

EN

EN

EN



EUROPEAN COMMISSION

Brussels, 14.7.2010  
SEC(2010) 897 final

**COMMISSION STAFF WORKING DOCUMENT**

**Implementation of the article 325 by the Member States in 2009  
Accompanying document to the  
REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
TO THE COUNCIL –  
Protection of the financial interests-fight against fraud-Annual report 2009**

{SEC(2010) 898}  
{COM(2010) 382}

**COMMISSION STAFF WORKING DOCUMENT**  
**Implementation of the article 325 by the Member States in 2009**  
**Accompanying document to the**  
**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND**  
**TO THE COUNCIL –**  
**Protection of the financial interests-fight against fraud-Annual report 2009**

## INTRODUCTION

Article 325(5) of the TFEU (ex article 280 of the EC Treaty) requires the Commission, in cooperation with the Member States, to submit a report each year to the European Parliament and the Council on the measures taken to implement that Article. The Commission bases the part of the report relating to the Member States on the replies to the "Article 325" questionnaire, as agreed upon with them within COCOLAF and adapted each year in the light of past experience so as to facilitate the monitoring of anti-fraud measures.

Consequently, each year, the Commission draws up a report in cooperation with the Member States on the measures taken to implement this obligation, according to article 325 of the Treaty on the Functioning of the European Union (TFEU). This report is addressed to the European Parliament and the Council and it is published.

The Commission report is drafted on the basis of the Member States' replies to the "Article 325" questionnaire. The present questionnaire covers the period from 1 January to 31 December 2009.

This document lists all the answers of Member States to the 2009 questionnaire.

Over the time the report had become more and more voluminous. Both the Council and the European Parliament were concerned that its size was increasing and that its being annual, horizontal and multisectoral hampered a detailed assessment of all the aspects of the protection of the EU's financial interests by the Member States. Since 2003, the Commission has therefore applied a new approach. After the traditional question asking Member States to report on new measures taken in 2009, the questionnaire focuses on a two **major themes**. The aim is to gather information on topics which go beyond the measures taken in the course of a calendar year, thereby allowing a more detailed analysis of these topics. The topics change from year to year.

As in the previous years, the **first part of the questionnaire** asks the Member States to present the **main measures that give effect to Article 325**, i.e. measures to combat fraud and all illegal activities affecting the financial interests of the EU. This part is structured the same as for the 2009 questionnaire. Member States are invited to describe two or three "key" measures taken in the year 2009 in order to implement Article 325 of the Treaty.

The **second set of questions** concerns the **implementation of Regulation 2185/1996** (*Regulation 2185/1996 concerning on the spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, OJ L 292, 15.11.2006*). The successful implementation of this regulation depends on the cooperation with the Member States. Namely, on-the-spot checks and inspections are one of the most powerful tools available to the Commission (OLAF) to conduct administrative investigations outside the EU institutions and bodies with a view to achieving the objective of combating fraud and other illegal activity undermining the EU's financial interests. Therefore, it is important to the Commission to learn more about national practices and administrative procedures in conducting these checks.

The **third part of the questionnaire** also concerns a specific subject, namely the **measures taken to secure the recovery of irregular amounts**. In its Resolution of 24 April 2009 on the protection of the Communities' financial interests and the fight against fraud - Annual report 2007 (2008/2242(INI)) the European Parliament noted that recovery rates are still low,

especially in sectors where Member States manage recoveries. The European Parliament considered that more appropriate and faster recovery procedures were needed and binding and precautionary elements should be included in future legislation concerning shared management so that irregular amounts can be recovered at the end of the recovery procedure. This way, the tax payers' money recovery could be more efficiently secured.

**1. KEY DEVELOPMENTS CONCERNING THE IMPLEMENTATION OF ARTICLE 325 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION (TFEU)**

**Maximum three** most important legislative or administrative measures taken in the course of 2009 for the protection of the EU's financial interests and the fight against fraud. These should be measures adopted at Member State's own initiative and not measures which simply transpose EU legislation.

In particular, Member States are asked to indicate:

- Type of measure (law, regulation, etc.) and references (number, date of adoption and/or publication, name of programme, etc.)
- Its scope (horizontal, specific field)
- Why it was needed
- Improvements made to the existing system.

<b>BE</b>	<p>1. Ministerial Committee on Combating Tax and Welfare Fraud established operationally by Royal Decree of the 31 January 2009 (O.J. of 6 February 2009).</p> <p>Handles coordination of the fight against fraud in the fields of Finance, Social Affairs, Home Affairs, Justice, Employment, SMEs and the Self-employed, and Economic Affairs. The aim of the measure is to formulate a general policy for combating tax and welfare fraud and to set the priorities of the ministries involved in the fight against fraud. The Committee ensures that legislation is applied uniformly throughout the country. Previously, collaboration was at a lower level. The creation of a Committee clearly indicates the existence of a carefully considered policy on combating fraud (SPF FINANCES).</p> <p>2. Exchange of data within the SPF Finances.</p> <p>Articles 153 to 159 of the programme-law of 23 December 2009, published in the M.B. of 30 December 2009 adapt the existing provisions of the Income Tax Code, the Value-Added Tax Code, and the General Act on Customs and Excise of 18 July 1977 as regards exchanging information between the Belgian tax authorities in order to eliminate all obstacles to close collaboration between the departments of the Federal Public Service for Finances (Service Public Fédéral des Finances – SPF Finances). Any official of the SPF Finances responsible for assessing and collecting taxes or regularly responsible for conducting inspections or investigations can now obtain, search for, and collect the relevant information and consult all the data available in the SPF Finances that may be of use for assessing and recovering any tax.</p>
<b>BG</b>	<p>1. Law Amending and Supplementing the Public Procurement Law. The Law</p>

	<p>entered into force on 1 January 2009 and was amended in O.J. No 24 of 31 March 2009 and O.J No 82 of 16 October 2009. This Law lays down the principles, conditions and rules for awarding public contracts in order to ensure the effective expenditure of budgetary and extra budgetary resources, as well as of resources used to implement activities of public interest specified in the Law. It reinforces the capacity of the Public Procurement Agency, step up ex ante control throughout the performance of the procedures and to introduce additional penalties in order to significantly decrease violations.</p> <p>2. The Prevention and Detection of Conflicts of Interest Law. The Law entered into force on 1 January 2009 and was amended in O.J. No 10 of 6 February 2009, O.J. No 26 of 7 April 2009 and O.J. No 101 of 18 December 2009. The law prohibits persons in public office from participating in procedures for public procurement or in procedures for the granting of resources from EU funds.</p> <p>3. Amendments to Council of Ministers Decree No 18/2003 creating the Council of the Anti-Fraud Coordination Service (AFCOS), O.J. No 39 of 26 May 2009, amended in O.J. No 71 of 4 September 2009. The adopted amendments stipulate that the Deputy Prime Minister and Minister of the Interior is to chair the AFCOS Council, which is to be assisted in carrying out its activities by the AFCOS Directorate in the Ministry of the Interior.</p>
<b>CZ</b>	Adoption of the new Criminal Code, Act No 40/2009, as amended by Act No 306/2009, effective from 1 January 2010, which is a re-codification of the Criminal Code Act and in Section 260 governs in a completely new way the principles of criminal liability and the facts of individual criminal offences, including specific coverage of the crime of damaging the financial interests of the European Union in §260. The Criminal Code also now divides criminal acts into misdemeanours and crimes.
<b>DK</b>	/
<b>DE</b>	/
<b>EE</b>	Amendment of Section 22(11) of the Structural Funds Act - the scope of the Act has been extended to include entities that are required to comply with the rules on public procurement, and in order to ensure the protection of the EU's financial interests in the use of aid on 26.12.2009 an amendment came into force to the Regulation of the Minister for Finance on the deadlines and procedure for submitting reports and the form of reports on the use and disbursement of structural aid in the period 2007–2013, according to Section 2(7) of which implementing bodies are to submit to the paying authority quarterly reports on amounts recovered. This measure requires implementing bodies to review the details available in the information system on recoveries and regularly keep track of incoming amounts, which in turn makes it possible to deal more effectively with problem cases.
<b>IE</b>	The Department of Agriculture, Fisheries and Food (D/AFF), introduced Regulations in 2009 - (SI No. 424 of 2009) European Communities (Agriculture, Fisheries and Food) (Compliance). The Regulations provide for streamlining of the appointment of authorised officers and for enforcement powers in respect of certain EC measures to which the Regulations are applied in the agricultural sector. This prevents multiple authorisations being necessary. The Department of Enterprise, Trade and Employment (D/ETE) introduced a publicity brochure for the ESF and

	updated their IT System to more accurately implement Article 77 of Regulation 1083/2006. This update was based on user feedback.
<b>EL</b>	For the EAGGF Guarantee section, a memorandum of cooperation is being promoted between the Directorate for Expenditure Control at the Ministry of Rural Development, the Payment and Control Agency for Guidance and Guarantee Community Aid (O.P.E.K.E.P.E.) and the Directorate-General for Customs and Excise Duties. Cooperation involves asking for data for checks after the risk analysis. 2) as part of the management and control of the Leader programme, the Special LEADER Management Service for the RDP has drawn up a special form for checking compliance with long-term commitments by final beneficiaries (Form F) further to Ministerial Decision 430/18-2-03, particularly Article 9(14), (15), (16) and (20) and Article 16(2) and (3) thereof and pursuant to the agreement between the Local Action Group (LAG) and the final beneficiary. The check form was communicated to the competent services of the Ministry of Economic Affairs and Finance and to the LAGs by means of letters Ref. 1099/2-4-09 and 1265/9-4-09.
<b>ES</b>	<p>1. CENTRAL STATE ADMINISTRATION.</p> <p>Decision of 21 January 2009 by the Directorate-General of the State Tax Authority approving the guidelines in the 2009 General Tax Control Plan. The 2009 plan attempts to adapt the Tax Authority's methods and operational strategies to cope with changes in the classification of the most serious fraud offences. In particular, the Inspection Plan implements in 2009 the guidelines laid down in the updated version of the Fraud Prevention Plan presented on 20 November 2008. In 2009 this section included checks on applications by authorised economic operators, submitted by economic agents located in Spain or in another European Union country whose activity is linked to the movement of goods on the customs territory of the Community and non-EU countries.</p> <p>Decision of 15 December 2009 by the Department of Customs and Excise of the State Tax Authority which contains the instructions for drawing up the Single Administrative Document. This Decision approved centralised national clearance for Authorised Economic Operators, which means that all the declarations by these operators are examined by the same centralised customs office, regardless of where the goods are located.</p> <p>2. AUTONOMOUS COMMUNITY ADMINISTRATION</p> <p>EXTREMADURA - Law 8/2009 of 28 December 2009 on the General Budget for the Extremadura Autonomous Community for 2010 reinforcing the arrangements for recovering grants and giving the relevant inspectors the status of an authority.</p> <p>CATALONIA - Internal procedure and operational rules of the Catalonia Anti-Fraud Office of 25 November 2009 regulating the Office's inspection procedure, and giving its officials powers and prerogatives to investigate, prevent and prosecute irregular conduct.</p> <p>GALICIA - Implementing Regulation for Law on Grants (Decree 11/2009 of 8 January 2009) approving measures aimed at defining the material conditions for the recovery of grants and regulating the procedure for the effective recovery of amounts unduly received.</p>
<b>FR</b>	Adoption of the right to a hearing for any person who has received an unfavourable decision from the customs administration and, in particular, who has been notified of an additional customs debt. As of the end of December 2009, Articles 67A to 67D

	<p>will be inserted in the Customs Code. Scope: in the area of Community financial interests, the notification of customs debt. Need for the measure: need to adhere to a general principle of Community law (ECJ Judgment of 18 December 2009, Sopropé, case C-349/07). Improvements introduced: greater respect for the right of defence.</p>
<b>IT</b>	<p>In managing EU resources, reference is generally made to EU and national regulations.</p> <p>Administrative provisions implemented at local level:</p> <ul style="list-style-type: none"> <li>- within the framework of the programme's management and supervision systems, the managing authorities of the Tuscany Region have adopted specific measures (approved by Decision No 17 of 22 June 2009) that are aimed at protecting the EU's financial interests and combating fraud; the measures cover the actions funded through the resources of the ERDF and ESF regional operational programmes 2007 to 2013;</li> <li>- Liguria Region has adopted an implementing measure and a circular, detailing both the procedures for recovering and cancelling the amounts involved following breaches, and the roles of the competent regional authorities in the field of irregularities vis-à-vis the European Social Fund;</li> <li>- the Basilicata managing authority, drawing on previous programme experience and in the light of the new regulatory requirements, has prepared a manual updating the guidelines on methods for ascertaining irregularities and fraud, and on systems for implementing the procedures for recovering the sums involved;</li> <li>- a number of regions have signed and approved special memoranda of understanding with the Guardia di Finanza (Revenue Police) in order to encourage the exchange of information, guarantee cooperation and prevent the kind of overlap in which checks already carried out on the basis of national legislation are repeated on the basis of Community regulations.</li> </ul> <p>Agricultural policy sector: Article 8 ter of Act No 33 of 9 April 2009 taking urgent measures in support of industrial sectors in crisis (which converted into statute, with amendments, Decree-law No 5 of 10 February 2009) has made provision for setting up, at the Agricultural Payments Agency (AGEA) the National Debt Register (RND); via the National Agricultural Information System (SIAN), this includes all the amounts ascertained to be owed by farmers:</p> <ul style="list-style-type: none"> <li>- appearing in the debtors' ledgers of the accredited paying agencies, set up under Regulation (EC) No 885/2006;</li> <li>- reported by the Regions and autonomous provinces and relating to agricultural support and aid payments provided by the latter.</li> </ul> <p>The aforesaid register implements Article 5b of Regulation (EC) No 885/2006, which requires the Member States to offset the amounts owed by farmers, by way of the reimbursement of Community benefits and aid, against any future payments to be made by the accredited paying agency to the same beneficiary.</p>
<b>CY</b>	<p>With regard to the Structural Funds, the Cohesion Fund and the European Fisheries Fund, the Circular on Irregularities has been issued by the Certification Authority (Treasury) in relation to information and the handling of irregularities arising in the implementation of cofinanced projects. Apart from the Certification Authority, no</p>



	<p>significant legislative or administrative measures (laws, regulations) were taken in 2009 by the members of the Cypriot AFCOS other than those laid down in Community legislation.</p>
<p><b>LV</b></p>	<p>1) <u>In the area of prevention and combating corruption</u> :</p> <ul style="list-style-type: none"> <li>- The Guidelines for Corruption Prevention and Combating for 2009–2013’ determine the objective of and lines of action under the Latvian anti-corruption policy for five years in order to achieve efficient and lawful activities of public officials in the public interest.</li> <li>- The ‘Corruption Prevention and Combating Programme 2009–2013’ was worked out for the implementation of the Guidelines on Corruption Prevention and Combating for five years. Implementing the task of improving internal control mechanisms in State and local government institutions under the Programme, in 2009 more than 500 public officials, including officials directly working with EU funds, received training about issues of conflict of interest. Central anti-corruption agency of Latvia- Corruption Prevention and Combating Bureau also conducted survey about internal anti-corruption measures in state and local government institutions.</li> </ul> <p>2) <u>The following documents were updated during the EU Funds 2007-2013 programming period</u>:</p> <ul style="list-style-type: none"> <li>- Cabinet Regulation No 1238 ‘Procedures for monitoring and evaluating the implementation of European Union funds’ of 27 October 2009, which provides for improvement of reporting on the implementation of horizontal priorities, ensuring consolidated and analytical information on the horizontal priorities included in the EU Funds planning documents, and improving monitoring procedures regarding the content of monitoring reports and reporting frequency.</li> <li>- Cabinet Regulation No 952 ‘Procedures by which information on the application of Value Added Tax under projects financed from the European Union Funds is provided and verified and decisions are made on including Value Added Tax in eligible expenditure under the projects’ of 25 August 2009, which determines the obligations and responsibility for the provision of the required information.</li> </ul> <p>3) Two Cabinet Regulations have been adopted to <u>promote timely recovery of irregular expenditure</u>:</p> <ul style="list-style-type: none"> <li>- Cabinet Regulation No 414 ‘Amendments to Cabinet Regulation No 874 ‘Procedures by which the PHARE Programme and the Transition Programme are prepared, approved, implemented, monitored and evaluated’ of 24 October 2006’ of 12 May 2009 sets out procedures by which irregular expenditure under the PHARE Programme and the Transition Programme is recovered and how repayments are made to the European Commission.</li> <li>- Cabinet Regulation No 706 ‘Procedures by which irregularities identified during the implementation of projects financed out of the Structural Funds are reported and the decision is made on use of allocated funding’ of 30 June 2009 (valid from 10 July 2009) was issued, which provided for updates regarding the procedure for making decisions on the recovery of irregular expenditure. In accordance with the amendments, decision-making takes less time.</li> </ul>

<p><b>LT</b></p>	<p>1. Methodological recommendations for the investigation and detection of infringements, as approved by Order No 1K-173 of the Minister for Finance of the Republic of Lithuania of 29 May 2009, laying down the procedure to be followed by the institutions administering EU structural assistance when investigating, detecting and correcting infringements and adopting infringement decisions.</p> <p>2. Order No I-133/5-V-683/2-242/V-82/1R-130/4-620 of the Prosecutor-General, the Commissioner-General of the Lithuanian Police, the Director of the Special Investigation Service, the Director of the Financial Crime Investigation Service under the Ministry of the Interior, the Director of the Customs Criminal Investigation Service and the acting Commander of the State Border Guard Service under the Ministry of the Interior of 28 September 2009 approving the plan for strengthening the prosecution of fraud in Lithuania and its implementing measures.</p>
<p><b>LU</b></p>	<p>New law of 25 June 2009 on public procurement and its Grand-Ducal implementing Regulation modifying the threshold laid down in Article 106(10) of the amended municipal law of 13 December 1988. The aim of the new law is to coordinate and simplify procedures in accordance with Directives 2004/17/EC and 2004/18/EC.</p> <p>Law of 19 December 2008 on inter-agency and judicial cooperation and strengthening the resources of the Direct Taxation Authority, the Land Registration and Estates Department, and the Customs and Excise Authority;</p> <p>Grand-Ducal Regulation of 3 December 2009 on inter-agency cooperation between the Land Registration and Estates Department, and the Customs and Excise Authority</p> <p>Following the blocking of payments from the European Social Fund for the 2000-2006 programmes, the managing authority ordered an audit of all projects not yet checked.</p>
<p><b>HU</b></p>	<p>(1) Act CLIX of 2009, published on 30 December 2009, granted approval to Hungary's accession to the Convention on the protection of the European Communities' financial interests drawn up on the basis of Article K.3 of the Treaty on European Union and to the additional protocols thereof, and published the declaration pursuant to which the Republic of Hungary accepts the jurisdiction of the European Court of Justice in accordance with Article 35(3) (b) of the Treaty on European Union.</p> <p>(2) Centralised control pursuant to Act XCII of 2003 on taxation is carried out to detect tax infringements of particular threat to the revenue interests of the central budget and to restore the lawful situation, if the data, facts and circumstances suggest that tax liability (a) has been fulfilled by cross-border, unlawful trade relationships with third countries or by feigning legal trade relationships, (b) has been breached in the course of trade relationships with taxable person/s established in another Member State of the European Community, (c) has been fulfilled by domestic taxable persons under the jurisdiction of one or more regional bodies breaching the rules laid down for connected undertakings (standard costs), through false contracts or by conduct contrary to proper legal practice, (d) has been breached in the course of performing public procurement contracts through conduct which is unlawful, false, tax-evasive or contrary to proper legal practice, (e) has been breached in fiscal matters of priority importance under the tax authority's competence. Following the Act's amendment in 2009, customs authorities as well as</p>

