2000–06
Classification of irregularity	Action not carried out in accordance with the rules — Non-eligible expenditure
Irregularity code	812 — 325
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	A final beneficiary (public body) was awarded a subsidy to promote the image of a specific region. The final beneficiary commissioned a private association, located outside the EU, to organise an event in order to implement the project. The event took place outside EU territory. The subsidy was used to pay the travel and accommodation costs of local government representatives who attended the event and the contractor who set up a stand for a trade fair. The project was awarded without regard for Rule No 12 on eligible costs established by Regulation (EC) No 448/2004 ([25]) because the managing authority did not ask the Member State to request and obtain the mandatory authorisation from the European Commission. This authorisation is mandatory in the case of assistance relating to the outermost regions. The final beneficiary did not keep the invoices or the different bids received for selecting the contractor in order to prove and justify the implementation costs of the project. Modus operandi: the managing authority awarded the project in contravention of the eligibility rule established by Regulation (EC) No 448/2004. Then, the final beneficiary submitted declarations issued by itself rather than the supporting documents.
Vulnerabilities detected	Management/control system: managing authority under the influence of the local government. The managing authority did not ensure compliance with Rule No 12 of Regulation (EC) No 448/2004. The managing authority approved the payment to the final beneficiary in the absence of supporting documents that could justify all the expenditure claimed by the final beneficiary. The certifying authority did not detect the ineligibility of the expenditure. Difficulties in checking projects implemented outside the EU.

Red flags	Projects implemented outside the region where the operational programme should have been carried out. Contracting the implementation of a project to an entity outside the territory of the EU.

5.6. Infringements with regard to the co-financing system

FP	196
Area	ESF — ERDF
PP	2000–06
Classification of irregularity	Infringement with regard to the co-financing system — Non-eligible expenditure
Irregularity code	832 — 325
IMS reporting	No
Danger	**Red**
Description of fraud pattern	The managing authority delegated the management of operational programmes to an intermediate body (private company). The intermediate body's payment was made up, in part, of the financial resources of the technical assistance measure (EU share) and, for the other part, of contributions from the final beneficiaries (who covered the national share of the financing). The payments made by the final beneficiary were not voluntary. The result of this irregularity was a breach of Article 32(1) of Regulation (EC) No 1260/99, which establishes the principle of 'full payment obligation' (the final beneficiary is entitled to receive the full contribution awarded and no charges or fees are permitted, unless its contribution is wholly voluntary). Modus operandi: the intermediate body invoiced the final beneficiary for the costs related to the management of the programme. The intermediate body sought to underline the voluntary nature of the contributions made by the final beneficiary, gathering statements whereby the final beneficiary declared its availability to pay a fee against the subsidy.
Vulnerabilities detected	Management/control system: misinterpretation of Article 32(1) of Regulation (EC) No 1260/99. Lack of control reflected by the fact that the audit authority did not detect this serious irregularity affecting the entire programme.

	It is very likely that the contribution paid by the final beneficiary is accounted for in the cost of the project. The final result is inflation of the cost of the project by an amount equal to the contribution. Legislation: Article 32(1) of Regulation (EC) No 1260/99 forbids a compulsory contribution of the final beneficiary. However, it does allow a wholly voluntary contribution. Therefore, the current legislative framework leaves open the risk that a compulsory contribution is disguised as a voluntary one.
Red flags	Invoices issued for 'management fee charges' or for 'partnership contribution'.

FP	274
Area	ERDF
PP	2000–06
Classification of irregularity	Infringement with regard to the co-financing system — Infringement of rules concerned with public procurement
Irregularity code	832 — 614
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary signed two different contracts with its contractor for implementing the same project. The first was submitted to the managing authority and complied with all the terms set out in the call for tender. The second contract (for a lower amount and for less work compared to the first one) was not disclosed to the managing authority and was kept between the final beneficiary and the contractor. The investigations highlighted the fact that the contract for a lower amount was worth almost the same amount as the ERDF and national share and that the works carried out corresponded to the terms of this contract and not to those laid down in the contract submitted to the managing authority. Of course, the contract for a lower amount did not comply with the requirements of the tender procedure. Therefore, it would never have been selected if it had been submitted. Modus operandi: the final beneficiary is granted a subsidy for implementing a project declared to be worth an amount 'X'. The EU and national share is 70 % of 'X'. Then, the final beneficiary launches a tender procedure and a bidder wins the tender for 'X' amount. The successful bidder (contractor) signs with the final beneficiary a (fake) contract for a value of 'X' which meets the terms laid down in the