	<p>the public tax authorities are now authorised to carry out centralised controls, and the deadline for completing them has been extended to 120 days.</p> <p>(3) Act LXXXIII of 2009 inserted Article 71/B with effect from 13 August 2009 into Act XIX of 1998 on criminal procedure, which reads as follows: "upon request from any authority established by an international agreement promulgated in a legislative act or by an EC legal instrument – to the extent and for the period necessary for the authority to fulfil its tasks laid down by international agreement or a binding legislative act of the European Communities – the court, the prosecutor or the investigating authority shall provide information, allow access to criminal files and make official copies of such files, in justified cases disclosing the personal data of the persons concerned. Experience shows that, in order to provide OLAF with the more extensive information it needs to fulfil its tasks, it is necessary to have specific provisions that create a clear legal basis for disclosing information to OLAF, since previous provisions did not clearly allow Hungarian authorities to disclose information relating to ongoing criminal proceedings.</p>
<b>MT</b>	The VAT Department set up an analysis and control unit consisting of two qualified accountants in order to monitor claims for refunds (input VAT) that are submitted by registered persons in their returns and to analyse data in order to determine areas that require further investigation.
<b>NL</b>	/
<b>AT</b>	<p>Combating tax and customs fraud: Since 2007 the Anti-Fraud Unit in the Federal Finance Ministry has conducted customs and tax investigations concerning a wide variety of goods imported from China. It has detected extreme cases of under-invoicing, counterfeit goods and imports with forged invoices.</p> <p>Measures taken:</p> <p>National: • Training measures in all customs offices to raise customs officials' awareness of the fraud scheme. • Goods controls stepped up. • At the suggestion of the Anti-Fraud Unit, the competent department of the Federal Finance Ministry established the securities to be set for the importation of certain goods from China.</p> <p>International: • Increased cooperation with customs and tax authorities in the other Member States in respect of 42xx customs procedures. • Increased cooperation with OLAF and DG TAXUD. • Austria held a Fiscalis seminar on the "42xx Customs Procedure", which was attended by Commission representatives and tax and customs experts from all the Member States.</p>
<b>PL</b>	<p>1. Guidelines were drawn up for treasury control offices and tax offices on how to proceed in the matter of income not covered by declared sources or income from undeclared sources. The guidelines concern the procedure for taxing such income. The aim is to harmonise the rules for handling cases involving undeclared sources of income and raise awareness of areas in which there is a risk of this phenomenon.</p> <p>2. Guidelines were drawn up for tax offices on VAT, including rules on handling VAT refunds. One of the aims is to avoid abuse by dishonest traders (obtaining VAT refunds by fraud).</p>
<b>PT</b>	Two (internal) administrative and procedural measures adopted by the IFAP (one of them in conjunction with the PRODER Management Authority (MA)) in order to

	<p>develop the concepts contained in Community rules (intentional non-compliance and reliability of the beneficiary) and to set out the respective procedures.</p> <p><b>INTENTIONAL NON-COMPLIANCE</b></p> <p>1. On 28/05/2009 the IFAP approved the Standard for internal procedures JC-121/01, which defines the procedures to be adopted where there are indications that the irregularity detected in connection with an application for aid or support is the result of an intentional non-compliance on the part of the beneficiary.</p> <p>2. There is considered to be a suspicion of “intentional non-compliance” where evidence is gathered whose seriousness and consequences indicate that the irregularity detected in connection with an application for aid/support is the result of the applicant's intentional conduct.</p> <p>3. The standard in question clarifies and lays down the procedures relating to the notification of the competent legal authorities by the IFAP of all acts committed by the beneficiary of which it has become aware in the course of performing its duties, which may indicate that crimes have been committed (irregularities which seem to be the result of intentional conduct - or of serious negligence - on the part of the beneficiary). It also aims to achieve compliance with the EU legislation in this area, which provides for more stringent penalties and sanctions for crimes committed intentionally or as a result of serious negligence.</p> <p><b>RELIABILITY OF THE BENEFICIARY</b></p> <p>Based on the provisions of Article 26(2)(e) of Commission Regulation (EC) No 1975/2006 of 7 December 2006, the IFAP and the PRODER MA set out substantive criteria for determining the reliability of the beneficiary, while stating their sources of information and means of communicating this information.</p>
<b>RO</b>	<p><b>OWN RESOURCES:</b> Government Emergency Order No 34/2009 amending the 2009 budget and regulating certain financial-fiscal measures entered into force on 1 May 2009. With a view to combating tax evasion, is the change in the tax period for taxable persons with an annual turnover lower than EUR 100 000 and who purchase intra-EU goods. Under the new legal instrument, they have the obligation of using the calendar month as the tax period.</p> <p>The Anti-Fraud Department (DLAF) and the National Office for Preventing and Combating Money Laundering (ONPCSB) signed a protocol on cooperation in the field of professional information sharing for preventing and combating acts falling within the remit of the two parties. DLAF provided technical assistance for Transparency International Romania in the context of the project "Control and Prevention of Mismanagement of EU money - Training of public servants implementing structural aid programmes in Romania": 100 public servants attended the training provided in the framework of the project.</p>

**SI**

1. The Slovenian Government Office for Local Self-Government and Regional Policy, in its role of managing authority, issued on 10 November 2009 the Rules of procedure for financial management of European cohesion policy funds for the 2007-2013 programming period, which lay down the following procedures:

- ensuring the use of a single methodology for the development of national projects, the classification of new projects and the modification of existing projects in the Plan of Development Programmes;
- transfer of available commitments under the operational programme;
- transfer of available commitments under State budget lines;
- reimbursement of cohesion policy funds where irregularities are detected for which the beneficiary or recipient of funds is responsible. The Rules of procedure apply to all participants involved in the implementation of the following operational programmes in the 2007-2013 programming period:
  - the Operational Programme for Strengthening Regional Development Potential for the period 2007-2013;
  - the Operational Programme for Human Resources Development for the period 2007-2013
  - the Operational Programme of Environmental and Transport Infrastructure Development for the period 2007-2013. The Rules of procedure apply to the managing authority, the intermediate bodies and other direct budget users involved in the implementation of European cohesion policy programmes. The document is published on the website of the managing authority

2. Amendments adopted in the area of the Value Added Tax Act, which are applicable from 1.1.2010, the purpose of which is to prevent tax fraud in the area of the levying of VAT:

- under certain conditions joint and several liability of the recipient of goods or services is introduced if that person knew or should have known that, by making the purchase, he/she was taking part in transactions designed to avoid the payment of VAT;
- introduction of a reverse charge mechanism in risky activities (services in the construction sector, recruitment for the provision of services in the construction sector, the supply of land and buildings for which the supplier opted for taxation and the supply of waste, scrap and used materials);
- additional reporting obligations of taxable persons that submit a VAT return for the first time;
- in certain cases the tax authority may also require taxable persons to present a guarantee for the payment of tax obligations before they are allocated an identification number for VAT purposes;
- the presentation of a guarantee may also be required in order to acquire a vehicle from another Member State, prior to the entry of a motorised vehicle in the records of the taxation authority, in order to fulfil a VAT obligation for the acquisition of the vehicle;
- the possibility of immediate withdrawal of an identification number for VAT purposes also in cases where the ID number is found to have been used for fraudulent purposes;
- the possibility of ordering a taxable person to submit a VAT return earlier than the statutory deadline if it is established in the inspection procedure that there is reason to believe that the VAT levied on certain supplies will not be paid.

<b>SK</b>	<p>1. Update of the National Strategy for the Protection of the EU's Financial Interests in the Slovak Republic and its annexes, in force as from 25 May 2009; update of the National Strategy action plan, in force as from 1 January 2010 to improve and enhance cooperation between Slovak bodies and cooperation with OLAF on the protection of the EU's financial interests in the Slovak Republic.</p> <p>2. The amendment to Act No 528/2008 on assistance and support from European Community funds, in force from 7 July 2009. Its purpose is to enable major projects to be realised even before the Commission confirms the assistance. An extensive amendment to this Act is under preparation.</p> <p>3. Update of Guidance Document No 16/2008 on irregularities in the financial management of the Structural Funds, the Cohesion Fund and the European Fisheries Fund – in force since 9 September 2009, issued by the Slovak Ministry of Finance. The main aim of the update is to specify the conditions for reporting irregularities for the audit authority and cooperating bodies carrying out audits under Article 62(1)(a) and (b) of Council Regulation (EC) No 1083/2006 and the records and resolution of irregularities at national level.</p> <p>4. The amendment to Act No 652/2004 on State administrative authorities in the field of customs, amending certain acts, in force as from 1 January 2009, gives customs inspectors full investigative powers and substantially accelerates and streamlines the investigation of offences and crimes committed in connection with violations of customs and tax law within the scope of the customs authorities.</p>
<b>FI</b>	<p>Adoption of the Decree giving effect to the Second Protocol to the Convention on the protection of the European Communities' financial interests and bringing into force the Act giving effect to provisions coming within the scope of the Protocol (26/2009). Finland acceded to the Protocol in February 2003.</p>
<b>SE</b>	/
<b>UK</b>	<p>Serious Fraud Office (SFO):</p> <p>Bribery Bill introduced into Parliament on 19 November 2009 will:</p> <ul style="list-style-type: none"> <li>- Make it a criminal offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or abroad. There is a separate offence of bribery of a foreign public official.</li> <li>- Increase the maximum penalty for bribery from 7 to 10 years' imprisonment, with an unlimited fine.</li> <li>- Introduce a corporate offence of failure to prevent bribery by persons working on behalf of a business with a defense of having adequate procedures in place to prevent bribery.</li> </ul> <p>The Bill aims to reform the criminal law to provide a new, modern and comprehensive scheme of bribery offences that will enable courts and prosecutors to respond more effectively to bribery at home or abroad. It is already having a major impact on prevention as the business community examine the adequacy of their anti-corruption and fraud procedures.</p> <p>SFO national reporting centre for allegations of bribery:</p> <p>On 21 July 2009 the SFO national reporting point for allegations of bribery published a guide on its website (<a href="http://www.sfo.gov.uk/bribery--corruption/self-">http://www.sfo.gov.uk/bribery--corruption/self-</a></p>

<p>reporting-corruption.aspx) setting out the benefits of a corporate culture of self reporting.</p> <p>Wales (W):</p> <p>In April 2009 an Anti Fraud Unit was established to lead on the development of anti-fraud policies and procedures, from prevention, through to detection and investigation; and to develop an anti-fraud network / community of practice across the Welsh public sector. One of the objectives will be to establish and lead an anti-fraud practitioner network across the Welsh public sector.</p> <p>Her Majesty's Revenue &amp; Customs (HMRC):</p> <p>During 2009, HMRC set up an Evasion Referral Team which assesses cases (of suspected fraud, or other types of serious non-compliance) referred by operational teams across HMRC, with potential for this being further investigated with a view to applying either a civil evasion penalty or a successful criminal prosecution.</p>
--

## **2. IMPLEMENTATION OF REGULATION 2185/96 CONCERNING ON-THE-SPOT CHECKS IN THE MEMBER STATES**

Regulation 2185/96 is based on a close reciprocal cooperation between OLAF and the National Authorities. The implementation of the Regulation may vary depending on the approach adopted by the National Authorities. In order to continue to ensure the effectiveness of the partnership with the National Authorities and a more widespread implementation of the "good practices" identified in the last Report on the application of the Regulation, it is necessary to know the national measures and practices adopted by each Member State in implementing it.



## 2.1. Conditions for gaining access to information provided by national legal framework

Member State:	<b>2.1.1 What are the conditions (In the sense of Article 7, paragraph 1 of Regulation 2185/1996) under which national inspectors have access to all the information and documentation on the operations concerned and which are required for the proper conduct of the on-the-spot checks and inspections?</b>
BE	<u>Taxation:</u> in 2009 the Permanent Committee on combating tax fraud (CAF) was designated to provide operational support for OLAF to ensure access to information and documentation concerning the operations required for the proper conduct of the checks provided for by the Regulation as regards VAT and customs and excise in particular. This support makes it possible to obtain all the information available with a view to an inspection (Act of 23 December 2009 cited above).
BG	The Public Financial Inspection Agency (ADFI) assists the European Commission's inspectors in conducting on the spot checks and inspections where they are denied access to premises, transport, or other places where documents, records or data carriers are stored, or where they are not provided with the documents, records or data carriers required for their inspections.
CZ	The competent national inspection and audit bodies in the Czech Republic have access to all sources of information regarding the elements set out in Article 7(1) of Council Regulation (Euratom, EC) No 2185/96 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, when meeting the conditions set out in the following generally binding legislation in particular. On-the-spot checks are undertaken according to internal inspection activity plans. Where there is a suspicion of a serious breach of the conditions, unscheduled checks according to need.
DK	Section 5 of the Legal Certainty Act lays down the general rules for the written notification of the person or firm to be inspected. The basic rule concerning prior notification may be waived in a number of cases; for instance, an inspection may be notified on the spot if the objective would otherwise be jeopardised. The national inspectors have access to premises, documents and other material at any time without a court order. Material must be provided on request. The person or firm inspected must advise and assist the authorities in the implementation of the inspection. If necessary, the police may provide assistance in the implementation of the inspection.
DE	As a general principle this is determined by German administrative procedural law. If criminal activity is suspected the Code of Criminal Procedure applies. Enforcement measures can be taken only within the framework of criminal proceedings.

<b>Member State:</b>	<b>2.1.1 What are the conditions (In the sense of Article 7, paragraph 1 of Regulation 2185/1996) under which national inspectors have access to all the information and documentation on the operations concerned and which are required for the proper conduct of the on-the-spot checks and inspections?</b>
EE	Section 41 of the 2004-2006 Structural Funds Act (STS), Sections 14, 22, 31 of the 2007-2013 Structural Funds Act , Section 96 of the European Union Common Agricultural Policy Implementation Act, Section 213 of the Code of Criminal Procedure (KrMS)
IE	Officials carrying out on-the-spot checks are entitled to have access to all information and documentation which they consider relevant to the project or operation which they are investigating (according to the Statutory Instrument - S.I. No. 168/1998, which gives effect to Council Regulation (Euratom, EC) No. 2185/1996).
EL	Inspectors have access to all data and information relating to the subject of the check determined by the decision in question and are bound by the discretion provisions of the Ministerial Code. The obligation for the subject of the check to disclose all relevant data or information derives from the items of legislation applicable in each case.
ES	Public bodies and third parties connected with the aid are obliged to cooperate and provide whatever documents are required during the inspection. This duty of cooperation is laid down in national law and is applicable to the State Administration and the Autonomous Communities. Failure to comply with the duty of cooperation is an administrative infringement.
FR	The rural code for the EAGF provides for checks to be carried out by paying agencies. Customs agents have three legal instruments: the right of communication – Art. 65, the right of access to professional premises - Art. 63 and the right to search residential premises – Art. 64 of the Customs Code. The audits of the Structural Funds' management and control systems are governed by legal provisions.
IT	The national inspectors have access to all the information and documents relating to the transactions that are the subject of the inspection. They can access the locations used for carrying on productive and/or commercial activities and other sites where the accounting documentation is kept. Applicable legislation: Presidential Decree 633/72, Presidential Decree 600/73 (Act 689/81), Legislative Decree 374/90 (Act 19/94, Act 20/94, Act 212/2000)
CY	KOAP: Article 46, Law 64(I)/2003 on the Agricultural Payments Organisation (KOAP) Customs Department: Article 78 of Law 94 (I)/2004 on the Customs Code Internal Audit Service: Article 11 (a) of Law 114(I)/2003 on Internal Audit Treasury: Article 22 (1) of the State Revenue and Expenditure Management and Accounting Law 2002.

<b>Member State:</b>	<b>2.1.1 What are the conditions (In the sense of Article 7, paragraph 1 of Regulation 2185/1996) under which national inspectors have access to all the information and documentation on the operations concerned and which are required for the proper conduct of the on-the-spot checks and inspections?</b>
LV	<p>1) The economic operator shall provide any information related to the project implementation as requested by the institutions that carry out on-the-spot checks.</p> <p>2) The law enforcement institutions have access to all information and documents on the relevant operations when the checks under the regulatory enactments are carried out.</p> <p>3) In performing criminal proceedings, record-keeping in administrative violation cases or administrative record-keeping, legal instruments are applied to ensure that various types of information should be obtained. Such instruments are applied equally in evaluation of all types of criminal offences: - in accordance with the regulation set out in the Criminal Procedure Law (hereinafter the CPL), in order to acquire the required information, or to examine information already acquired in criminal proceedings, law enforcement institutions are entitled to perform any investigative actions as set out in the CPL (including search, seizure, on-site examination of testimony, questioning) and special investigative actions as set out in the CPL.</p>
LT	By signing the project financing and administration agreement, the project implementer undertakes to send all information requested by representatives of the institutions administering EU structural assistance to them on time, to enable inspection of the project implementation and administration sites and of activities relating to the project being implemented and to allow access to documents relating to the project and to the implementation of the agreement.
LU	Under the General Customs and Excise Law of 18 July 1977 (Articles 201 to 203), national customs and excise officers have access to the above documents at any time and in any place. Searching, provided for in Article 65 of the Code of Criminal Procedure and Investigations (CIC), is a coercive measure as well as an investigative measure which can be undertaken only after the case has been properly referred to the examining magistrate. In cases of flagrante delicto, Articles 31 and 33 CIC allow police officers to gather any relevant information.
HU	Checks may be performed on the spot or at office premises. A condition for inspection is the lawful selection of the party to be checked and handing over the letter of authority. As a general rule, on-the-spot inspection must be notified orally or in writing in advance and information must be given on the objective, form, legal basis and duration of the procedure.
MT	Art. 20(1) b of the Internal Audit and Financial Investigations Act (IAFI Act) – Chapter 461 of the Laws of Malta - empowers the investigators of the Internal Audit and Investigations Division (IAID) to require the economic operator to produce any information/documentation relevant to the operation being checked. No specific conditions/restrictions are cited in the Act detracting this power.
NL	No restrictive conditions are imposed.

<b>Member State:</b>	<b>2.1.1 What are the conditions (In the sense of Article 7, paragraph 1 of Regulation 2185/1996) under which national inspectors have access to all the information and documentation on the operations concerned and which are required for the proper conduct of the on-the-spot checks and inspections?</b>
AT	Customs: Section 24(1) of the Customs Law Implementing Act, BGBl. 1994/659, allows inspections in respect of persons. BMLFUW [Federal Ministry for Agriculture, Forestry, Environment and Water Management] (for agricultural expenditure): Access to information on the basis of legal provisions, esp. Sections 22+23 of the 2007 Market Organisation Act ("MOG"), BGBl. I No 55/2007. ERDF+ESF: The beneficiary undertakes in the grant agreement to allow all inspectors access to books, documents, etc.
PL	The Tax Ordinance Act of 29 August 1997 and the Treasury Control Act of 28 September 1991 grant the full access to documentation while inspecting the expediency and compliance with law of the management of public funds and funds from the EU and international financial institutions subject to reimbursement.
PT	Decree-Law No 276/2007 laying down the legal regime for inspection activity provides that the direct, indirect and autonomous services of the State and public and private natural and legal persons subject to inspection have the duty to cooperate and provide information, and any breach of these duties is liable to entail disciplinary and criminal procedures.
RO	DLAF can request any public institution or authority concerned, as well as any state-owned or private economic operator, to provide all the documents and information necessary for drawing up the inspection report. If they cannot be presented on the spot, the legal persons mentioned above have the obligation of providing an appropriate and complete response within a maximum of 10 days from the date of the request.
SI	Budget inspectors may have access to premises, persons and data in relation to the inspection of the proper use of State and Community budget funds. Authorised persons from the tax and customs authorities, the Office for the Prevention of Money Laundering, the State Commission for the Prevention of Corruption and the system of implementation and control of European Funds also have access to all data needed for control.
SK	Auditors or inspectors may: enter the premises of the audited or inspected body, demand and remove original documents or information, and demand cooperation and documents from third parties. Auditors or inspectors must: announce the government audit or inspection, present their authorisation to conduct a government audit or inspection, and issue receipts for any original documents removed (Acts No 502/2001 and No 10/1996).
FI	The audit authority, certifying authority and managing authority have the right to conduct inspections relating to the use of Structural Funds. When an individual project is being inspected, the right of inspection applies to the project and its funding as a whole. The Government of the Province of Åland has the right to inspect the finances and operations of aid or loan recipients.

<b>Member State:</b>	<b>2.1.1 What are the conditions (In the sense of Article 7, paragraph 1 of Regulation 2185/1996) under which national inspectors have access to all the information and documentation on the operations concerned and which are required for the proper conduct of the on-the-spot checks and inspections?</b>
SE	Public bodies: the inspector has access to all information that is not confidential; see Chapter 6 Section 5 of the Public Access to Information and Secrecy Act (OSL). A specific secrecy-breaking provision is required for information covered by secrecy rules. Individuals: there is no general provision entitling inspectors to access to information held by individuals subject to supervision, etc.
UK	Provision is in place which covers access to inspection and information, and for inspectors to enter, seize and copy documents but with respect to the European Convention on Human Rights. Cases of suspected fraud are, where relevant, referred to the police.

<b>Member State:</b>	<b>2.1.2 Describe the procedures provided by your national legislation (laws and other legal instruments, e.g. national regulations, decisions etc) for gaining access to information located in a place other than the economic operator's premises (e.g. private residences, lawyers' offices, vehicles, etc.)?</b>
BE	Regarding tax on income (Article 319 of CIR 92), officials of the direct taxation administration can demand free access to business premises, vehicles assigned by the taxpayer to professional activities, even if only partially, and to any other place where business activities are carried out or presumed to be carried out. They can only enter domestic buildings or premises between five o'clock in the morning and nine in the evening and only with authorisation from a police court judge. Article 5 of the Act on trade in agricultural, horticultural and maritime fisheries products of 28/03/1975. Officials have free access to factories etc., but entry to domestic premises requires authorisation from a police court judge.
BG	Where there is sufficient evidence that documents and/or electronic data of significance to the inspection are being held at premises other than those of the economic operator, the district court at the headquarters or address of the organisations or persons under inspection issues a warrant to carry out a search and seizure at these premises.
CZ	Procedures laid down in Czech legislation for gaining access to information located in places other than at the operating premises of economic operators (such as private residences, lawyers' offices, personal vehicles) are set out in more detail in, for example, a) in the case of private residences, Article 12 of the Charter on Human Rights and Freedoms, which forms part of the Constitution of the Czech Republic; b) in the case of a lawyer's office, in accordance with Act No 85/1996 on practicing law, as amended; c) as far as personal vehicles are concerned, in Act No 361/2000 on road transport and amending certain Acts (the Road Transport Act), as amended. Also in Act No 106/1999 on free access to information, as amended by later legislation and by the Act No 320/2001 Coll. on financial control in public administration.
DK	The person or firm responsible for the transaction is obliged to provide all the information, documents, etc., irrespective of where they are. The national inspectors may obtain from other public authorities the information needed to check compliance with the relevant aid provisions.
DE	Private dwellings enjoy special protection under German constitutional law. Information on advisory professions can be obtained solely if criminal investigations are being conducted. Other enforcement measures can be taken only within the framework of criminal proceedings.

<b>Member State:</b>	<b>2.1.2 Describe the procedures provided by your national legislation (laws and other legal instruments, e.g. national regulations, decisions etc) for gaining access to information located in a place other than the economic operator's premises (e.g. private residences, lawyers' offices, vehicles, etc.)?</b>
EE	In administrative proceedings: Section 13 of the Administrative Procedure Act ( <i>Haldusmenetluse seadus</i> - hereinafter HMS); Section 25 of STS; Sections 9, 22, Chapter 6 of STS 2007+ ( <a href="https://www.riigiteataja.ee/ert/act.jsp?id=13184742">https://www.riigiteataja.ee/ert/act.jsp?id=13184742</a> ); In criminal proceedings: Section 91 (Searches) of KrMS ( <a href="https://www.riigiteataja.ee/ert/act.jsp?id=13260374">https://www.riigiteataja.ee/ert/act.jsp?id=13260374</a> )
IE	The procedures are provided for in subsection 7 of Regulation 4 of S.I. 168/1998, in summary a judge of the relevant District Court can issue a search warrant to authorise a named authorised officer, or other persons, at any time, within one month from the date of issue of the warrant, to enter a family home, other premises, vehicle, vessel or aircraft as specified in the warrant.
EL	For on-the-spot checks without the subject's consent, a legal representative must be present pursuant to the Code of Criminal Procedure. The Special Audit Office (YIIEE), particularly in the case of checks carried out in customs houses, temporary storage areas or free zones pursuant to the provisions of the Customs Code, works alongside the head of the relevant customs authority.
ES	The officials responsible for the inspection have free access to all documents (including computerised supports), to the establishments in which the subsidised activity takes place, and to the bank accounts of the beneficiaries. Failure to comply with this obligation is regarded as resistance or use of excuses, and is subject to sanctions.
FR	Searches of residential premises can only be carried out in pursuit of customs violations. They can be carried out in any place where merchandise and documents related to these violations are likely to be kept. Such searches require the authorisation of a magistrate for custody and release, except in cases of flagrante delicto, and the presence of an officer of the Criminal Police.
IT	Access to premises other than those intended for the carrying on of commercial and professional activities may be obtained, with the authorisation of the Public Prosecutor, only in cases where there is substantial evidence of infringement. If the access gained is to premises intended for the exercise of professional activities, it must be so in the presence of the person in whose name the office is run or of a person authorised to represent him or her.
CY	Article 78 (2) (6) and (7) of Law 94 (I) of 2004 on the Customs Code Article 11 (b) of Law 114(I) of 2003 on Internal Audit Article 22 (1) of Law 112(I)/2002 In general, it is permitted to enter any buildings or other facilities and ask for all information and explanations deemed necessary.

<b>Member State:</b>	<b>2.1.2 Describe the procedures provided by your national legislation (laws and other legal instruments, e.g. national regulations, decisions etc) for gaining access to information located in a place other than the economic operator's premises (e.g. private residences, lawyers' offices, vehicles, etc.)?</b>
LV	<p>In accordance with Section 15(2)(4) of the Law on Management of European Union Structural Funds and the Cohesion Fund, institutions that carry out checks may request information regardless of its whereabouts. Requirement of the information access economic operator fulfil according to the obligation set out in the agreement or contract on the project implementation under the civil law.</p> <p>Under the Rural Funds, checks may only be carried out in the places or premises related to the project implementation.</p> <p>State Police officers under Section 12 (23) of the Law on Police in performing duties assigned to them in conformity with the competence of the service, have the right in order to prevent and disclose an economic criminal offence, to carry out a check: requiring of the relevant officials an inventory, audit or inspection of the production, financial and commercial activities of institutions, private law legal persons and unions of persons; until the commencement of inventory taking, removal of documents or performance of an inspection, to seal the cash office facilities, as well as places where documents, money, goods and materially valuable items are kept, and to carry out other measures in order to ensure the preservation of such;</p> <p>In performing their functions of the tax administration process under Section 10(1)(1) of the Law on the State Revenue Service, the officials of the State Revenue Service may visit the territories or premises in the ownership or use of legal or natural persons.</p> <p>Law enforcement institutions, within the scope of their competence, are entitled to carry out specific checks in order to prevent and disclose criminal offences in national economy, and they may have access to information located in a place other than at the economic operator's premises in cases and in accordance with the procedures set out in Sections 163, 179-188, 190 of the Criminal Procedure Law.</p> <p>See also the response to question 2.1.1.</p>
LT	<p>Within its remit and in accordance with the procedure laid down by law, an institution administering EU structural assistance is entitled to obtain any information it needs to perform its functions from institutions and bodies and the databases kept by them, as well as from the Interdepartmental Tax Data Warehouse, the Supervisory Committee, the Operational Programme Management Committees, the Regional Development Councils, applicants and project implementers.</p>



<b>Member State:</b>	<b>2.1.2 Describe the procedures provided by your national legislation (laws and other legal instruments, e.g. national regulations, decisions etc) for gaining access to information located in a place other than the economic operator's premises (e.g. private residences, lawyers' offices, vehicles, etc.)?</b>
LU	<p>See section 2.1.1. The provisions of the General Customs and Excise Law of 18 July 1977 apply in all places.</p> <p>Under Article 65(1) CIC, searches shall be carried out in all places where objects might be found that would be useful in determining the truth.</p> <p>A search in a law firm can be carried out only in the presence of the President of the Bar or his representative.</p> <p>Vehicles can be searched pursuant to Article 48(10) and 48(11) CIC.</p>
HU	On-the-spot inspection also includes checking the assets and documents stored and preserved outside the main headquarters or site of the economic operator. The inspector is authorised to control any location, room and vehicle that may be connected to the inspection. A private home may only be inspected if any part of it serves as a location for performing the given activities. The inspectors may inspect locations where projects are implemented.
MT	IAID can enter and inspect any premises of the economic operator (eo), provided that if access is required to premises occupied in whole/part for habitation purposes, IAID would require a Magistrate's warrant and that entry should take place during daytime. If the information regarding the eo is located at a third party, IAID would require the eo to procure and furnish such information himself.
NL	Dutch legislation provides for full access to records. In criminal investigations access to records can be obtained only on the authorisation of the investigating judge.
AT	Customs: Section 25 BMLFUW: Section 26, 2007 MOG. ERDF: distinguish between occasional administrative controls and any fraud audits. Where fraudulent activity is suspected the law enforcement authorities take action (with a search warrant, documents also secured in other places). ESF: Searches of private homes etc. under Section 93 Financial Crime Act.
PL	Inspections are carried out at the headquarters of the person under inspection, at another place where documents are kept and at other places of running its business. Where books are kept or stored away from the headquarters at which an inspection is being carried out, the person under inspection is obliged to ensure access to the books at the headquarters or at the place where the books are kept or archived.

<b>Member State:</b>	<b>2.1.2 Describe the procedures provided by your national legislation (laws and other legal instruments, e.g. national regulations, decisions etc) for gaining access to information located in a place other than the economic operator's premises (e.g. private residences, lawyers' offices, vehicles, etc.)?</b>
PT	Decree-Law No 276/2007 governs inspection activities in the services and facilities of public and private entities under inspection. Access to information located on other premises may be requested from the police authorities, provided that the applicable provisions of the Code of Criminal Procedure ( <i>Código de Processo Penal - CPP</i> ) are met.
RO	With a view to conducting inspections efficiently and rapidly, the inspection warrant imposes an obligation on any public institution or authority and on any state-owned or private economic operator to provide the DLAF agents with unconditional access to offices, areas, transport vehicles and other premises used for business purposes.
SI	Access to vehicles and private residences is possible only on the basis of: <ul style="list-style-type: none"> <li>– the owner's authorisation,</li> <li>– the decision of a competent court or</li> <li>– the provisions of the agreement granting Community funds.</li> </ul>
SK	Auditors or inspectors may, as required, enter the premises, facilities, plant, means of transport or land of the audited or inspected body where these are used for the performance of tasks in the public interest, and may enter dwellings where these are also used for business purposes and entry is necessary for the performance of tasks under Act No 502/2001 etc. (Acts No 502/2001 and No 10/1996).
FI	Section 56 of the Structural Fund Act (1401/2006) states that for the purpose of the inspection, the party being inspected has an obligation to produce the documentation required by the inspector without undue delay, and to cooperate with the inspection in any other way. Section 57 of the Act states that the police, customs authorities and tax authorities must provide any assistance necessary for conducting the inspection free of charge.
SE	No provisions concerning secrecy rules are relevant to this question. Nor does administrative law contain any overall regulation of inspectors' right to take steps of this sort.
UK	S: Relevant regulations provide for persons to whom records are transferred to in the course of business to keep them and provide access to them. In addition, inspectors are provided with powers to carry out inspections on any premises where such records are held. NI: The Managing, Paying or Certifying and Audit Authorities all have access to information pertaining to the Letter of Offer (LoO).

<b>Member State:</b>	<b>2.1.3 If applicable, describe the measures you can take, on the basis of your national legislation, to safeguard the chain of custody or continuity of possession over the records you select during the on-the-spot check.</b>
BE	Customs and excise: make copies of and seize documents and correspondence proving or helping to prove an infringement. Computerised system: retrieve copies of these documents in whatever form desired. In criminal cases, seals can be affixed or seizures effected. Structural Funds, documents have to be kept for 3 years after closure of the programming period; scope until 2020 for the 2007-2013 programming period.
BG	Copies of the documents and/or electronic records seized are provided by the financial director of ADFI to the Commission's inspector together with a certificate of receipt and transfer, but the originals and the electronic records seized are held at ADFI until the inspection and on the spot check have been completed.
CZ	To eliminate any breakdown in the chain of custody or possession of records removed in the on-the-spot check, copies are usually made of the necessary records; this ensures protection of the selected original documents against loss, destruction, damage or misuse. Copies are archived for the prescribed period in the project folder. For the Act No 320/2001 Coll. on financial control in public administration and Act No 552/1991 Coll. on state control, auditors have the authorisation to request original documents and in justified cases to make copies of them. These are held for a period of three years from the end of the programme, or three years from the end of the relevant part of the operational programme in line with a European Commission declaration on the closure of assistance.
DK	Compliance with the requirements of good governance by the public authorities, including the keeping of records and other registration measures with a view to the appropriate storage of documents and other material.
DE	There are no such provisions in German law.
EE	The subject of an on-the-spot check can be photographed/filmed, supporting documents can be copied or entered in a list which becomes part of the official record. If data or property items are not preserved at the time of the inspection, the data, objects or rights are deemed not to exist. If the preconditions for the eligibility of expenditure are not substantiated, under Section 26 of STS and STS 2007+ the amounts are reclaimed or under Section 18 the decision granting aid is repealed. Section 125 of KrMS.
IE	The procedures are provided for in S.I. No. 168/1998 in Subsection 1 of Regulation 4 of S.I. 168/1998: for example in subsection 1(g) a Commission inspector can “secure for later inspection the premises or any records, books, documents or products found therein”.

<b>Member State:</b>	<b>2.1.3 If applicable, describe the measures you can take, on the basis of your national legislation, to safeguard the chain of custody or continuity of possession over the records you select during the on-the-spot check.</b>
EL	Inspection bodies keep full and detailed inspection records that are consistent with the inspection requirements. For structural operations, there are ongoing and permanent inspection records. For YIIEE operations with serious violations where official documents and data from the party being inspected must be attached to the audit report, these are attached and sent to the tax office or to Customs.
ES	The beneficiaries must keep the supporting documents justifying the use of public funds, including computerised documents. Moreover, inspection bodies can obtain copies and keep invoices and equivalent documents relating to operations from which it has been deduced that funds have been improperly obtained, enjoyed or used.
FR	The documents can be seized by the administration and remain under its responsibility until the end of the legal proceedings (definitive transaction or definitive judicial ruling).
IT	The documentation acquired must be described and listed in detail in the reports of the operations carried out, and may be kept at the head office of the inspected economic operator, with his or her consent, if it can be locked in premises in which its safe custody is guaranteed (including through the application of seals that prevent the documentation from being interfered with or removed).
CY	Article 78 (4) of Law 94 (I)/2004 on the Customs Code Receipt, within a reasonable time, and retention, for a reasonable period, of any file, book, document or record to be produced under subparagraph (1) or (2) For the KOAP, photocopies are taken to avoid the risk of tampering with documents and data.

<b>Member State:</b>	<b>2.1.3 If applicable, describe the measures you can take, on the basis of your national legislation, to safeguard the chain of custody or continuity of possession over the records you select during the on-the-spot check.</b>
LV	<p>Under the EU Structural Funds, Cohesion Fund and Rural Funds:</p> <ul style="list-style-type: none"> <li>- in accordance with clause 3 of the Transitional Provisions of the Law on Management of European Union Structural Funds and the Cohesion Fund, economic operators shall store the originals of all documents related to the implementation of the EU Funds projects until 31 December 2021. This obligation is also set out in the agreement or contract on the project implementation under the civil law;</li> <li>- storage of documents at the national level is set out in the Law on Archives. The State Archive Council has determined a term of storage for standard documents of government institutions;</li> <li>- institutions may carry out on-the-spot checks – verify all documentation and information related to the project implementation;</li> <li>- economic operators must ensure the required access rights for the inspector to the place where the project is implemented, including the economic operator’s information systems, all original documents and databases related to the technical and financial management of the project, as well as the opportunity to organise interviews with the persons responsible for the project implementation and involved in the project, to inspect the documents regarding the premises or work stations, the issue of copies of the required documents, the presence of persons responsible for the project;</li> <li>- institutions may carry out repeated checks to obtain assurance about elimination of the shortcomings;</li> <li>- institutions may carry out independent audits for verification of the eligible expenditure under the project.</li> </ul> <p>See also the response to question 2.1.2.</p>
LT	<p>Documents relating to the implementation of EU assistance must be stored in accordance with the procedure laid down by Order No 38 of the Director-General of the Lithuanian Archives Department under the Government of the Republic of Lithuania of 15 August 1997 (Official Gazette 1997, No 78-2006) (usually for 10 years after completion of the project), and their security and accessibility must be guaranteed.</p>
LU	<p>The examining magistrate may conduct the seizure of all objects he deems useful in determining the truth or use of which might be detrimental to the proper conduct of the investigation. The objects seized must be lodged with the clerk of the district court or given to an officer entrusted with the safekeeping of such items.</p> <p>Article 203(2) of the General Customs and Excise Law of 18 July 1977 establishes the right to take copies or keep documents and/or correspondence.</p>

<b>Member State:</b>	<b>2.1.3 If applicable, describe the measures you can take, on the basis of your national legislation, to safeguard the chain of custody or continuity of possession over the records you select during the on-the-spot check.</b>
HU	Copies, excerpts and certificates may be made of the documents with due regard to the data protection and confidentiality requirements. In justified cases the original documents may be taken, leaving copies; however, when inspections have been closed these must be returned. If, during tax inspection, evidence is found when checking a vehicle, location or room, it may be seized if there is a risk of the evidence being hidden or destroyed, and the action of seizure must be officially recorded.
MT	IAFI Act empowers IAID to retain in the original any documents retrieved from the economic operator. Additionally IAID's Operating Manual provides the following guidelines with respect to documents retrieved: (i) To clearly indicate the source of the document; (ii) To explain any terms/notations found on the document; (iii) To explain reason of retention.
NL	See answers to questions 2.1.1 and 2.1.2.
AT	Customs: The customs authorities have many measures for viewing documents/records; all the data collected during inspections are documented and are available to the competent officials. BMLFUW: Sections 7+8 ( <i>Verwaltungs-Vollstreckungsgesetz</i> ) +C14 [Administrative Enforcement Act] provide for enforcement measures and provisional security measures (these can be appealed against, but only after the measure is taken). ESF: Legal representation by the Federal Financial Prosecutor.
PL	The Polish legal system has rules for evidence hearing and taking and securing evidence in specific cases. The matter is governed by Articles 122, 180 and 187(1) of the Tax Ordinance Act and Chapter 25 of the Code of Criminal Procedure. The chain of custody requires cooperation between representatives of the judicial system and officials of the competent authorities.
PT	Decree-Law No 276/2007 (Article 16) lists, in particular, the following guarantees enabling inspectors to carry out their work: the right of access and freedom of movement, requisition for the purpose of investigation, consultation and addition to the file of documents and records, carrying out of on-the-spot checks, the option to seal premises and confiscate documents and other forms of evidence.
RO	Under Section 214 of the Code of Criminal Procedure, DLAF acts as inspection body. Therefore, the DLAF agents have the authority to seize any material evidence, to assess damages and to carry out any other actions, as provided for by the law.
SI	The documentation collected during the check is entered in the case-file by the responsible person. Once inspection, control and investigation have been completed, the case is closed and archived in accordance with the Rules on determining the retention period for documents of public administration authorities, the annex to which is also the summary classification plan laying down the retention periods for individual cases.

<b>Member State:</b>	<b>2.1.3 If applicable, describe the measures you can take, on the basis of your national legislation, to safeguard the chain of custody or continuity of possession over the records you select during the on-the-spot check.</b>
SK	Auditors or inspectors may: remove original documents etc. unless their issue is prohibited by law. They must issue receipts to the audited or inspected body or third party for any original documents removed, must protect these from loss, destruction etc., and must return them unless they are required for further government audits or inspections (Acts No 502/2001 and No 10/1996).
FI	Under Section 56 of the Structural Funds Act (1401/2006) the inspector has the right to take possession of accounting documents and other material referred to above if required for the inspection. The material must be returned when no longer required. At the request of the inspector, the party being inspected must also provide any other information required for carrying out the inspection properly.
SE	There are no special rules about seizure, etc. which are generally applicable in a supervision context. If an inspector is entitled to see information held by a public body, the documents can, for example, be copied and the copies taken.
UK	RPA: Compliance with the Criminal Proceedings and Investigations Act (CPIA), and various other Codes of Practice concerning specialist materials is essential. S: Relevant regulations normally provide inspectors with powers to copy and/or seize records (whether in written or electronic form) so as to preserve evidence. In addition, where crime is suspected, the police are entitled to remove, examine and retain evidence normally on the basis of a search warrant.