	tender procedure and, at the same time, signs another contract with the same contractor (the real contract) for a value of 70 % of 'X' which does not meet these terms as regards the quality of the material and the dimensions of the infrastructure. Lastly, the final beneficiary submits to the intermediate body the fake contract for implementing the project with a value of 'X' and conceals the actual contract signed between it and the contractor with a value of an amount almost identical to the ERDF and national share (70 %'X'). The result is that 100 % of the project is paid using EU and national funds and the outcome of the tender procedure has been manipulated.
Vulnerabilities detected	Management/control system: absence of guidelines on the documents required to check the financial capacity of the final beneficiary to pay its share of the project. First-level controls very poor as the managing authority did not check the conformity of the works with the terms and specifications established by the final beneficiary. No appropriate measures to recover the irregular amounts were taken until OLAF's investigations were closed, even though the management system uncovered these irregularities before the date when they were detected by OLAF. Lack of communication between the managing authority and the audit authority in cases where irregularities are suspected.
Red flags	Limited financial capacity of the final beneficiary.

FP	**275**
Area	FIFG
PP	2000–06
Classification of irregularity	Infringement with regard to the co-financing system — False supporting documents
Irregularity code	832 — 325
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	The final beneficiary received a subsidy to implement a project. The subsidy was subject to the condition that the final beneficiary had the financial capacity to pay a share of the costs of the co-funded project (private contribution). The final beneficiary declared to the managing authority that it had this financial capacity, although this statement was untrue.

	During the implementation of the project the final beneficiary submitted to the managing authority false costs for an amount covering the private share of the contributions. Modus operandi: the final beneficiary submits a project for a value higher than the amount of money it actually needs for implementing the project. Then, the final beneficiary commits part of the works for implementing the project to a third company which is based outside the EU (contractor). The contractor pays to company A (owner of the final beneficiary) an amount equal to the private share of the co-funded project based on a false service contract. The result of this operation is that the final beneficiary receives back the amount of the private share of the co-funded project, and thereby infringes the rule on co-financing.
Vulnerabilities detected	Managing/control authority: no administrative guidelines obliging the managing authority to carry out an enquiry into the financial capacity of the final beneficiary to implement the project. The managing authority did not detect that the cost of the project was overestimated. The national authorities failed to report the irregularity in accordance with Regulation (EC) No 1681/94.
Red flags	Difficult financial situation of the final beneficiary. Invoice related to services/goods provided by companies based outside the EU where those services/goods can be easily obtained locally.

FP	**285**
Area	ESF
PP	2000–06
Classification of irregularity	Infringement with regard to the co-financing system — Falsified supporting documents
Irregularity code	832 — 213
IMS reporting	No
Danger	**Orange**
Description of fraud pattern	A final beneficiary implemented several vocational training projects receiving subsidies from different managing authorities within the same Member State. The final beneficiary submitted claims to the managing authorities for staff costs in excess of those actually incurred.

	The inflated staff costs were also certified by the auditor of the final beneficiary. Modus operandi: the final beneficiary used two different methods for inflating its staff costs and, thus, for covering the private share of the financial contribution, did the following. — Declared to the managing authority a false (and inflated) rate per hour for staff costs. Actually, the costs of the salary plus tax plus social contribution and administrative expenditure for each employee were equal to half of the costs claimed. — Declared to the managing authority an inflated number of working hours.
Vulnerabilities detected	Audit system: failed to carry out other audits for similar projects implemented by the same final beneficiary, although an audit of one project highlighted serious irregularities. The managing authority, while carrying out the first-level control, did not check the staff payrolls and/or contracts, but confined itself to accepting a certification of expenditure issued by the internal auditor of the final beneficiary.
Red flags	Difficult financial situation of the final beneficiary which increases the greed/need to commit fraud. One single transaction accounts for more than half of the total project costs. Certification of expenditure issued by an employee or a contractor of the final beneficiary.

Endnotes

(1) COM(2007) 806.

(2) OJ L 136, 31.5.1999, p. 20.

(3) To that end, Article 2(2) of Decision 1999/352/EC, the Office shall be responsible for the preparation of legislative and regulatory initiatives of the Commission with the objective of fraud prevention, and in accordance with Article 2(5)(c), the Office shall be responsible for giving technical support, in particular in the area of training, to the other institutions or bodies as well as to the competent national authorities.

(4) COM(2007) 806 final.