Member State:	2.1.4 Are there any legal restrictions or limitations in place for obtaining the information relevant to the on-the-spot checks from documents, electronic resources or orally (interviews)? If Yes, describe.
BE	<p>Yes, on the use of information under provisions other than those for the execution of which the information was supplied. Also restrictions as regards documents belonging to persons with a duty of professional secrecy (lawyers, accountants, etc.) (Art.458 of the Criminal Code)</p> <ol style="list-style-type: none"> <li>1. The duty of professional secrecy applies to tax authority officials and other actors as regards information obtained in the course of their duties (Art. 93 bis and 337 of the CICR). They may not use the information obtained outside the framework of the legal provisions for the execution of which that information was supplied.</li> <li>2. Customs and excise: credit institutions, bankers and stockbrokers: communication of supporting documents is subject to special authorisation by the Administrateur général of Customs and Excise (Article 203(1)).</li> <li>3. Access to the offices of persons in the liberal professions and office-holders is not authorised while the taxpayer in question is conducting professional business in the presence of clients.</li> </ol>
BG	No
CZ	<p>Yes. An inspector is unable to access confidential information without a certificate for the relevant level of confidentiality under Act No 412/2005 on the protection of classified information and security clearance. Possible restrictions on the basis of Act No 101/2000 on the protection of personal data and amending certain acts, possible restrictions on the basis of the Charter of Human Rights and Freedoms. Only information and documents relating to the assistance granted may be requested.</p>
DK	No
DE	<p>Yes. Data protection rights, the right of individuals to determine what information should be made available and the right to refuse to give evidence in a hearing according to the situation</p>
EE	<p>Yes. HMS Chapter 2 (Conduct of Administrative Proceedings), KrMS Section 214 (Conditions for disclosure of information in pre-litigation procedures)</p>
IE	<p>Yes. The right to silence and restrictions under the Data Protection Act, 1988.</p>
EL	<p>Yes. Legal restrictions lie in compliance with the provisions of the Code of Administrative Procedure and with Law 2472/97 "on the protection of personal data". The YIIEE has access to all data relating to the check and is not subject to restrictions arising from tax, banking or financial secrecy. It must comply with confidentiality provisions.</p>



<b>Member State:</b>	<b>2.1.4 Are there any legal restrictions or limitations in place for obtaining the information relevant to the on-the-spot checks from documents, electronic resources or orally (interviews)? If Yes, describe.</b>
ES	No
FR	No
IT	Yes. The limitations mainly concern sensitive data relating to persons and to facts covered by secrecy concerning a preliminary judicial investigation or by professional confidentiality. In such a case, the law provides that the inspectors request authorisation from the appropriate court to carry out their inspection. In anticipation of such authorisation, the relevant documents may, however, be obtained and stored safely.
CY	Yes. The Customs Department requires the issue of a warrant authorising entry and search at a given site by a judge of the District Court. The Internal Audit Service has access, for a reasonable time, to all books, records, accounts, property, payment orders, receipts, files, correspondence and other data.
LV	No
LT	No
LU	No
HU	Yes. The inspector may only procure data in respect of the persons listed in the letter of authority. If, during inspection, further information relating to other persons is needed, the basic inspection may be suspended and a so-called associated inspection started. Data protection and confidentiality requirements may impede access to data. The inspectors are subject to confidentiality obligations in respect of secret information received.
MT	No
NL	No
AT	No
PL	Yes. Hearings: Witnesses may refuse to answer questions where to do so might expose them or their relatives to prosecution for a criminal offence or fiscal crime or cause them to breach a statutory duty of professional secrecy.
PT	No

<b>Member State:</b>	<b>2.1.4 Are there any legal restrictions or limitations in place for obtaining the information relevant to the on-the-spot checks from documents, electronic resources or orally (interviews)? If Yes, describe.</b>
RO	Yes. The restrictions refer to compliance with the law on protecting personal data and observing banking secrecy rules, information confidentiality rules and the rules on classified information. Documents that are not handed over willingly can be forcefully seized only by the criminal prosecution body or by the court.
SI	No
SK	Yes. Restrictions on obtaining information arise from the protection of personal data or classified information and from the professional secrecy requirement laid down by law. The provision of original documents, correspondence and information is restricted where their issue is generally prohibited by binding legislation (Acts No 502/2001 and No 10/1996).
FI	No
SE	Yes. Nothing that is based on secrecy rules. There may of course be confidentiality obligations, etc. which impact on the ability to obtain information unless there is an obligation to supply information that entitles the inspector to see the information.
UK	If seizing electronic data, authority may be required under Regulation of Investigatory Powers Act (RIPA). ISO Standards and Codes of Practice must be adhered to in the collection and storage of material. S: Generally, the Data Protection Act 1998 (DPA) governs the storing of information held in respect of persons and prescribes a number of mechanisms for access, retention and disclosure of data held in accordance with DPA. There are exemptions to this for the administration of justice where such information would be deemed to be admissible evidence relevant for the court.

<b>Member State:</b>	<b>2.1.5 What do you do, on the basis of your national legislation, if you find evidence of other irregularities that are not covered by the warrant for the on-the spot check?</b>
BE	Under Art. 29 of the Code of Criminal Procedure any official, authority, or the like who discovers a criminal offence is duty bound to report it to the public prosecutor. It is for the public prosecutor to decide what action, if any, to take in response. In cases relating to taxation, authorisation from the Regional Director is required. Article 210(3) of the General Act on Customs and Excise allows information obtained regarding other taxes owed by a person under inspection to be communicated to another tax authority.
BG	The competent authorities are alerted.
CZ	The procedure is laid down in the appropriate operation manuals and procedural guidance notes. A request is sent to the relevant authorities, the on-the-spot check warrant is extended, or a further official check that includes the suspicious elements is carried out. Any breach of budgetary discipline is notified by the inspector to the tax administrator (or a different body depending on the nature of the breach, for example to criminal authorities in accordance with Section 24 of the Act No 552/1991 Coll. on state control) and is noted in the check report. Cases of suspected fraud are referred to the criminal authorities.
DK	If the on-the-spot check reveals evidence of infringements of provisions other than those covered by the inspection warrant, the authority concerned or the police will be notified. The police have the powers to conduct investigations.  Section 5 of the Legal Certainty Act (see point 2.1.1) also lays down rules for any written notification of the person or firm concerning the more detailed check to be carried out.
DE	Notification of the relevant authorities
EE	Information is passed to the subsequent stages in the inspection chain; if necessary the matter is referred to the law-enforcement authorities.
IE	The matter can be reported to the appropriate national authority, such as the Revenue Commissioners or Garda Síochána (National Police Force). The Revenue Commissioners can make use of the powers under Section 905 of Taxes Consolidation Act, 1997.

<b>Member State:</b>	<b>2.1.5 What do you do, on the basis of your national legislation, if you find evidence of other irregularities that are not covered by the warrant for the on-the spot check?</b>
EL	<ul style="list-style-type: none"> <li>- Evidence is taken into account by service officials, who issue oral or written warrants for further action depending on the nature and contents of the evidence in question.</li> <li>- Special on-the-spot verification takes place. If there is evidence of infringements, data are forwarded to the disciplinary authorities or to the prosecuting authorities.</li> <li>- Extension of check within country or to MS.</li> </ul>
ES	There is a possibility of extending the checks to other aid lines or other periods, following a request by the body responsible to the body responsible for approving the initial inspection plan. In cases in which behaviour may constitute an offence, the Administration passes the evidence of criminal liability on to the competent criminal court and refrains from imposing sanctions.
FR	If an irregularity is found that is not covered by the search warrant, the search team is authorised to communicate the data collected to the relevant administrative service. If there is a suspicion of fraud or if the irregularity observed constitutes a crime or misdemeanour, the Public Prosecutor must be informed in accordance with Article 40 of the Code of Criminal Procedure.
IT	If further irregularities should come to light that were not covered by the warrant, the inspection body will, depending on the anomaly detected, either act on its own initiative or notify the various bodies concerned so that they can take the appropriate steps. (If it is not possible quickly to locate the competent authority, mention will be made of the fact in the report with a view to any subsequent challenge).
CY	If other irregularities are discovered in the course of the check, immediate action is taken to stop the activity in question and the relevant authorities are notified immediately. If the check is performed on the basis of a warrant, a check concerning other irregularities can take place only after a new warrant has been issued.
LV	<p>During on-the-spot checks, information on other irregularities is forwarded to the competent institutions. The institution that carries out the check may decide on full audit of the economic operator's project, which is followed by the decision on use of the funding granted and recovery of irregular expenditure.</p> <p>In cases where the State Police or the State Revenue Service carry out a check within the scope of their competence, additional irregularities that are identified are stated in the check report/statement which may result in administrative proceedings or criminal proceedings.</p>

<b>Member State:</b>	<b>2.1.5 What do you do, on the basis of your national legislation, if you find evidence of other irregularities that are not covered by the warrant for the on-the spot check?</b>
LT	This information is recorded in the on-the-spot inspection report and is communicated to the irregularities inspector at the administering institution responsible for administering and monitoring the project in question. If a criminal offence is suspected, the competent law enforcement authority, namely the Financial Crime Investigation Service (the Lithuanian AFCOS), is notified immediately.
LU	The following may be seized: all objects that have been used or were intended to be used to commit a crime, those which were the subject or are the proceeds of the crime, anything which appears to be of use in determining the truth or use of which might be detrimental to the smooth conduct of the investigation, and anything liable to be confiscated or recovered (Article 31(3) CIC).
HU	Inspections are carried out in accordance with an annual inspection plan. An inspection plan is drawn up for the individual inspections; the inspector is authorised to access information to carry out the tasks in respect of the person/period listed in the programme on the basis of the letter of authority. The inspector may ask for an amendment of the letter of authority and, if this is not possible, a new investigation. There is no possibility for immediate action.
MT	The IAID will retain such evidence and commence a separate check/investigation in relation to these irregularities. Moreover, the IAFI Act provides that if it is clear that if the irregularity, if proved, would constitute a criminal offence, the IAID has to immediately inform the Attorney General.
NL	If the inspector is authorised to carry out supervision or investigations, he can do so independently. If he is not, he can inform the relevant inspection/ investigation department which has this as its core task.
AT	Customs: Under the comprehensive right to take and inspect evidence, evidence may be taken even on hitherto unknown subject areas. However, this increase in scope must be recorded in writing and the person concerned must be informed. BMLFUW: Report to the competent authorities where necessary. ESF: Legal representation by the Federal Financial Prosecutor.
PL	1. Notification of another body responsible for implementing EU funds. 2. Obligation to notify the law enforcement authorities of an offence prosecuted ex officio (Article 304(1) of the Code of Criminal Procedure).
PT	Decree-Law No 276/2007 (Article 14) – Where a serious threat to the public interest is detected, the head of the inspection service may identify the measures provided for in the applicable legislation that can be implemented in each case to prevent or eliminate the threat in question.

<b>Member State:</b>	<b>2.1.5 What do you do, on the basis of your national legislation, if you find evidence of other irregularities that are not covered by the warrant for the on-the spot check?</b>
RO	In the event of finding irregularities that are not covered by the warrant for the on-the-spot check, the response is to widen the scope of the warrant accordingly.
SI	In such cases, the inspector carrying out the inspection expands the decision on the launch of the inspection. A request is made for a corresponding check or for a transfer to the competent bodies.
SK	A new authorisation or annex to the authorisation to conduct a government audit or inspection is issued. A report is submitted on the irregularity detected and, where necessary, the law-enforcement authorities are notified of any suspected criminal activity.
FI	Good administrative practice dictates that the irregularity should be notified to the competent authority and, if necessary, the police.
SE	Not really something provided for under the OSL. The principle of public access and the OSL do not, in themselves, prevent such information from being dealt with by public bodies and the appropriate authority being informed, at least not if the information is public.
UK	Warrants are required to be descriptive and specific about what is being sought. Where a search takes place in alignment with the wording of the warrant and other incriminating material is found, this will generally be admissible. If the inspector also has / holds authority to deal with the new discovery, then this must be dealt with accordingly or referred to the police or other agencies to take action depending on the seriousness of the discovery.

<b>Member State:</b>	<b>2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?</b>	<b>2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?</b>
BE	<p>In criminal cases, any such request is pointless. The search warrant is executed without the consent of the person concerned. How the data are dealt with at judicial level is independent of whether the suspect consults a lawyer.</p> <p>In cases involving tax on income, a persistent refusal to make documents available can entail penalties (Art. 315 of the CIR 92). If the necessary protective measures can be taken, the assistance of legal counsel can be permitted before consultation of the information begins.</p>	<p>It is usual for the investigating judge to go to the lawyer's office and/or residence with the public prosecutor and the Chairman of the Bar Association or a member of the Bar Council designated by him. In the event of persistent refusal on the spot, the documents in dispute are seized and placed under seal with a view to thorough examination or debate before the investigating judge.</p> <p>The principle is laid down in Article 458 of the Criminal Code and no exception can be made except where the lawyer himself is implicated in committing the offence.</p>
BG	<p>The Bulgarian legislation governing on the spot checks does not allow an economic operator to delay access to information in order to consult his lawyer.</p>	<p>If lawyer client privilege is infringed by an administrative body under Article 250 of the Code of Administrative Procedure, anyone with a legitimate interest may apply for the termination of actions carried out by an administrative authority or official that is not based on an administrative act or on the law. The dispute shall be settled by the competent administrative court.</p>

<b>Member State:</b>	<b>2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?</b>	<b>2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?</b>
CZ	The inspection schedule allows for delays. Decree No 416/2004 implementing the Act No 320/2001 Coll. on financial control in public administration, Sections 1-9 (further details on inspection methods) and Sections 7-9 (further details on inspection procedures); Act No 552/1991 Coll. on state control – Section 11(g) – authorisation to impose fines; letter (d) – the right of the inspector to request clarification and truthful and complete information. The inspector stipulates the deadline for submission of documents and clarifications. Possibility to acquire information from other sources. Section 14 – the entity being checked is required to ensure the check progresses smoothly.	Decree No 416/2004 implementing the Act No 320/2001 Coll. on financial control in public administration, Sections 1-6 establish further details on inspection methods and Sections 7-9 establish further details on inspection procedures; The beneficiary may submit objections to the results of the check, which the inspection authority must deal with.
DK	Under Section 5 of the Legal Certainty Act, the check has no suspensive effect once the operation has been reported. You are also referred to point 2.1.1. If there is a justified suspicion of fraud, the case is also referred to the police.	As part of the authorities' treatment of claims of lawyer-client privilege, the lawyer must be able to submit a power of attorney or confirmation from the client that the lawyer in question is serving his client's interests.
DE	There is no legal means of enforcing cooperation in the case of administrative controls	As a general principle, the legal relationship between a client and his lawyer is a protected relationship of trust which is also guaranteed in administrative law



Member State:	2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?	2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?
EE	Beneficiaries are required to make available to the supervisory body all information and documents relating to the conduct of their project within three working days of being asked to do so, which should be sufficient time to consult a lawyer if necessary. Late submission of documents is recorded in the report/record of the on-the-spot inspection, and if a new deadline is also missed, under Section 31 of STS 2007+ an administrative order can be issued. KrMS Section 45	No special rules have been laid down.
IE	The operator has no right to such delay unless he/she has obtained a court injunction preventing the check from being carried out. A delay would not be allowed once the officer is satisfied that he/she is acting within the legislation.	In general this would not be applicable, unless a lawyer was present at time of the inspection they could state that documents held by their client which were going to be seized are subject to legal professional privilege. If criminal proceedings were instituted lawyer/client privilege would be respected by the relevant court, where applicable.
EL	YIIEE inspectors allow a reasonable amount of time for informing the subject's legal advisor, but under no circumstances does this mean postponing or cancelling the audit, which must be carried out (cf. Article 20(9) of PD 154/97). For other inspection bodies no such contingency exists, so there are no specific provisions.	Confidentiality applies subject to Article 5 of Law 3691/08 "on the prevention and suppression of money laundering and the funding of terrorism and other provisions". The YIIEE would point out that lawyer-client privilege is not covered by national legislation pursuant to Article 85 of Law 2238/94 on tax secrecy

<b>Member State:</b>	<b>2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?</b>	<b>2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?</b>
ES	Generally speaking, the inspection procedure lasts for twelve months when it involves a private individual benefiting from a national grant. If the request is regarded as an excuse or obstruction of the check, it is denied and an analysis carried out to see whether an infringement has occurred. If on the other hand the request is regarded as reasonable, it is granted.	The duty of cooperation is a direct obligation for the beneficiary organisation and any third parties who cannot invoke business secrecy (suppliers, customers, third parties with an interest in the completion of the project or programme, financial entities), therefore lawyer-client privilege is not an obstacle to conducting the checks.
FR	Search powers are covered by the law and, except in the case of searches of residential premises, which require judicial authorisation, the presence of a lawyer does not entail the suspension of the procedure.	The professional confidentiality which lawyers are obliged to observe is a strong point in French law. It can only be waived by a court, which occurs only in exceptional circumstances in criminal cases (when the lawyer has been charged).
IT	Legally, a request for prior consultation of a lawyer cannot be used to prevent the inspectors from seeking and examining the documents concerned. On the basis of practice in specific areas, however, some steps may be taken in consultation with the economic operator after the party concerned has requested the prior consultation or assistance of a professional person.	In principle, professional confidentiality may be invoked only in respect of such documents as have an interest other than the financial interest of the professional person or of the person receiving his or her assistance. If necessary, communications between lawyer and client may be examined personally by a judge or expressly delegated authorised representative (Article 103 of the Code of Criminal Procedure).
CY	No such option exists. It is considered as a denial of access to information and therefore the application is rejected. The economic operator has the right to consult its lawyer during the check but this right cannot affect in any way or delay access to the requested information, on the day on which the on-the-spot check is carried out.	This confidentiality is inviolable.

<b>Member State:</b>	<b>2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?</b>	<b>2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?</b>
LV	<p>Under the EU Structural Funds and Cohesion Fund, the institution that carries out the check notifies the economic operator about an on-the-spot check before the planned check takes place. The economic operator is given preparation time, including time to ensure the availability of documentation for the check. In cases where access to information is delayed, a repeated check may be carried out.</p> <p>Under the Rural Funds, the economic operator must ensure that the officials are able to carry out monitoring and control during the project implementation and its monitoring. Unless delay threatens the objective of the check, it is postponed. In cases where delay of the check threatens the objective of the check, it will be carried out despite the economic operator failing to contact its lawyer.</p> <p>State Police officers will continue any check of the department/administrative inspection that has been started.</p> <p>Regulatory enactments of the Republic of Latvia do not provide for the requirement or necessity to involve the taxpayer's lawyer in administrative proceedings (Section 10(1)(1), (2), (3), (5) of the Law on the State Revenue Service and Sections 15(1)(6), 322(1) of the Law on Taxes and Fees).</p>	<p>Such privilege does not apply to on-the-spot checks (see also the responses to questions 2.1.1 and 2.1.2).</p> <p>In accordance with Section 677 of the CPL, in providing legal assistance, the lawyer is entitled to meet with the person (client) under conditions that ensure the confidentiality of the conversation, to submit evidence, to submit requests and to receive the data required to provide legal assistance in accordance with the procedures set out in regulatory enactments.</p> <p>In accordance with the provisions of Section 262 of the LAVC, a person who is held administratively liable and a victim may participate in the adjudication of the administrative violation matter with assistance of a representative in accordance with the provisions of the Administrative Procedure Law. In accordance with Section 35 of the APL, a participant in administrative proceedings may participate in the proceedings with the assistance of or through their representative. The representative may be any natural or legal person with capacity to act, subject to the restrictions set out in Sections 36 and 37 of this Law.</p>

<b>Member State:</b>	<b>2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?</b>	<b>2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?</b>
LT	This situation is not specifically mentioned in the Lithuanian legislation on on-the-spot checks. Aid beneficiaries undertake to allow an on-the-spot check to be carried out. If the beneficiary does not provide the information needed to carry out the on-the-spot check or otherwise obstructs it, and this could undermine the purpose of the check, this may be deemed to constitute preventing a check from being carried out.	See 2.1.6.
LU	The search will proceed and will not be affected by requests designed to delay access to the information.	Any failure by a lawyer to respect professional secrecy can result in both disciplinary action and criminal prosecution. "All persons who by virtue of their state in life or their profession are custodians of secrets entrusted to them, and who divulge such secrets, shall, except in cases where they are required to provide testimony in court or required by law to make known these secrets, be punished..." (Article 458 of the Criminal Code).
HU	The economic operator has no possibility to deny access to information pending consultation of its legal representative, as there is no requirement for compulsory legal representation. The obligation to accept inspections and the sanctions applicable in the event of failure to do so must be set out in the aid contract. If the inspected party impedes tax inspection a default penalty may be imposed.	No person shall be heard during inspection on any facts considered as protected data that has not been exempted from confidentiality. Protected data is any confidential information specified by law and any profession-related secret. If the authorised legal representative does not disclose the necessary information on grounds of confidentiality, the competent organisation initiates an infringement procedure.

Member State:	2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?	2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?
MT	The economic operator has no right to delay access to information to the IAID investigators until he has consulted his lawyer. This is even more the case when the investigators are in possession of a magistrate warrant in the circumstance described above in 2.1.2.	Under Maltese law the lawyer-client privilege has to be respected in all cases. In addition art. 642 of the Criminal Code stipulates that lawyers may not be compelled to divulge knowledge of/evidence on the facts which have become known to them through their profession.
NL	Unless there is a pressing reason, the matter is "put on hold" and the economic operator is given an opportunity to discuss the matter.	Confidentiality is respected. Customs: the hallmark of an administrative control is that the trader is obliged to cooperate. The trader cannot hide behind the confidential relationship between himself and his lawyer.
AT	Customs: The person concerned must allow access to the relevant data; there is no provision for postponement. He may have legal recourse against unlawful inspection measures. BMLFUW: The economic operator is entitled to legal representation. Any delay this may cause is allowed. ESF: Legal representation by the Federal Financial Prosecutor.	Customs: If there is an inspection order, the lawyer must allow examination of the documents. However, the lawyer can so prepare the documents as to comply with his duty of confidentiality. Duty of confidentiality under Section 9(2) of the ( <i>Rechtsanwaltsordnung</i> ) [Lawyers' Code] BMLFUW: See point 2.1.3. Structural Funds: ( <i>Beamtdienstrechtsgesetz</i> )+B29 [Civil Servants Act] Section 46 (professional secrecy)
PL	It is not possible to request that access to information be delayed. Inspectors are entitled to consult documents and gather information relevant to the case on the basis of their authorisation and the provisions of the Tax Ordinance Act, the Treasury Control Act and the Fiscal Penal Code. Anyone hindering or preventing an inspection faces criminal penalties (maximum fine of 720 day-fine units).	The rights of the defence referred to in Article 6 of the Code of Criminal Procedure come into play only at the stage of criminal or fiscal criminal proceedings. The presumption of innocence also applies.

<b>Member State:</b>	<b>2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?</b>	<b>2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?</b>
PT	There is no specific provision, which means that the action taken depends on the particulars of the specific case in question and the possible risks. It is considered good practice to instruct operators to provide written statements, informing them that if they fail to comply, they will incur criminal liability.	Summons to provide written statements during inspections can be requested from the police authorities, provided that the applicable provisions of the Code of Criminal Procedure are observed, in accordance with Article 13(4) of Decree-Law No 276/2007. However, lawyers are bound by the obligation of professional secrecy, which means that they may refuse to answer questions concerning their clients.
RO	If, for any reason, the requested documents and information cannot be presented on the spot, the legal persons concerned have the obligation of providing an appropriate and complete response within a maximum of 10 days from the date of the request. This does not suspend the inspection operation.	The lawyer-client privilege cannot be violated in the context of an administrative inspection, because under the rules regulating the lawyer's profession, published in Official Gazette No 45/2005, a lawyer cannot be forced, under any circumstances and by any person, to breach the rules of professional secrecy. Additional provisions included in Section 44(2) of Act No 51/1995 on organising and practicing the lawyer's profession.
SI	They are permitted. The General Administrative Procedure Act stipulates that, if the operation cannot be completed the same day, the work carried out on a particular day is to be entered separately each day in the same report, which is to be signed. In the case of customs investigations the postponement may not exceed two hours.	They are permitted.

Member State:	2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?	2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?
SK	Under Article 47(2) of the Slovak Constitution, everyone has the right to legal assistance in proceedings before the courts and other State or public authorities from the beginning of proceedings, i.e. an economic operator must be granted reasonable time to consult a lawyer. The audit or inspection authority must also consider whether such a step is in reality aimed at manipulating the content of the information requested.	Under Act No 586/2003, the content of legal assistance provided by a lawyer cannot in principle be disclosed. The client (person) to whom the lawyer renders legal services may decide to disclose it. The lawyer is obliged not to disclose information which has come to his or her knowledge through the exercise of legal assistance. The client or his or her legal representative may exempt the lawyer from the secrecy obligation.
FI	A request for a delay may be granted if it is not deemed to jeopardise the objectives of the inspection.	Under Section 5(c) of the Advocates Act (496/1958), a lawyer or his assistant may not, without due permission, disclose confidential information about an individual or family, or business or professional secrets which have come to his knowledge in the course of his professional activity. This duty is not limited to the lawyer's own clients but applies also to confidential information of the opposing party.
SE	Neither general administrative law nor secrecy legislation contains provisions regulating such situations.	Neither general administrative law nor secrecy legislation contains provisions regulating such situations.
UK	RPA: In principle, the economic operator may consult with a legal advisor by phone at all times. However, caution should be exercised so that this does not amount to deliberate obstruction and should not halt or inhibit the inspection and seizure of relevant material. S: the material would be recovered and the position would be argued later. Where a search warrant is granted, this is done ex parte, and there is no provision for the individual to consult a solicitor or have a solicitor present in	RPA: This is a complex aspect of law covered extensively within the PACE Act. It does not prohibit entirely a seizure, however if the nature of the material is in doubt, extreme caution must be exercised before seizing. If it transpires later that the material is deemed to have "legal Privilege", the material must be returned forthwith and no reference can be made to it in evidence. S: The position of lawyer-client privilege allows a solicitor to withhold the contents of any discussion with their client, providing it is not

<b>Member State:</b>	<b>2.1.6 During an on-the-spot check, how do you deal, on the basis of your national legislation, with requests to delay the access to information until the economic operator has consulted its lawyer?</b>	<b>2.1.7 How do you deal, on the basis of your national legislation, with claims of lawyer-client privilege?</b>
	order to dispute the terms of the warrant. Any challenge would in effect have to be made after the warrant has been executed.	for criminal purposes. Where the intention is to lead evidence from a solicitor, he/she can cite the professional privilege exemption but ultimately can be forced to breach any confidence, under the rules of the Law of Evidence in S. Where documents are sought, they are placed in sealed envelope and professional privilege can be argued.



## 2.2. National procedural requirements for on-the-spot checks and for drawing up administrative inspection reports

<b>Member State:</b>	<b>2.2.1 Article 6, paragraph 1, third line of Regulation 2185/1996, requires the Commission inspectors to comply, during an on-the-spot check, with the rules of procedure laid down by the law of the Member State concerned. Briefly indicate which are the main rules of procedure applicable in your Member State during on-the-spot checks.</b>
BE	The rules are laid down in the Judicial Code and the Code of Criminal Procedure as well as in various specific pieces of legislation. The main concern: - non-notification of controls except where necessary; - restrictions on access to private homes; - observance of the law on the use of languages; - drafting official reports signed by the inspector and the representative of the organisation. It would be pointless to summarise them in 400 characters.
BG	The search and seizure is carried out by the financial inspector with the assistance of a representative of the Ministry of the Interior in the presence of: a representative of the organisation under inspection, a Commission inspector and two witnesses. Actions taken during the search and/or seizure are recorded in a protocol listing the documents seized. Four identical copies of the protocol are produced in English.
CZ	The Act No 320/2001 Coll. on financial control in public administration, the Act No 552/1991 Coll. on state control. Act No 337/1992 on the administration of taxes and charges, Act No 146/2002 on the State Agricultural and Food Inspectorate.
DK	Under the Legal Certainty Act, coercive measures may be used only if less invasive measures are not sufficient and if the measure is proportionate to the purpose of the measure. The coercive measures must also be performed in as considerate a fashion as circumstances allow. If the coercive measures reveal any irregularities, they shall be terminated with a report.
DE	See answer to question 2. 1.1.
EE	HMS; STS Section 25; STS 2007+ Section 31
IE	The procedures are provided for in S.I. No. 168/1998, subsections (2) to (8) of Regulation 4. In summary a Commission Inspector must produce identification, a warrant of appointment, be accompanied by an administrative inspector or a member of the Garda Síochána and may not enter a private dwelling without consent or a warrant from the judge of the relevant District Court.

<b>Member State:</b>	<b>2.2.1 Article 6, paragraph 1, third line of Regulation 2185/1996, requires the Commission inspectors to comply, during an on-the-spot check, with the rules of procedure laid down by the law of the Member State concerned. Briefly indicate which are the main rules of procedure applicable in your Member State during on-the-spot checks.</b>
EL	Procedural rules comprise the set of actions defined in individual decisions to carry out a check (purpose of check, time frame, place, provision of information, etc.) or the rules that are followed as a matter of course by inspection bodies in order to carry out a check immediately and effectively. In the event of infringements (YIIIEE), proof of warrant or position, documentary checks, seizures, arrests, questioning of individuals.
ES	CENTRAL STATE ADMINISTRATION § Law 38/2003 of 17 November on Grants. § Regulation implementing the General Law on Grants. Public Sector Auditing Rules, Instructions and Other Technical Rules of the State Audit Department. Ø AUTONOMOUS COMMUNITIES § The laws and regulations adopted by each Autonomous Community.
FR	The main rules of procedure applicable to searches are based both on the law and on very precise manuals of procedure and methodology.
IT	- Presidential Decree No 633/1972, Article 52; - Act No 689/1981; - Act No 241/1990; - Legislative Decree No 374/1990, Article 11; - Legislative Decree No 41/1995, Article 34; - Act No 212/2000.
CY	The inspectors carry and display a special ID. They also carry a separate file concerning the on-the-spot check for any request which specifically refers to the type of check, the reason for selection for a check, what items will be checked and for which actions (the extent of the inspection). All of the above are contained in the guidelines / manual of procedures.

<b>Member State:</b>	<b>2.2.1 Article 6, paragraph 1, third line of Regulation 2185/1996, requires the Commission inspectors to comply, during an on-the-spot check, with the rules of procedure laid down by the law of the Member State concerned. Briefly indicate which are the main rules of procedure applicable in your Member State during on-the-spot checks.</b>
LV	<p>On-the-spot checks under EU Funds projects are regulated by the enactments specified in clause 2.1.1 above.</p> <p>On-the-spot checks are carried out by an official authorised to do so. In accordance with the type of the check, the person who carries out the check informs the economic operator about the date, duration, scope of the check, the persons carrying it out and the required facilities. The economic operator must supply all documentation and information related to the project implementation to the persons carrying out the check. The progress of on-the-spot checks and the findings thereof are documented, and the economic operator is informed about the results of the check. The economic operator may provide explanations and objections regarding the relevant check.</p> <p>During the check by the State Police, a report of the check is made stating the situation of the economic operator as at the time of the check, and the documents/property are examined and, if required, the documents or objects are seized.</p> <p>The process of each tax control measure is regulated by a specific internal regulatory enactment of the State Revenue Service that determines the content and form of the inspection documents to be drawn up on the results of the measure. In cases where an administrative report is to be drawn up on the results of the measure, it will comply with the requirements set out in the APL.</p>
LT	The authorities have a procedure for carrying out checks, which covers notification of the check, its purpose, introducing oneself to the aid beneficiary, behaviour in a conflict situation, carrying out an on-the-spot check, completing the inspection report, signing and informing the aid beneficiary of the results. If prior notification could have a negative effect on the results, the project implementer is not informed of the forthcoming check.
LU	<p>These rules of procedure are governed by</p> <ul style="list-style-type: none"> <li>- Articles 13, 14 and 8 of Regulation (EC) No 2913/92 laying down the Community Customs Code, and</li> <li>- Articles 202 and 203 of the General Customs and Excise Law of 18 July 1977.</li> </ul>
HU	On-the-spot inspection/inspection at office premises may be performed between 8 am and 8 pm, with due regard for the inspected party's safety requirements and working hours. Inspecting documents stored outside the inspected party's headquarters forms part of the investigation. As a general rule, inspections must be notified orally or in writing in advance and the letter of authority presented prior to starting the inspection. The inspected party is obliged to cooperate and to ensure appropriate conditions for inspection.
MT	The law is the IAFI Act which regulates the IAID (AFCOS Malta). The main rules refer to powers of entry (vide 2.1.2). Additionally information acquired should be treated as confidential. The inspectors have to take an oath that they will perform their duties impartially and respect confidentiality, apart from being also professionally bound to confidentiality by their code of ethics.

<b>Member State:</b>	<b>2.2.1 Article 6, paragraph 1, third line of Regulation 2185/1996, requires the Commission inspectors to comply, during an on-the-spot check, with the rules of procedure laid down by the law of the Member State concerned. Briefly indicate which are the main rules of procedure applicable in your Member State during on-the-spot checks.</b>
NL	Agriculture - the inspector is authorised to enter any premises - the inspector is authorised to seize goods. He is authorised to demand the cooperation of the person being inspected. Structural funds - the rules are laid down in the Operational Programme, the subsidy rules themselves and European legislation.
AT	Customs: Identification requirement + presentation of inspection order; Concluding discussion incl. record thereof; Inspection results report. BMLFUW: house manuals (= rules ensuring possibility of implementation + standardised documentation - applies to all points 2.2.2). Structural Funds: 2009 Federal Budget Regulation; 1986 Federal Budget Act; 2004 gen. Framework Guidelines for granting support from Federal Funds.
PL	Inspection: carried out in such a way as to do the least possible harm to the good name and property of the persons under inspection; performed in the presence of the person under inspection (or an appointee) during working hours. Inspections are initiated solely ex officio by handing the authorisation to the person under inspection and presenting a (services ID-card). Documentation in the form of a report; contradictory procedure.
PT	In carrying out their duties, inspection staff must ensure that the procedures followed are in line with the inspection's objectives (proportionality). The inspection services must conduct their interventions in compliance with the adversarial principle and must provide the inspected entities with an explanation of the legitimate interest, without prejudice to confidentiality requirements.
RO	On-the-spot checks are launched by decision of the head of DLAF, on the basis of the warrant for the on-the-spot check. At the first meeting with the representatives of the entities to be checked, the DLAF staff present their identification cards and a copy of the warrant. At the end of the inspection, DLAF draws up inspection reports approved by the head of DLAF.
SI	Inspection begins with the delivery of the inspection decision or with any action intended to carry out inspection. Before the report is drawn up, the inspector must have a final discussion with the liable party. After the final discussion, the inspection report is drawn up and a decision or order on the completion of the inspection is issued.
SK	Auditors and inspectors proceed in accordance with the basic rules of government audit and ex-post financial control (Act No 502/2001) and the basic rules of inspection (Act No 10/1996). The procedural rules are also laid down in Guidance Document No 16/2004.

<b>Member State:</b>	<b>2.2.1 Article 6, paragraph 1, third line of Regulation 2185/1996, requires the Commission inspectors to comply, during an on-the-spot check, with the rules of procedure laid down by the law of the Member State concerned. Briefly indicate which are the main rules of procedure applicable in your Member State during on-the- spot checks.</b>
FI	The audit authority may decide to authorise another authority or auditor to carry out the inspection of the use of Structural Funds on its behalf. Audits may not be carried out in premises that are part of a private residence.
SE	See e.g. the Act on EC Regulations on Structural Assistance and Assistance for Rural Areas (1994:1708), the Act on EC Regulations on Community Fisheries Policy (1994:1709) and the Act on EC Regulations on Agricultural Products (1994:1710).
UK	S: For ESF procedures - management and control systems and the applicable Regulations and for EAGF & EAFRD, the rules are detailed in the control system instructions to staff and also by both EC and domestic legislation. BIS: Commission inspectors are required to inform the Managing Authority of any proposed investigations and would be accompanied by a qualified investigator. Police would be involved at an early stage to advise and ensure that legalities are upheld. RPA: Various regulations empowered through Statutory Instruments arising from EU Directives including SI 314/1992 as amended by SI 3198/2000. NI: Procedures in place include: Managing Public Money (NI); Guidance Notes issued by DFP, Programme Procedural manuals issued by European Division, DFP.

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
BE	<p>Yes:</p> <p>SPF FINANCES:</p> <p>1. As regards tax on income, the authorities have produced model on-the-spot inspection reports.</p> <p>2. For VAT, a distinction has to be made between the official reports and administrative reports. For official reports to be valid, they must include specific details (name and function of the drafter responsible; date; signature by the official).</p> <p>The special probative value of these official reports concerns all operations that the “minute takers” claim to have performed and all the facts they claim to have witnessed, in particular those they discovered and more generally that they have seen, heard or observed provided that these findings fall within the scope of their mandate.</p> <p>These requirements do not apply to administrative reports.</p> <p>a) ALV: Yes, specifically laid down in internal service instructions in</p>	Preparation	<p>ALV: Must be on some form of medium, be dated, give identity of drafter, give objective description of the content, be signed by drafter</p> <p>WALLOON REGION: Legislation (national and regional), circulars, and procedures applicable to the various functional administrations for each stage: drafting, content, form, signature, adoption, approval.</p> <p>FRENCH COMMUNITY: Report based on standard model with description of the findings and financial impact.</p>
		Content	<p>BRUXELLES CAPITALE (PO FSE): For all the points ticked, a template is used by the control bodies. This template determines the content, form, the obligation to sign and date, and approval by the body responsible for authorising payment.</p> <p>FRENCH COMMUNITY: AGENCE FSE: Report based on a standard model with description of the findings and financial impact.</p>
		Form	<p>SPF FINANCES: Tax on income. A model has been produced by the administration.</p> <p>ALV: See the requirements indicated above as regards noted findings on some form of medium, usually model forms are produced and made available to control officials.</p> <p>FRENCH COMMUNITY: AGENCE FSE: Paper and electronic storage (2007-2013)</p>
		Signing	<p>SPF FINANCES: 1. Tax on income. The tax assessor signs the document.</p> <p>ALV: Officiating inspector signs at the bottom of the control form.</p> <p>FRENCH COMMUNITY: AGENCE FSE: By the 2 inspectors and countersigned by the manager.</p>
		Adoption	<p>SPF FINANCES: 1. Tax on income. The department head can oversee the document.</p> <p>ALV: Hierarchical supervision. BRUXELLES CAPITALE (PO FSE) yes</p>

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
	<p>guidelines (control instructions of the managing departments) on the basis of very general principles of law such as the principle that grounds must be stated (see also the Act of 29 July 1991 on the duty to state grounds), the fair play principle in impartiality (principle of fair administration), the principle of care (ditto), the principle of equity (ditto). BRUXELLES CAPITALE (PO FSE): A control checklist and an inspection report template are drawn up and used.</p> <p>No: BIRB Each body draws up its own internal instructions on the basis of common principles of law such as the obligation to state grounds, the principle of sound management, etc.</p>		FRENCH COMMUNITY: AGENCE FSE: Transmission to the managing department for final decision.
		Approval	ALV: Hierarchical supervision. BRUXELLES CAPITALE (PO FSE): yes FRENCH COMMUNITY: AGENCE FSE: Inspection results are sent to the operator and contradictory procedure if necessary.
BG	No		
CZ	Yes – in line with the details of the Act, the inspection report must be drawn up according to the State Control Act and the Financial Control Act.	Preparation	In accordance with the Act No 320/2001 Coll. on financial control in public administration - and its implementing regulations (notification of on-the-spot check, inspection authorisation) and in accordance with the Act No 552/1991 Coll. on state control
		Content	In accordance with the Act No 320/2001 Coll. on financial control in public administration - and its implementing regulations and in accordance with the

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			Act No 552/1991 Coll. on state control – Section 15. The report contains a description of any shortcomings found, and a note of which legislative provisions have been breached. The report lists the inspection body and inspectors carrying out the check, the entity being checked, the location and time of the check, the scope of the check, the findings of the check, and the documents and other materials on which the check’s findings are based.
		Form	In accordance with the Act No 320/2001 Coll. on financial control in public administration - and its implementing regulations (notification of on-the-spot check, inspection authorisation) and in accordance with the Act No 552/1991 Coll. on state control . The report is drawn up in writing in two copies and signed by the inspectors.
		Signing	In accordance with the competences arising from the application of managing and control systems and under powers delegated in accordance with the Act No 320/2001 Coll. on financial control in public administration - and Sections 15 and 16 of the Act No 552/1991 Coll. on state control . The report is signed by the inspectors that carried out the check and the entities being checked.
		Adoption	In accordance with the Act No 320/2001 Coll. on financial control in public administration - and its implementing regulations and in accordance with the Act No 552/1991 Coll. on state control – Section 16. The inspectors have an obligation to ensure the entity being checked is informed of the content of the report and to give them a copy of the report. The entity being checked signs to confirm that it has been informed of the report and has received a copy.
		Approval	/
DK	Yes – as regards the EU’s receipts from customs duties.	Preparation	Customs reports are drawn up in the event of irregularities.
		Content	The customs report must describe the irregularities noted.
		Form	There are fixed models for the establishment of customs reports.
		Signing	Signed by the person who has drawn up the report.



Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
		Adoption	The client may agree to the fine or appeal against the decision.
		Approval	Approval occurs if the abovementioned procedural requirements are complied with.
DE	No		
EE	Yes	Preparation	STS Section 25; STS 2007+ Section 31, but the drawing up of reports is not subject to any rules.
		Content	There is no limits in the content of the reports
		Form	There is no general form for the on-the-spot reports
		Signing	STS Section 25; STS 2007+ Section 31. Reports are signed by all parties concerned (where necessary, use is made of witnesses, experts etc.).
		Adoption	One copy of the report will be given to the verifiable
		Approval	The report will be approved by the manager of the verifying entity (or by a person authorized by the manager).
IE	<p>While there are no specific national procedural requirements Departments will have their own procedures.</p> <p>Described herein is an outline of the procedures used by the Department of Agriculture, Fisheries and Food (D/AFF) and the Department of Community, Rural and Gaeltacht Affairs (D/CRGA):</p> <p>Inspectors visiting a holding follow a</p>	Preparation	D/AFF Internal procedures set out arrangements for carrying out inspections including pre-inspection checklist.
		Content	Content of the Inspection Report is set out in D/AFF Internal Procedures
		Form	Form of the Inspection Report is set out in D/AFF Internal Procedures

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
	standardised reporting system to ensure consistency of decision making and fair treatment for all farmers visited. With regard to Axis 3 and 4 on the spot controls performed by the D/CRGA (a delegate body of the D/AFF) under the Rural Development Programme 2007-2013, inspection reports meet the requirements of Commission Regulation (EC) 1975/2006 and Commission Regulation (EC) 796/2004 and are drawn up by the D/CRGA Inspection Services Division.	Signing	Inspection Report is signed by Officer who carries out inspection.
		Adoption	Inspection Reports are taken into account by supervisory officers at two further levels prior to approval of grant payment or issue of approval, as the case may be.
		Approval	See above
EL	Yes	Preparation	Generally speaking, preparation includes a study of Community and national legislation, a risk analysis, check guidelines, data collection and, if necessary, the addressing of special issues. Once an infringement has been identified, YIIIEE inspectors proceed by drawing up an administrative report. Provisions of the legal framework are then identified and compared in the light of the infringements identified.
		Content	An inspection report is drawn up with inspection findings, risk analysis, proposals for structural measures. If irregularities are identified, recommendations are made for financial corrections. For the YIIIEE, the report contains data on the inspected and inspecting parties, the inspection warrant, handling and attestation documentation, detailed inspection findings, infringements of existing legal provisions, the inspected party's comments,

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			etc.
		Form	For structural operations and the EAGGF Guarantee section, administrative supervision/inspection reports take the form of an administrative act. Within the framework of the YIIIEE, inspection reports are drawn up fully, objectively and clearly, without reservation, conjecture or doubt, and contain all the data needed to document the infringements identified.
		Signing	For structural operations and the EAGGF Guarantee section, reports are signed by the inspectors. For the YIIIEE, the head of the prosecution team gives a report with the case dossier to the head of division, who issues instructions for the remedying, supplementing or further justification of the findings. It is signed and sent along with the case dossier to the head of the sub-directorate for final opinion/signature.
		Adoption	Within the YIIIEE the head of the prosecution team ensures that inspection reports are compiled, usually after on-the-spot checks have been completed. It is possible to arrange an extension, with an initial report showing the findings that emerged during the check and a subsequent synthesis report describing a case in all its complexity.
		Approval	For structural operations, reports are submitted hierarchically to the head of unit, head of authority/directorate for approval. In some cases, they are also submitted to the Director-General for approval. If a financial correction is made, this is endorsed via the appropriate channels. In the YIIIEE, countersignature by inspectors is equivalent to official endorsement of the report. If the report is contested by the subject, an appeal may be lodged.
ES	Yes	Preparation	The Public Sector Auditing Rules lay down a standardised procedure covering the preparation, content and presentation of reports. During the 2007-2013 Framework, common models are being prepared both in work programmes and in reports. During planning, the auditors define targets, scope and

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			methodology, comprising a global action plan, a timetable and a report.
		Content	The reports contain the facts uncovered and the conclusions drawn from them. Generally speaking, reports are structured as follows: title, introduction, objectives and rules followed, scope and limitations, outcome of the work, conclusions, recommendations, arguments and comments on the arguments, annexes, and date and signature of the body involved.
		Form	Under the Technical Auditing Rules, auditors must produce reports in writing to leave a record of the final result, facilitate follow-up and check that the necessary corrective measures have been taken.
		Signing	Reports must be signed in all cases by the Director of the Auditing Service, either by hand or electronically.
		Adoption	Standardised rules are applied based on the instructions in the Public Sector Auditing Rules approved by the State Audit Department.
		Approval	Standardised rules are applied based on the instructions in the Public Sector Auditing Rules approved by the State Audit Department.
FR	Yes		
IT	Yes	Preparation	Through specific notices, seminars and briefings, the inspectors who carry out on-the-spot checks are given the necessary training, indicating the relevant references such as circulars, notices, provisions and instructions for carrying out the checks, inspection manuals, etc.
		Content	The inspection reports are compiled using special reporting templates, adapted as required according to context, on which specific information is entered relating to, for example, the personal data of the inspected economic operator, the date of the inspection, a summary of the measure taken and of the plan carried out, details of the Community contributions and the reasons for the sums concerned not having been recognised.

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
		Form	Special check lists and (minuted) inspection reports are compiled according to ready-made formats.
		Signing	Those in charge of the administrative inspection and the inspected economic operator (or a person authorised to represent him or her) sign the inspection report themselves. However, the inspected economic operator's failure to sign the report does not invalidate the document.
		Adoption	If breaches are ascertained, the prosecuting bodies take steps, on the basis of the powers conferred on them, to quantify the inadmissible expenditure, to formalise the declaration of irregularity and to forward the latter to the managing authority for subsequent action. The inspected operator is entitled to receive a copy of the report that has been prepared.
		Approval	If the report should give rise to administrative proceedings, the responsible body must approve the form and content of the documents forwarded by the inspection bodies.
CY	Yes	Preparation	The file concerning the on-the-spot check is prepared in accordance with the type of check, the measure or measures to be checked, the reason for selection, the items and any actions to be checked. It also contains the inspector's declaration of impartiality; otherwise, if there is any special relationship, the check is considered invalid from an administrative point of view. The procedure is recorded in the relevant manuals.
		Content	Type of check, reason for selection, items and any actions to be checked Declaration of impartiality by the inspector The owner of the site The persons present during the check Whether the applicant was informed of the check, and the period of notice given The findings for any act or standard checked

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			Any photographs substantiating the findings of the check
		Form	The report (file) concerning the check specifically refers to the type of check, the measures and any actions to be checked, e.g. repeated agri-environmental measure 2.2.1 or traditional check using risk analysis.
		Signing	The reports on checks must always be signed by the inspectors who carry them out and for several measures also by the applicants undergoing the check. The head of the competent directorate approves and signs it.
		Adoption	The report is adopted by the inspectors and it contains the findings and the recommendations for improvement. The report is discussed with the auditee and once it is approved by the Director it is sent for implementation. Any new inspectors who have received (theoretical and practical) training conduct checks accompanied by experienced inspectors.
		Approval	The data from the check are verified and a cross-check carried out. They are reviewed by the person responsible in the unit and approved by the person responsible in the authority. The report is then approved and signed by the head of the competent directorate.
LV	Yes	Preparation	Internal procedures of the institutions that carry out the inspection determine the terms of preparation of the report/statement and the units responsible for the preparation. On the basis of factual information obtained during the inspection the report/statement is prepared within the specified number of business days after the inspection or during the inspection.
		Content	In accordance with the requirements of the internal procedures of each institution, the report/statement includes the following information: 1) the project to be checked (contract/agreement No, name and the economic operator); 2) the inspection, including whether it is planned or repeated, the place and

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			<p>time of the check, payment request number (if binding), and basis for the sampling grounds of the objects to be checked;</p> <p>3) a detailed list of implementation of conditions, documents, etc. to be checked;</p> <p>4) a time-limit for the elimination of deviations from the contract/agreement or regulatory enactments and shortcomings found during the check, if required;</p> <p>5) results of the inspection;</p> <p>6) persons that carry out the inspection.</p> <p>Such information may be different according to the requirements set out by each of the institutions in its internal procedures.</p>
		Form	<p>The form of the report/statement is determined in the internal procedures of each institution, and is to include all information set out in the previous clause.</p>
		Signing	<p>The inspection report/statement is signed by</p> <ul style="list-style-type: none"> <li>- the person that carries out the inspection/prepares the report;</li> <li>- the head of the unit;</li> <li>- the head of the institution;</li> <li>- the economic operator, if participating in the inspection.</li> </ul> <p>The range of persons signing the report/statement may be different according to the requirements set out by each of the institutions in its internal procedures.</p>
		Adoption	<p>At the close of the inspection some institutions discuss the results of the inspection with the economic operator, and agree on the interpretation of the shortcomings identified and the compliance of the definitions in the inspection documentation. The economic operator then signs the report/statement.</p> <p>In cases where the result of an inspection is negative or qualified, adoption of</p>

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			the report/statement is followed by correction actions for elucidation and elimination of the shortcomings. Adoption of the report/statement may be different according to the requirements set out by each of the institutions in its internal procedures.
		Approval	The report/statement is approved by the head of the institution. Approval of the report/statement may be different according to the requirements set out by each of the institutions in its internal procedures.
LT	Yes	Preparation	Once the on-the-spot check has been carried out, an inspection report is drawn up giving the results of the check, the conclusions and the recommendations, and the form for the on-the-spot check (at the project implementation and/or administration site) carried out on the project by the implementing body is completed.
		Content	The inspection report consists of questions relating to the project being implemented and the commitments made by the project implementer. The report states the purpose of the on-the-spot check, the elements checked, the results, conclusions and recommendations, how the project will continue to be implemented and the mandatory instructions to be given to the project implementer to remedy the infringements detected (if they can be remedied).
		Form	During the on-the-spot check, an on-the-spot check sheet is completed, in line with that approved by Order of the Minister for Finance. Taking account of the nature of the priority implementing measures for the operational programme concerned and of the activities under those measures, the institution administering EU structural assistance may supplement the inspection sheet and designate additional elements to be checked.
		Signing	Once the on-the-spot check has been carried out, the completed inspection sheet, signed by the inspectors who carried out the check, must be submitted to the project implementer for information and to be signed by him/her. If the



Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			project implementer's representative refuses to sign, the inspector must note this on the inspection sheet.
		Adoption	The signed inspection report is submitted to the project implementer for information.
		Approval	The inspection report is approved by signing it. Usually, each inspection report is approved by the direct superior of the person who carried out the check (the inspector).
LU	No		
HU	Yes	Preparation	The inspector draws up a record of the procedures and the observations and agrees the draft of it with the inspected party. The inspector must draw up the observations objectively and accurately and support them with evidence. The head of the inspection team is responsible for drawing up the report and its conclusions, and the inspectors for the accuracy of the observations and providing supporting evidence.
		Content	Name of the inspectors and the inspected party, legal powers, subject, period inspected, start and end of inspection, objectives, tasks, methods and procedures of inspection, identification data of documents copied, observations supported by evidence, conclusions, short evaluation, deficiencies and recommendations, name and title of managers in office at the time, date and signature.
		Form	When drawing up the report the inspectors use the standard forms specified for each institution. The report is drawn up in as many copies as the number of parties involved in the inspection.
		Signing	After drawing up the report the inspectors and the inspected party sign it and verify it by initialling every page on the spot.
		Adoption	The party inspected may make comments on the report and its content on the

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			spot which are then included under a separate item of the report. If comments are made, consultation is necessary and the comments which have not been agreed on must be explained.
		Approval	If inspection reveals errors or irregularities, the inspected party draws up an action plan with the approval of the inspector which lists the measures necessary to eliminate the deficiencies detected and to deal with the problems, as well as the deadlines for these measures. The party inspected is responsible for implementing the action plan and must report thereon to the inspector.
MT	No		
NL	Yes	Preparation	Free format
		Content	BSN (social security number) or KvK (Chamber of Commerce) number of person inspected - Date of inspection - Reason for inspection - Name of inspector - Findings and conclusions
		Form	Free format
		Signing	The inspector signs
		Adoption	/
		Approval	AID/LNV: the approval procedures differ according to the subject ranging from 100% internal control to sample check. Dutch customs have internal rules on the drafting of inspection reports.
AT	Yes	Preparation	Customs: Re 2.2.2 yes. Re preparation: It is compulsory to make a report after every inspection. BMLFUW: Re 2.2.2 yes. Re preparation: Procedural steps Nos 1-6. Description of preparation: in accordance with inspectors' manual. Structural Funds: No.
		Content	Customs: The content of the report must cover the result of the external audit. BMLFUW: Content in accordance with inspectors' manual.
		Form	Customs: The report must be in writing. BMLFUW: in accordance with

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			inspectors' manual/submission of inspection report.
		Signing	Customs: The report must be signed by the inspector. BMLFUW: in accordance with inspectors' manual.
		Adoption	BMLFUW: in accordance with inspectors' manual.
		Approval	BMLFUW (Federal Ministry of Agriculture and Forestry, the Environment and Water Management): in accordance with inspectors' manual.
PL	Yes	Preparation	The treasury control authority concludes the inspection procedure with a report when it finds irregularities with regard to the expediency and compliance with law of the management of public funds and funds from the EU and international financial institutions subject to reimbursement.
		Content	The inspection report contains: particulars of the person under inspection and of the persons carrying out the inspection; details of the purpose, scope, place and time of the inspection; a description of the findings; documentary evidence; a legal assessment of the case; instructions. The results of the inspection contain: the name of the treasury control authority and the person inspected; the date of issue; the scope of the inspection; the legal basis; findings and conclusions; deadlines for remedying the irregularities; the signature of the inspecting authority.
		Form	The result and report are drawn up in writing. The report is drawn up in duplicate. The inspector hands one copy of the report to the person under inspection. The result of the inspection is handed to the person under inspection and the competent authority.
		Signing	Report: the wording must show who did what, where, when, who was present and in what capacity, what was found and how and any remarks made by those present. The report is signed by its author and anyone who took part in an official capacity. The result of the inspection must bear the signature of the

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			treasury control authority.
		Adoption	The report is drawn up in duplicate. The inspector hands one copy of the report to the person under inspection. The result of the inspection is handed to the person under inspection. The person under inspection is obliged to inform the treasury control authority of how the irregularities found were remedied no later than 30 days after the expiry of the time limit for doing so.
		Approval	The result of the inspection is approved when they are signed by the competent authority.
PT	Yes	Preparation	/
		Content	/
		Form	/
		Signing	At the end of every inspection, the inspector responsible for the procedure prepares a final report and submits it for a decision by the head of the inspection service, who dispatches it. The date of signature by the head of the service is the end date of the inspection.
		Adoption	/
		Approval	After signing the final report, the head of the inspection services forwards it to the minister responsible or the State Secretary (if authority has been delegated) for approval. Following ministerial approval, the inspection services forward their reports to the audit bodies and the members of government responsible for them.
RO	Yes	Preparation	/
		Content	The DLAF inspection report has four parts: scope of the inspection; findings; conclusions; proposals (this part includes recommendations on how to use the inspection report).
		Form	/

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
		Signing	The inspection report has to be signed, on the last page, by the authorised inspection team and by the director of Directorate B Inspection, DLAF.
		Adoption	/
		Approval	The person that approves the DLAF inspection reports is the head of DLAF.
SI	Yes	Preparation	After the inspection has been carried out, a report and a decision or order on the completion of the inspection are drawn up.
		Content	The content of the report is laid down - the scope of the inspection, the time and the findings or irregularities (customs debt and any other measures, e.g. whether an offence procedure will be launched, etc.). Instruction is also given on legal remedies.
		Form	What is covered by the report, how it is to be covered and the basic form of the report are laid down by the national manual on conducting inspections. The detailed form is not laid down.
		Signing	The inspector signs all the documents, including reports and decisions, himself/herself during the inspection. In the event of control, the controller and the party must sign.
		Adoption	The procedure is laid down by the General Administrative Procedure Act: the participants in the procedure are informed of the report and may submit their observations. The report is then signed by the person who took part in the operation; finally it is checked by the official who managed the operation and any keeper of the minutes.
		Approval	Under the General Administrative Procedure Act, the report is a public document which substantiates what it confirms or stipulates. The statements in the report are considered to be proven and are taken into account in decision-making.
SK	Yes	Preparation	When drawing up reports, auditors and inspectors proceed in accordance with

Member State:	2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?	If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:	
			Act No 502/2001, Act No 10/1996, Methodological Guideline No 4/2008 and the Management System.
		Content	When drawing up reports, auditors and inspectors proceed in accordance with Act No 502/2001, Act No 10/1996, Methodological Guideline No 4/2008 and the Management System.
		Form	When drawing up reports, auditors and inspectors proceed in accordance with Act No 502/2001, Act No 10/1996, Methodological Guideline No 4/2008 and the Management System.
		Signing	When drawing up reports, auditors and inspectors proceed in accordance with Act No 502/2001, Act No 10/1996, Methodological Guideline No 4/2008 and the Management System.
		Adoption	When drawing up reports, auditors and inspectors proceed in accordance with Act No 502/2001, Act No 10/1996, Methodological Guideline No 4/2008 and the Management System.
		Approval	When drawing up reports, auditors and inspectors proceed in accordance with Act No 502/2001, Act No 10/1996, Methodological Guideline No 4/2008 and the Management System.
FI	No		
SE	No		
UK	Yes: Scotland, DWP No: BIS, NI (DFP guidance is followed)	Preparation	Each Scheme and Regulation has its own specific reporting requirements as laid down by the Scheme Management Unit, and relates to Preparation, Contents, Form, Signing, Adoption and Approval. These specific requirements are incorporated within instructions based on the demands and actions required as laid down within the many EU Directives governing the various schemes.

<b>Member State:</b>	<b>2.2.2 Do you have certain national procedural requirements for drawing up administrative inspection reports?</b>	<b>If Yes, describe all those procedural steps for drawing up administrative inspection reports to which such national requirements apply to:</b>	
		Content	As point 2.2.1 above
		Form	
		Signing	
		Adoption	
		Approval	

### 2.3. Conditions under which inspection reports constitute admissible evidence in the national system

Member State:	2.3.1 Are there, within your national legislation, any restrictions on the admissibility of administrative inspection reports in administrative or judicial proceedings? If Yes, describe.
BE	<p>Yes:</p> <p>Taxation: Only official reports (procès-verbal - PV) have probative value until proof of the contrary. The inspection reports are documents for the file (evidence). In the context of judicial proceedings, the report has the force of evidence provided it is not irregular or void for some reason. Otherwise, and at all events, even the content of irregular reports constitutes evidence that may serve as a basis for investigations.</p> <p>Primarily on the basis of case law (inter alia Council of State, but also ordinary courts). No summary description can be given because of the complexity. The conditions primarily deal with the general principles of administrative law (rules of proper administration), which are not as formalised in Belgium as is in other Member States.</p> <p>b) OPW: Essentially if the “adversarial” procedure is not followed.</p> <p>c) Direction de contrôle (Département de la Police and des Contrôles) pour l'Organisme payeur de Wallonie: Control reports on agricultural aids have no legal force. They may possibly be considered a simple piece of evidence.</p> <p>SPF FINANCES: Reports on inspections and checks are administrative documents that a judge may take into account but they are not binding.</p> <p>WALLOON REGION: Control reports are admissible, except if irregularities were committed in collecting the information they contain.</p> <p>No: BIRB: No</p>
BG	No
CZ	No
DK	No
DE	No
EE	Yes. In criminal proceedings use can be made only of evidence that is presented orally and directly examined in the court hearing and recorded in the report of proceedings. Information and evidence collected in administrative proceedings cannot be relied on in criminal proceedings.
IE	No



<b>Member State:</b>	<b>2.3.1 Are there, within your national legislation, any restrictions on the admissibility of administrative inspection reports in administrative or judicial proceedings? If Yes, describe.</b>
EL	Yes. For the YIIIEE, as it itself points out, restrictions apply such as the service of a summons for the submission of views
ES	No
FR	No
IT	Yes. Inspection reports are inadmissible only where there may be an issue of legitimacy (where the conditions and means for gaining access to the inspected operator's premises were absent) or breach of a formal requirement (concerned with the component parts of the report), or an issue of a procedural nature (in respect of the terms of notification) or of a temporal nature (concerned with time limitation).
CY	No
LV	No
LT	No
LU	No
HU	Yes. The Act on criminal procedure does not contain any provisions that would eliminate the data made available in the inspection report as evidence to be used in criminal proceedings. However, evidence collected without any statutory rules of guarantee concerning evidence may only be used as documentary evidence.
MT	No
NL	No
AT	No
PL	Yes. The Polish acts governing administrative and criminal procedure contain no provisions prohibiting the admissibility of evidence in the form of administrative inspection reports. The only restrictions in Polish law concerning the admissibility of reports as evidence in administrative or criminal proceedings relate to customs, treasury or official secrets or business secrets.
PT	No

<b>Member State:</b>	<b>2.3.1 Are there, within your national legislation, any restrictions on the admissibility of administrative inspection reports in administrative or judicial proceedings? If Yes, describe.</b>
RO	No
SI	Yes. Since the administrative procedure up to the issuing of a decision has not been completed, the forwarding of the report to other bodies could influence the body's decision-making on the application. Consequently the body may refuse to grant the applicant access to the requested information, where the request relates to information that was obtained or compiled due to the administrative procedure and where its disclosure could jeopardise the execution of the procedure.
SK	No
FI	No
SE	Yes. The principle of free introduction of evidence applies in Sweden. This means that there are very few provisions regarding what is admissible as evidence. Depending on the circumstances in the individual case the author of the report should preferably be heard as a witness and present the report orally during the court hearing. However it should also be possible to regard the report as written evidence.
UK	Yes. The author must be able to defend the content of the report. To ensure admissibility in any subsequent or potential court proceedings, the report must be factual and not based on hearsay or opinion and depends on the nature of the proceedings - either criminal or civil remedy. S: Generally admissible, but not in so far as information contained within the report has been obtained in a manner in which it couldn't have been obtained in a criminal investigation.