(5) Fraud prevention strategy for ERDF, Cohesion Fund (CF) and ESF (JFPS), action 5.4: 'Compendium of common fraud cases', to disseminate a compendium of cases on a 'need-to-know' basis.

(6) OLAF provides assistance in training events in order to explain its competencies and to provide guidance on such matters as fraud patterns, trends, threats, risk indicators and methodologies.

(7) Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.5.2002, p. 64).

(8) The same provisions are included in the sectoral legislation: for the programming period 1994–99, Article 23(1) of Council Regulation (EEC) No 4253/88 (OJ L 374, 31.12.1988, p. 1), as codified by Council Regulation (EEC) No 2082/93 OJ L 193, 31.7.1993, p. 20); for the programming period 2000–06, Article 38(1) of Council Regulation (EC) No 1260/1999 (OJ L 161, 26.6.1999, p. 1); and for the programming period 2007–13, Article 70 of Council Regulation (EC) No 1083/2006 (OJ L 210, 31.7.2006, p. 25).

(9) The Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the protection of the European Communities' financial interests defines 'fraud', in respect of expenditure, as any intentional act or omission relating to:

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

(10) 'Passive corruption

For the purposes of this convention, the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties shall constitute passive corruption.

Active corruption

For the purposes of this convention, the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties shall constitute active corruption.'

(11) This conclusion is drawn by the analysis of OLAF's operational and strategic intelligence activities.

(12) Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 (OJ L 312, 23.12.1995, p.1), defines 'irregularity' as:

'any infringement of a provision of Union law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Union or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Union, or by an unjustified item of expenditure.'

For the Structural Funds and the Cohesion Fund a slightly adapted definition is reproduced in the regulations on the reporting of irregularities (Article 1 of Commission Regulation (EC) No 2035/2005 (OJ L 328, 15.12.2005, p. 8) and Article 1 of Commission Regulation (EC) No 2168/2005 (OJ L 345, 28.12.2005, p. 15), amending respectively Regulations (EC) Nos 1681/94 (OJ L 178, 12.7.1994, p. 43) and 1831/94 (OJ L 191, 27.7.1994, p. 9)): '"irregularity" means any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Communities by charging an unjustified item of expenditure to the Community budget'. The same definition is reproduced in Article 2(7) of Council Regulation (EC) No 1083/2006 laying down general provisions for the ERDF, ESF and CF for the 2007–13 period.

([13]) Regulation (EC) No 1681/94 as amended by Regulation (EC) No 2035/2005 defines 'suspected fraud' as 'an irregularity giving rise to the initiation of administrative and/or judicial proceedings at national level in order to establish the presence of intentional behaviour, such as fraud'. This definition is reproduced in Article 27(c) of Commission Regulation (EC) No 1828/2006 (OJ L 371, 27.12.2006, p. 1).

([14]) Regulation (EC) No 1681/94 as amended by Regulation (EC) No 2035/2005 and Regulation (EC) No 1831/94 as amended by Regulation (EC) No 2168/2005 for the programming periods 1994–99 and 2000–06, and Articles 27 to 36 of Commission Regulation (EC) No 1828/2006 as amended by Regulation (EC) No 846/2009 (OJ L 250, 23.9.2009, p. 1) for the programming period 2007–13.

([15]) IMS is a web-based application built within for electronic reporting of irregularities. It provides for secured but, at the same time, easy and flexible access to any authorised operator at national or regional level, able to accommodate also the needs of highly decentralised Member States. This system has been developed by OLAF to allow Member States to comply with the obligation of notifying irregularities and cases of suspected fraud detected in the framework of their control activities on the use of the funds.

([16]) OJ L 371, 27.12.2006, p. 1.

([17]) OJ L 178, 12.7.1994, p. 43.

([18]) OJ L 328, 15.12.2005, p. 8.

([19]) Irregularities detected before Regulation (EC) No 1681/94 entered into force are not to be notified.

([20]) Cf. statistical annex to the 2009 annual report on the protection of the EU's financial interests.

([21]) OJ L 312, 23.12.1995, p.1.

([22]) Preventive measures might consist of suspension of payments, withdrawal of the project co-financed by the EU, covering the risk by bank warranty or including anti-fraud clauses in the grant agreement signed with the beneficiaries.

([23]) OJ L 209, 24.7.1992, p. 1.

([24]) OJ L 161, 26.6.1999, p. 1.

([25]) OJ L 72, 11.3.2004, p. 66.

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