## 2.4. Assistance of National Authorities in the event of opposition by economic operators

Member State:	2.4.1 What kind of national legal measures are in force to prevent opposition by the economic operator hampering OLAF's checks?	Describe other measures.
BE	<p>The Commission inspectors may enter the premises without the prior consent of the economic operator concerned</p> <p>Where an infringement is committed and the facts are reported by OLAF to the Belgian judicial authorities (see Circular No 9/2003 of the Collège des Procureurs généraux: OLAF sends all reported infringements to the Federal Public Prosecutor), economic operators cannot oppose controls by police officers, where applicable, the execution of a search warrant.</p> <p>Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation SPF FINANCES: Checks by OLAF concerning tax revenues that constitute EU own resources or checks carried out jointly in collaboration with the competent national officials have the same options as tax inspections (see 2.1 above).</p> <p>SPF JUSTICE: Yes, in the context of action following a complaint or facts reported to the judicial authorities.</p>	<p>SPF FINANCES: Whereas the Commission inspectors must have access to all the information on the transactions on the same terms as national administrative inspectors [Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996]. On condition that the subject and purpose of the on-the-spot check or inspection concerns VAT, that Commission inspectors have free access at any time and without prior notification to the premises specified in the above-mentioned article where the activity is carried out in order to enable them</p> <p>a) ALV: Investigating committee comprising members of the public prosecutor's office (national public prosecutor) and OLAF inspectors (Act of 9 December 2004 on mutual international assistance in criminal matters and amending Article 90ter of the Code of Criminal Procedure).</p> <p>BRUXELLES CAPITALE (PO FSE): Agreements with operators provide that "any authorised inspection or evaluation official shall have access at all times, on request, to the operator's documents and accounts in order to be able to verify the allocation of the grants paid".</p> <p>By signing the agreement, the operator undertakes not to prevent access by any inspection official whatever.</p>
BG	<p>Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation</p>	

<b>Member State:</b>	<b>2.4.1 What kind of national legal measures are in force to prevent opposition by the economic operator hampering OLAF's checks?</b>	<b>Describe other measures.</b>
CZ	The Commission inspectors may enter the premises without the prior consent of the economic operator concerned Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation Other measures	The competences of criminal authorities and OLAF's entitlement to access and carry out checks are enshrined in the Agreement on Provision of Assistance which the managing authority concludes with the beneficiary; the beneficiary is also informed of this in the Handbook for Beneficiaries.
DK	Other measures	The police can assist the authorities in carrying out the checks and, for instance, furnish access to premises.
DE	Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation	
EE	Other measures	Suspending or terminating the payment of aid and demanding the full or partial repayment of aid - Government Regulation No 278 of 22.12.2006 on the rules for the recovery and repayment of aid etc.( <a href="https://www.riigiteataja.ee/ert/act.jsp?id=13015099">https://www.riigiteataja.ee/ert/act.jsp?id=13015099</a> ), instructions from the Finance Minister on "Calculation of interest and penalties and the making of repayments". In criminal proceedings points 1 and 2 also apply.
IE	The Commission inspectors may enter the premises without the prior consent of the economic operator concerned	

<b>Member State:</b>	<b>2.4.1 What kind of national legal measures are in force to prevent opposition by the economic operator hampering OLAF's checks?</b>	<b>Describe other measures.</b>
EL	Other measures	Recommended for structural operations: disqualification of project and recovery of financial expenditure disbursed. In EAGGF Guarantees section, Reg. 485/2008 inspectors have the same rights as Ministry of Economic Affairs inspectors. The same applies to the Director and Heads of Division. In the YPIEE, an inspection refusal triggers the following: a) initiation of criminal proceedings against the refusing party, b) rejection of documentation and data, c) non-accounts-based computation.
ES	Other measures	If entry is refused, an administrative warrant is required, in extreme situations with police assistance, except in the case of private homes which are protected by the Constitution, where a court order is needed. An administrative measure or even a criminal sanction can be imposed in the case of resistance, excuses, obstruction or refusal to allow the inspectors to perform their checks.
FR	Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation	
IT	The Commission's inspectors may access the premises without the prior consent of the economic operator concerned.	

<b>Member State:</b>	<b>2.4.1 What kind of national legal measures are in force to prevent opposition by the economic operator hampering OLAF's checks?</b>	<b>Describe other measures.</b>
CY	<p>The Commission inspectors may enter the premises without the prior consent of the economic operator concerned</p> <p>Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation</p> <p>Other measures</p>	<p>For the KOAP, the application is refused and/or criminal proceedings brought based on Article 46(3), Law 64(I)/2003 on the Agricultural Payments Organisation (KOAP).</p> <p>For the Customs Department, the Internal Audit Service and the Treasury, any obstruction of their work is punishable by a fine or imprisonment or both.</p>
LV	<p>Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation</p>	
LT	<p>The Commission inspectors may enter the premises without the prior consent of the economic operator concerned</p>	
LU	<p>Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation</p>	
HU	<p>Other measures</p>	<p>The inspectors may start on-the-spot inspections without prior notice if the notice would undermine inspection. If an on-the-spot check is impeded the inspector makes a proposal to the competent body to apply sanctions. Under the aid contract, impediment is considered as breaching the contract, and on this basis the party granting the aid may withdraw from the agreement.</p>

<b>Member State:</b>	<b>2.4.1 What kind of national legal measures are in force to prevent opposition by the economic operator hampering OLAF's checks?</b>	<b>Describe other measures.</b>
MT	The Commission inspectors may enter the premises without the prior consent of the economic operator concerned	
NL	Other measures	Under the subsidy rules the amount of the subsidy can be reduced to zero. Customs: in customs or agriculture-related matters national inspectors have access to the economic operator's premises.
AT	Other measures	Art. 1: Customs, BMLFUW, Structural Funds Art 2: BMJ [Justice Ministry], BMLFUW: Refusal of on-the-spot inspection by Austrian inspectors is grounds for blocking payments/demanding repayment of EU funds (Article 23(2) Reg. 796/2004). ERDF+ESF: Contractual provision: Under grant contracts, amounts must be repaid if reports or proof are not submitted or inspections are impeded/prevented.
PL	The Commission inspectors may enter the premises without the prior consent of the economic operator concerned  Other measures	The beneficiary is obliged to submit to an inspection in relation to the implemented project, conducted by authorised authorities and to disclose to those authorities all documents relating to its implementation. Inspectors may call on the assistance of the Police, the Border Guard or municipal police if they meet with resistance preventing or impeding the conduction of an inspection.
PT	Issuing of a judicial warrant authorising to enter, if necessary with reasonable force, the premises and to carry out an inspection for the purpose of the Council Regulation	

<b>Member State:</b>	<b>2.4.1 What kind of national legal measures are in force to prevent opposition by the economic operator hampering OLAF's checks?</b>	<b>Describe other measures.</b>
RO	Other measures	DLAF provides operational assistance for OLAF checks in Romania. To this end, DLAF can request the assistance of the financial-fiscal inspection bodies, the police, the gendarmerie or other public order bodies (Section 10(6) of Government Emergency Order No 49/2005) to ensure that OLAF has access to the offices of the economic operators concerned.
SI	Other measures	National legislation makes no provision for such measures. It merely lays down the consequences if a party prevents an on-the-spot check from being carried out. They are described in point 2.4.2.
SK	Other measures	Under §16 of Act No 10/1996, an inspection authority may impose a procedural fine on an inspected body that fails to comply with its obligations and so hampers an inspection or obstructs its results or the correction of defects. On the basis of a contract for the provision of non-returnable financial assistance it may impose a contractual penalty for failure to cooperate with the inspection and withdraw from the contract.
FI	Other measures	Legislation: - Structural Funds Act 1401/2006, Sections 55 - 57; Coercive Measures Act 450/1987 (including assistance from the police in the use of coercive measures and rulings of courts on coercive measures coming within their jurisdiction) - Act on the Execution in the European Union of Orders Freezing Assets or Evidence 540/2005 - Code of Enforcement Procedure 705/2007.



<b>Member State:</b>	<b>2.4.1 What kind of national legal measures are in force to prevent opposition by the economic operator hampering OLAF's checks?</b>	<b>Describe other measures.</b>
SE	Other measures	The issue raises the possibility of requesting police assistance. Under the law, a police authority is obliged to supply the assistance needed for supervision. The acts in question are the Act on EC Regulations on Structural Assistance and Assistance for Rural Areas (1994:1708), the Act on EC Regulations on Community Fisheries Policy (1994:1709) and the Act on EC Regulations on Agricultural Products (1994:1710).
UK	<p>Issuing of a judicial warrant authorising entry, if necessary with reasonable force to the premises and to carry out an inspection.</p> <p>Other measures</p>	<p>S: Regulation 2185/96 enforces this but where there is no cooperation, a warrant can be sought in the terms outlined above. DWP: ESF providers have a contractual obligation to allow Commission representatives access to their and their sub-contractors' premises and ESF documentation. RPA: If an inspector is hampered or refused access to the premises, then the economic operator can be reported for obstruction. OLAF inspectors should be accompanied at all times to ensure they are acting within their authority. CLG: Threaten to withdraw grant, claw back and legal action. NI: LoO to projects outline that OLAF checks as well as those of other organisations must be accommodated.</p>

<b>Member State:</b>	<b>2.4.2 What kind of national legal measures are applicable in the event of refusal by the economic operator to grant access to information?</b>	<b>Describe other measures.</b>
BE	<p>To seal the premises of the economic operator concerned (General principle, yes in a procedure involving the public prosecutor's office. As the tax legislation currently stands, a VAT official cannot place premises under seal. His prerogatives are limited to the rules set out in the first paragraph of Art. 63 of the VAT Code. An order from a judge is required to place premises under seal.)</p> <p>To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant (General principle, yes in a procedure involving the public prosecutor's office. SPF FINANCES: see reply to point 2.4.1)</p> <p>To implement a formal interrogation procedure against the representative(s) of the economic operator (General principle, yes in a procedure involving the public prosecutor's office. SPF FINANCES: see reply to point 2.4.1)</p> <p>Other measures</p>	<p>ALV; OPW; BIRB: Launching a judicial investigation via a criminal complaint, see below SPF Justice.</p> <p>SPF JUSTICE: In criminal cases, all measures provided for under the Code of Criminal Procedure are possible provided that the conditions required by law are fulfilled: placing under surveillance, where appropriate, special investigation methods, in particular observation, phone tapping, etc.</p> <p>BRUXELLES CAPITALE (PO FEDER): A beneficiary who hinders an on-the-spot check can be required to repay the amount of the grant immediately. (Art 94(3) of the Ordinance of 23 February 2006 cited above)</p> <p>(GERMAN-SPEAKING COMMUNITY: ESF: keeping the relevant supporting documents and granting access to them for inspection officials of the German-speaking Community and of the EU is part of the agreement with the operator.</p> <p>SPF FINANCES: On condition that the subject and purpose of the on-the-spot check or inspection concerns VAT, that de Commission inspectors have a choice between exercising the right to conduct a house search and submitting the case to the public prosecutor. The latter has more extensive search and investigation powers and thus a framework of rules that involves different expertise.)</p>
BG	<p>To seal the premises of the economic operator concerned. To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant</p>	

<b>Member State:</b>	<b>2.4.2 What kind of national legal measures are applicable in the event of refusal by the economic operator to grant access to information?</b>	<b>Describe other measures.</b>
CZ	<p>To seal the premises of the economic operator concerned</p> <p>To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant</p> <p>To implement a formal interrogation procedure against the representative(s) of the economic operator</p> <p>Other measures</p>	<p>In accordance with Section 17(1) of the Act No 320/2001 Coll. on financial control in public administration, in cases where the entity being checked has not met by the deadline stipulated the obligations in Section 14 of the Act No 552/1991 Coll. on state control and fails to do so even after repeated imposition of fines upon a natural person under Section 19 of the Act No 552/1991 Coll. on state control, then the inspection authority may impose a fine of up to CZK 1 000 000 for obstruction of a public on-the-spot check. In imposing the fine for obstructing this check it shall take into account in particular the seriousness, duration and consequences of the illegal conduct.</p>
DK	<p>To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant</p> <p>Other measures</p>	<p>Repayment demands, fines and/or withdrawal of licences and authorisations.</p>
DE	<p>Other measures</p>	<p>Application to the courts</p>
EE	<p>Other measures</p>	<p>Documenting the circumstances in the on-the-spot inspection report, STS 2007+ Section 31(2)(5) - the inspection officer is entitled to issue an administrative order for the termination of an infringement in the use of aid. In criminal proceedings Section 31(2)(2) and (3) also apply.</p>
IE	<p>To seal the premises of the economic operator concerned;</p> <p>To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant;</p> <p>To implement a formal interrogation procedure against the representative(s) of the economic operator;</p> <p>Other measures</p>	<p>Possible disqualification, freezing of any further funding and/or penalties.</p>

<b>Member State:</b>	<b>2.4.2 What kind of national legal measures are applicable in the event of refusal by the economic operator to grant access to information?</b>	<b>Describe other measures.</b>
EL	<p>To seal the premises of the economic operator concerned</p> <p>To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant</p> <p>To implement a formal interrogation procedure against the representative(s) of the economic operator</p> <p>Other measures</p>	<p>The YPIEE may confiscate documents, registers, goods, vehicles and electronic data storage and transmission devices. In certain cases (interests of the State, economic crime, tax evasion and illicit trafficking) it may proceed with the freezing of bank accounts and assets by means of a written warrant, a notification to this effect being sent to the competent public prosecutor.</p>
ES	<p>To seal the premises of the economic operator concerned</p> <p>To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant</p> <p>To implement a formal interrogation procedure against the representative(s) of the economic operator</p> <p>Other measures</p>	<p>Resistance, excuses, obstruction or refusal to allow the inspectors to perform their checks are regarded as minor or serious administrative infringements, resulting in the imposition of financial penalties, including prohibition from obtaining state aid in future calls for proposals. The behaviour may, depending on the extent of the resistance, constitute an offence.</p>
FR	<p>To seal the premises of the economic operator concerned</p> <p>To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant</p> <p>To implement a formal interrogation procedure against the representative(s) of the economic operator</p> <p>Other measures</p>	<p>For customs, the EAGF and the structural funds, fines are stipulated when access to information is impeded and even prison sentences in the case of customs. In cases where this is possible, the expense is disqualified and financial corrections apply.</p>

<b>Member State:</b>	<b>2.4.2 What kind of national legal measures are applicable in the event of refusal by the economic operator to grant access to information?</b>	<b>Describe other measures.</b>
IT	To seal the premises of the economic operator concerned	If, in the absence of the party's consent, it is necessary to open by force sealed envelopes, bags, safes, other moveable goods and the like, the authorisation of a judicial authority is required. Moreover, financial documents that the inspected party has with malicious intent refused to make available may not be considered in the inspected party's favour for the purposes of the inspection.
CY	To seal the premises of the economic operator concerned To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant To implement a formal interrogation procedure against the representative(s) of the economic operator Other measures	For the KOAP - refusal of the application and/or criminal proceedings For the Customs Department and the Treasury, except where the Law contains a specific provision on criminal offences, the economic operator is guilty of a criminal offence punishable by a fine or imprisonment or both.
LV	To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant Other measures	In cases where the economic operator refuses to grant access to information, funding under the Rural Funds is suspended and the process of recovery of earlier funding is initiated.
LT	To seal the premises of the economic operator concerned To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant To implement a formal interrogation procedure against the representative(s) of the economic operator Other measures	The provisional safeguard measures that may be applied are those listed above and others, in accordance with the Code of Criminal Procedure of the Republic of Lithuania (e.g. a temporary restriction of the right of ownership, taking photographs, filming, taking measurements).

<b>Member State:</b>	<b>2.4.2 What kind of national legal measures are applicable in the event of refusal by the economic operator to grant access to information?</b>	<b>Describe other measures.</b>
LU	To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant	
HU	Other measures	The inspectors may start on-the-spot inspection without prior notice. If the inspected party impedes tax inspection a default penalty may be imposed. In other cases the inspector may make a proposal to the competent body to apply other sanctions. Under the aid contract, impediment is considered as breaching the contract, and on this basis the party granting the aid may withdraw from the agreement.
MT	To implement a formal interrogation procedure against the representative(s) of the economic operator Other measures	IAID investigators can seek the assistance of the police. Moreover, any economic operator wilfully obstructing the investigators in the performance of their duties shall be guilty of an offence and on conviction shall be liable to a fine (max. Euro 2329.37) or to imprisonment (max. 3 months) or to both such fine and imprisonment.
NL	To implement a formal interrogation procedure against the representative(s) of the economic operator Other measures	Under the subsidy rules the amount of the subsidy can be reduced to zero. Customs: in customs or agriculture-related matters national inspectors can take various measures under administrative law. If the person concerned refuses to cooperate a criminal investigation can be undertaken.
AT	To seal the premises of the economic operator concerned To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant To implement a formal interrogation procedure against the representative(s) of the economic operator Other measures	Customs and BMJ (Federal Justice Ministry): Art. 2 and 3. BMLFUW: Art. 2. Structural Funds: Art.s 1-4. Re other measures: if there are grounds for suspecting a criminal offence, the public prosecutor can take the necessary measures on the basis of a court order.

<b>Member State:</b>	<b>2.4.2 What kind of national legal measures are applicable in the event of refusal by the economic operator to grant access to information?</b>	<b>Describe other measures.</b>
PL	Other measures	Direct coercion, seizure and securing of evidence (see answer to question 2.1.3) and penalties laid down by Article 83 of the Fiscal Penal Code (see answer to question 2.1.7).
PT	Other measures	Request the involvement of the police authorities in cases where access is denied or the inspection is hampered by the inspected parties, in order to gain free access and guarantee that inspection activities can be carried out in safety.
RO	Other measures	DLAF can request statements from the beneficiary or from the representative of the beneficiary, as well as from other persons that can provide information on occurrences of irregularity or fraud. Sealing offices and seizing paper or electronic documents can be ordered only by the prosecutor and performed by the criminal prosecution bodies.
SI	To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant Other measures	If the recipient of aid or his representative refuses to grant access to documentation that is the subject of an on-the-spot check, or prevents an on-the-spot check from being carried out, the applications for the aid concerned are rejected. This provision stems from Article 26(2) of Commission Regulation (EC) No 1122/2009.
SK	Other measures	1. A fine may be imposed in connection with an inspection (under §16 of Act No 10/1996 and §36(1) of Act No 502/2001). 2. Withdrawal from a contract for the provision of non-returnable financial assistance.
FI	Other measures	The police, customs authorities and tax authorities must provide any assistance necessary for conducting the inspection free of charge.
SE	Other measures	
UK	To take and retain in their custody books and other paper or electronic records, with an administrative/judicial warrant Other measures	If the deadline to provide necessary information is missed, then an irregularity will be declared and reported to OLAF. It is likely that the grant will be withdrawn and any funds paid recovered. NI: Powers under the Fraud Act 2006. NICS Fraud Forum's Best Practice Guidance DAO (DFP) 13/06 outlines the Memorandum of Understanding (MOU) between the NI Public

<b>Member State:</b>	<b>2.4.2 What kind of national legal measures are applicable in the event of refusal by the economic operator to grant access to information?</b>	<b>Describe other measures.</b>
		Service and the Police Service of NI setting out a basic framework for the working relationship between the two bodies in respect of the investigation and prosecution of fraud cases that involve public monies.



## 2.5. Taking of national precautionary measures

Member State:	2.5.1 What kind of emergency measures can be taken by the national authorities?	Describe other measures.
BE	<p>To seal business premises and books and other paper or electronic records (Only in a procedure involving the public prosecutor's office.)</p> <p>To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects (Yes in a procedure involving the public prosecutor's office).</p> <p>Other measures (In criminal cases: Items and documents can be seized on-the-spot or seized and removed)</p>	
BG	To seal business premises and books and other paper or electronic records	
CZ	<p>To seal business premises and books and other paper or electronic records</p> <p>To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects</p> <p>Other measures</p>	Imposition of fines, securing of documents
DK	Other measures	The police can assist the authorities in carrying out the checks and, for instance, furnish access to premises.
DE	<p>To seal business premises and books and other paper or electronic records</p> <p>To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects</p> <p>Other measures</p>	In the event of imminent danger the law enforcement authorities can take measures to obtain evidence in accordance with the conditions laid down under criminal procedure law.
EE	Other measures	Under STS Section 26(2), the grantor of aid can demand from the beneficiary the full or partial repayment of aid if the beneficiary has not complied with the obligations laid down,

Member State:	2.5.1 What kind of emergency measures can be taken by the national authorities?	Describe other measures.
		including those in Section 22.
IE	To seal business premises and books and other paper or electronic records; Other measures	An example for the Department of Agriculture, Fisheries and Food (D/AFF). During the course of inspections, if unidentified animals are found, the authorised officer will apply temporary identification tags. For serious breaches, herds may be restricted. Serious breaches of legislation, e.g. animal welfare, pollution are reported immediately to the competent authorities.
EL	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects Other measures	For the YIIIEE provision is made for administrative measures, the freezing of assets and deposits where there is evidence of large-scale tax evasion or illicit trafficking. Freezing operations are set out in Article 30 of Law 3296/2004 and 3691/2008. For the EAGGF Guarantee section, the same provisions as apply to inspectors from the Ministry of Finance are applicable.
ES	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects Other measures	Generally speaking, Spanish law on grants and state aid permits the adoption of any precautionary measure deemed appropriate, provided that it is objective and proportionate, and imposed only for the period of time strictly necessary to guarantee the proper conducting of the check.
FR	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects Other measures	In customs cases, documents can be seized.
IT	Other measures	In some cases, and as a precautionary measure, the payment or the certification of the amount concerned is suspended. Furthermore, the Court of Auditors avails itself, where public administrators and officials and beneficiaries of national and Community funds are concerned, of the powers under Act No 19/94, which provides moreover for the seizure of documents.

<b>Member State:</b>	<b>2.5.1 What kind of emergency measures can be taken by the national authorities?</b>	<b>Describe other measures.</b>
CY	To seal business premises and books and other paper or electronic records	
LV	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects Other measures	To report the shortcomings identified to the State Police. In performing official duties in tax administration, the officials of the State Revenue Service are entitled to seize property (making the relevant report).
LT	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects Other measures	The provisional safeguard measures that may be applied are those listed above and others, in accordance with the Code of Criminal Procedure of the Republic of Lithuania (e.g. temporary restriction of the right of ownership).
LU	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects	
HU	To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects	
MT	Other measures	As per 2.4.2, IAID investigators can seek the assistance of the police. Moreover, any economic operator wilfully obstructing the investigators in the performance of their duties, shall be guilty of an offence and on conviction shall be liable to a fine (max. Euro 2329.37) or to imprisonment (max. 3 months) or to both such fine and imprisonment.
NL	Other measures	Under the subsidy rules the amount of the subsidy can be reduced to zero. Customs: see answer to question 2.4.2.
AT	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a	Customs+BMLFUW: Art. 1+2. BMJ: Art.s 2+3. Other: Securing and copying books and other paper or electronic records. Structural Funds: Art.s 1-3. Other: if there are grounds

Member State:	2.5.1 What kind of emergency measures can be taken by the national authorities?	Describe other measures.
	person, premises, installations, circuits and other objects Other measures	for suspecting a criminal offence, the public prosecutor can take the necessary measures on the basis of a court order.
PL	To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects	The person under inspection is obliged to allow free of charge to photograph, to record video or sound and to preserve the factual findings using other data storage medium, if the film, photography, recording or information stored on other data storage medium may serve as evidence or contribute to preserve an evidence concerning the of the subject for inspection.
PT	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects Other measures	Further powers are provided for such as, for example, the power of inspectors to gather information on the activities inspected, to investigate any traces of infringements, as well as examine measure and collect samples for laboratory analysis. Inspectors may be considered as a public authority for the purposes of criminal protection.
RO	Other measures	The authorities responsible for administering Community funds can request the competent body to take precautionary measures (precautionary garnishment or precautionary attachment of the movable and/or immovable property of the debtor, as well as of the debtor's revenues).
SI	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects	
SK	Other measures	Auditors and inspectors may, where justified, remove documents from the premises of an audited or inspected body, move original documents in order to safeguard evidence, and perform further necessary tasks connected with government audit or inspection (Act No 502/2001, Act No 10/1996). They may photocopy documents and notify the law-enforcement

<b>Member State:</b>	<b>2.5.1 What kind of emergency measures can be taken by the national authorities?</b>	<b>Describe other measures.</b>
		authorities of any suspected criminal activity.
FI	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects	
SE	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects	
UK	To seal business premises and books and other paper or electronic records To photograph or film on another media the visual data of a person, premises, installations, circuits and other objects Other measures	

<b>Member State:</b>	<b>2.5.2 What are the conditions under which such measures may be issued?</b>	<b>Describe other conditions.</b>
BE	To record the reasons for issuing such measures ( ALV, BIRB) To verify the existence of any risk of altering or destroying evidence (ALV, BIRB) Other conditions	ALV: All in all, subject to a few further formalities, the two conditions given are sufficient. SPF JUSTICE: To prevent the disappearance of evidence and items that are illegal or that can be seized FRENCH COMMUNITY: AGENCE FSE: These measures have to be decided through the courts.
BG	To record the reasons for issuing such measures Other conditions	When the financial inspector finds that the inspected organisation or person receiving funding under international agreements or EU programmes refuses to provide the Commission's inspector with documents and/or electronic data or the relevant data carrier.
CZ	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence Other conditions	At the discretion of the inspection body in cases where there is a threat of destruction, concealment or modification of documents. The inspector has discretion within the meaning of Section 11 of the Act No 552/1991 Coll. on state control.
DK	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence	
DE	Other conditions	There must be genuine suspicion that a crime has been committed
EE	Other conditions	In the course of inspections copies, photographs and films are made for the purpose of establishing the state of an object (building, structure, premises) or evidence is sought to establish the reality of infringements of the conditions on the use of aid. Use of these methods is recorded in the on-the-spot inspection report. In criminal proceedings measures can be taken in accordance with the KrMS.
IE	To record the reasons for issuing such measures; To verify the existence of any risk of altering or destroying evidence	

<b>Member State:</b>	<b>2.5.2 What are the conditions under which such measures may be issued?</b>	<b>Describe other conditions.</b>
EL	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence	
ES	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence Other conditions	Whenever evidence arises of the undue obtaining, enjoyment or use of state aid. In any case, mindful of the fact that these are precautionary measures, they must be applied in compliance with legal requirements in order to avoid the abuse of these powers which can be subject to appeal.
FR	To verify the existence of any risk of altering or destroying evidence	
IT	To record the reasons for issuing such measures Other conditions	Precautionary measures may be adopted if there is good reason for believing that particular circumstances may prejudice the inspection concerned.
CY	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence Other conditions	In accordance with the relevant procedural rules and regulations in force, it is not possible, in the case of the KOAP, to take provisional measures to issue court injunctions without at the same time bringing an action.
LV	To record the reasons for issuing such measures Other conditions	In cases: - where features of a possible criminal offence are found; - to ensure availability of evidence.
LT	To verify the existence of any risk of altering or destroying evidence	
LU	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence	

<b>Member State:</b>	<b>2.5.2 What are the conditions under which such measures may be issued?</b>	<b>Describe other conditions.</b>
HU	To record the reasons for issuing such measures	
MT	To record the reasons for issuing such measures; Other conditions	In such cases the IAID investigators seek the assistance of the police officers.
NL	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence	
AT	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence Other conditions	Customs, BMLFUW and BMJ: Conditions 1 and 2. Structural Funds: Art.s 1-3. Other: if there are grounds for suspecting a criminal offence, the public prosecutor can take the necessary measures on the basis of a court order.
PL	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence	
PT	Other conditions	The authorities may implement each of these measures in the course of performing their duties and in compliance with the provisions of Article 16 of Decree-Law No 276/2007.
RO	To verify the existence of any risk of altering or destroying evidence	
SI	Other conditions	Measures to ban the liable party from operating may be applied, where necessary, if that party does not rectify the irregularities or shortcomings detected within the period laid down by the inspector in the decision. If the liable party also fails to abide by the decision on the ban on operating, the inspector may then proceed to cut off the supply of electricity, water and gas, and telecommunications links.



<b>Member State:</b>	<b>2.5.2 What are the conditions under which such measures may be issued?</b>	<b>Describe other conditions.</b>
SK	Other conditions	Where justified and where criminal activity is suspected, or where there is suspected crime damaging the financial interests of the European Union.
FI	To record the reasons for issuing such measures To verify the existence of any risk of altering or destroying evidence	
SE	To verify the existence of any risk of altering or destroying evidence Other conditions	These are criminal measures, which means that a condition of their use is that a preliminary investigation is, or has been, initiated.
UK	To record the reasons for issuing such measures. To verify the existence of any risk of altering or destroying evidence	RPA: Compliance with PACE and CPA Codes of Practice to prove the integrity and subsequent admissibility of the evidence in any future court proceedings. NI: The Comptroller and Auditor General have new statutory powers to conduct data matching exercises for the purpose of assisting in the prevention and detection of fraud. A match indicates possible inconsistency that requires further investigation.

<b>Member State:</b>	<b>2.5.3 Is there a possibility of appeal against the measure? If it depends, describe.</b>
BE	Yes: - to the administrative hierarchical superior or - to the Council of State, which will decide whether or not to annul the measure.
BG	No
CZ	No – the entity being checked may refuse confirmation of receipt of the original of the document by the inspector during the check, and may express disagreement in the written confirmation of receipt.
DK	Yes
DE	Yes
EE	Yes The Final Beneficiary has the right to argue against administrative proceedings or make and appeal to the Court.
IE	It depends. There is no appeal provision included in S.I. No. 168/1998, however, as with any decision by a public body a person affected can with due cause, make application to the courts for a remedy such as an injunction or judicial review.
EL	It depends. For the EAGGF Guarantee Section, the same provisions as apply to the Ministry of Finance are applicable.
ES	Yes
FR	Yes
IT	It depends. Precautionary measures are normally just some of many inspection measures and, therefore, legislation does not allow them to be separately contested. However, possible irregularities inherent in the adoption of the aforesaid measures may be invoked in a challenge to the final report on the inspection.
CY	Yes
LV	Yes
LT	Yes
LU	Yes
HU	Yes
MT	No
NL	Yes

<b>Member State:</b>	<b>2.5.3 Is there a possibility of appeal against the measure? If it depends, describe.</b>
AT	It depends. Customs: No. BMJ, Structural Funds and BMLFUW: Yes.
PL	No
PT	Yes
RO	Yes
SI	Yes
SK	No
FI	Yes
SE	Yes
UK	Yes. S: In practice, there is no opportunity to appeal against the issue of warrant prior to its execution - the existence of the warrant should be unknown to the affected party until its execution. If a warrant is incorrectly drafted or executed then, in deciding whether the corresponding evidence can be admitted, a Court would consider the principle of fairness.

### **3. MEASURES FOR SECURING THE RECOVERY OF IRREGULAR AMOUNTS**

This chapter comprises a set of questions concerning the national provisions on the recovery of irregular amounts, with a focus on the legal instruments and measures against financial loss or damage, designed to speed up the recovery of outstanding amounts (i.e. amounts which in case of being irregularly paid would be more difficult to recover). A second set of questions deals with the registration of irregularities and recovery of debts. Although questions on recovery have been sent to Member States in some of the previous "Article 280" questionnaires, the 2009 questionnaire has a different focus. Furthermore, most of the questions in this chapter refer to both the revenues and the expenditures side of EU budget; when the question refers to just one of these areas, mention is made in the text of the question.

This chapter refers to 2000-2006 and 2007-2013 programming periods.

### 3.1. National legislation on recovery of EU funds

Member State:	3.1.1 Indicate the national provisions on securing the recovery of irregular amounts as regards EU revenues and expenditures (type of act (e.g. law, regulation, decree) and title).
BE	<p>TAX ISSUES/ TAX MATTERS:</p> <p>The Finance Administration only recovers amounts properly due and thus the term irregular amounts can only refer, for example, to undue repayment of a tax that constitutes an EU own resource rather than expenditure affecting the EU budget.</p> <ul style="list-style-type: none"> <li>- Text of Art. 334, Programme Law of 27.12.2004 (Cf. Annex 7): which, by a horizontal provision, allowed the introduction of sui generis offsetting between direct taxation debts and credits and VAT credits/debts. The purpose of this mechanism for offsetting debts between taxes on income, taxes equivalent to tax on income, and VAT is to make good the tax backlog and ensure better collection of taxes.</li> <li>- Article 194 of the Programme Law of 22 December 2008 (M.B. 29.12.2008), which came into force from 8 January 2009, makes it possible to achieve this by extending the simplified procedure for assigning sums to be repaid to all sectors of the SPF Finances.</li> </ul> <p>The following should also be noted:</p> <ul style="list-style-type: none"> <li>- Precautionary enforcement (“execution parée”) in the field of customs and excise: Articles 313 and 314 of the General Act on Customs and Excise.</li> <li>- Enforcement by seizure: Articles 1499 to 1626 of the Judicial Code.</li> <li>- Act of 31 January 2009 on the continuity of undertakings (Moniteur belge of 9 February 2009).</li> <li>- Insolvency Act of 8 August 1997 (Moniteur belge of 28 October 1997).</li> <li>- Act of 5 July 1998 on the collective settlement of debts and the possibility of private sale of seized real property (Moniteur belge of 31 July 1998).</li> <li>- Act of 20 July 1979 on mutual assistance as regards recovery of amounts owed in respect of certain dues, duties, taxes and other measures (Moniteur belge of 30 August 1979).</li> </ul> <p>OTHER MATTERS:</p> <ul style="list-style-type: none"> <li>- Royal Decree of 31 May 1933 on the declarations to be made in respect of grants and allowances (under which every declaration must be truthful and complete and anyone who knows that he is no longer entitled to an allowance is obliged to inform the awarding authority; non compliance renders a person liable to prosecution); coordinated laws on the State accounts;</li> </ul>

<b>Member State:</b>	<b>3.1.1 Indicate the national provisions on securing the recovery of irregular amounts as regards EU revenues and expenditures (type of act (e.g. law, regulation, decree) and title).</b>
	<p>- Provisions of the Civil Code on undue payment (payment without proper grounds, cf. Art. 1377(1), C.C.).</p> <p>b) BIRB: No specific provision. Direct application of European Regulations</p> <p>- Event of fraudulent behaviour, Article 496 of the Criminal Code, which sanctions fraud</p> <p><b>PUBLIC SUBSIDIES:</b></p> <p>- Organic Ordinance of the Government of the Brussels-Capital Region of 23 February 2006 laying down the provisions applicable to the budget, accounts and controls.</p> <p>- Decree of the Government of the Brussels-Capital Region of 18 October 2007 on internal control and in particular on the internal control function, auditing, and monitoring sound financial management.</p> <p>- Decree of the Government of the Brussels-Capital Region of 25 March 1999 on delegations of the power of signature in financial matters granted to general officials of the Ministry of the Brussels Capital Region.</p> <p>- Horizontal procedures drawn up in application of the above decrees and ordinances should come into force in 2010.</p> <p>- Coordinated Acts on the State accounts (AR of 17 July 1991).</p> <p>- Act of 16 May 2003 laying down general provisions applicable to budgets, to controls on grants and to the accounts of the Communities and regions, and to the organisation of controls by the Court of Auditors.</p>
BG	Order No 119/30.05.08 laying down the conditions, rules and system for recovering amounts paid unduly or in excess, and for funds unlawfully received or used by budgetary and state undertakings, which were obtained from the pre accession instruments, EU funds, as well as funds obtained through cofinancing by the State or prefinancing.
CZ	Act No 218/2000 on budgetary rules and amending certain related Acts (budgetary rules) – Section 44 and 44a; zákon č. Act No 250/2000 on budgetary rules for regional budgets; Act No 337/1992 on the administration of taxes and charges, as amended; Act No 500/2004, the Code of Administrative Procedure, as amended; Act No 40/2009, the Criminal Code, as amended by Act No 306/2009; Act No 141/1961, the Code of Criminal Procedure, as amended; Act No 40/1964, the Civil Code, as amended; Act No 99/1963, the Code of Civil Procedure, as amended; and other procedural rules issued by specialised bodies. CAP funds – Act No 256/2000 on the State Agricultural Intervention Fund (SZIF) and amending certain Acts.
DK	General provisions

<b>Member State:</b>	<b>3.1.1 Indicate the national provisions on securing the recovery of irregular amounts as regards EU revenues and expenditures (type of act (e.g. law, regulation, decree) and title).</b>
	Act No 1333 of 19 December 2008 on the recovery of amounts owed to the public authorities and Order No 1365 of 19 December 2008 on the recovery of amounts owed to the public authorities. Sectoral provisions Act No 1599 of 20 December 2006 on the administration of assistance from the European Regional Fund and the European Social Fund, sections 17 and 18. Act No 316 of 31 March 2007 on rural development, section 7.
DE	National administrative procedural law
EE	STS and STS 2007+ Section 26, Government Regulation No 278 of 22.12.2006, KrMS Section 38 (Rights and obligations of victims), Section 142 (Seizure of property)
IE	There are a number of national provisions, including recourse to the National Courts, recoupment from other payments or enforcement under relevant Tax legislation.
EL	Law 2362/95, Decree-Law 356/1974, Law 2690/99, Law 3691/2008, Law 2860/00, Joint Ministerial Decision 907/052/03, Law 3614/07, Ministerial Decision 14053/EΥΣ1749, JMD 450/2001, JMD 320752/17040/15-12-04 , Circulars issued by the Ministry of Rural Development and Food 296996/5742/2-08-05, Law 2520/97 Article 28, Law 2732/99, Law 2945/01 and Law 3698/08 Article 32 (8a).
ES	General Law 38/2003 of 17 November 2003 on Grants; Royal Decree 887/2006 of 21 July 2006, implementing Regulation for Law on Grants; Royal Decree 939/2005 of 29 July 2005, General Regulation on Recovery. Other lower-ranking sectoral rules on debt recovery in each Ministerial Department. Autonomous Community laws on finance and other rules on the recovery of aid and grants.”
FR	The recovery of irregular amounts is governed by Decree No 62-1587 of 29 December 1962, which provides general regulation for public accounts, and the texts that supplement it in this particular domain. In customs cases, Articles 345 to 349A of the national Customs Code are particularly applicable.
IT	Royal Decree No 262/1942; Royal Decree No 1443/1940; Royal Decree No 1398/1930; Consolidated Act No 639/1910; Royal Decree No 267/1942; Presidential Decree No 1199/1971; Presidential Decree No 43/1973; Presidential Decree No 602/1973; Act No 689/1981; Act No 348/1982; Act No 898/1986; Legislative Decree No 374/1990; Act No 19/1994; Act No 449/1997; Legislative Decree No 46/1999; Legislative Decree No 112/1999; Ministerial Decree No 321/1999; Decree-law No 203/2005; Act No 266/2005; Act No 102/2009; Act No 99/2009; Act No 33/2009.
CY	Article 4, Law 64(I)/2003 on the Agricultural Payments Organisation (KOAP)

<b>Member State:</b>	<b>3.1.1 Indicate the national provisions on securing the recovery of irregular amounts as regards EU revenues and expenditures (type of act (e.g. law, regulation, decree) and title).</b>
	<p>Articles 48, 53 and 113 of Law 94 (I) of 2004 on the Customs Code  <u>Structural Funds, Cohesion Fund and European Fisheries Fund:</u>  Details of the proceedings to recover irregular amounts relating to the 2004-2006 and 2007-2013 programming periods are laid down in the relevant circulars of the Paying/Certification Authority on information on and dealing with irregularities.</p> <p>a) The recovery of irregular amounts on behalf of the European Commission is done by deducting the corresponding amount from the next payment request submitted to the Commission (withdrawal method). In the event that the amount of the irregularity exceeds the amount of the payment request and therefore cannot be deducted in full, or that the final payment request has already been submitted to the Commission, then the irregular expenditure is recovered by refunding national resources from the Government account, thus debiting the national budget.</p> <p>b) For the recovery of national resources which have been wrongly paid by the Republic of Cyprus, the procedures already in force apply and are implemented in the case of projects which are fully funded by the national budget, i.e. the body/person receives written notification of the repayment and in the event of failure to comply judicial measures are taken.</p>
LV	<p>For the EU Structural Funds and Cohesion Fund 2004-2006 programming period:</p> <ul style="list-style-type: none"> <li>- The Law on Management of European Union Structural Funds (adopted on 8 December 2005).</li> <li>- The Law on Management of European Union Cohesion Fund (adopted on 8 December 2005).</li> <li>- Cabinet Regulation No 706 'Procedure by which irregularities in the implementation of projects financed from the Structural Funds are reported and the decision is made on use of the funding allotted' of 30 June 2009.</li> <li>- Cabinet Regulation No 554 'Procedure by which institutions involved in the management of Cohesion Fund projects provide data on the shortcomings found and irregularities in the project implementation' of 4 July 2006.</li> <li>- Cabinet Regulation No 704 'Procedure by which irregular expenditure under Cohesion Fund Projects is recorded and repaid' of 29 August 2006.</li> </ul> <p>For the EU Structural Funds and Cohesion Fund 2007-2013 programming period:</p> <ul style="list-style-type: none"> <li>- The Law on Management of European Union Structural Funds and the Cohesion Fund (adopted on 23 February 2007).</li> <li>- Cabinet Regulation No 500 'Procedures by which irregularities identified in the introduction of European Union Structural Funds and the Cohesion Fund shall be notified, an administrative decision regarding utilisation of the financing granted shall be taken and irregular expenditure shall be recovered' of 17 July 2007.</li> <li>- Cabinet Regulation No 418 'Procedures by which resources in the State budget are budgeted for the implementation of projects</li> </ul>



<b>Member State:</b>	<b>3.1.1 Indicate the national provisions on securing the recovery of irregular amounts as regards EU revenues and expenditures (type of act (e.g. law, regulation, decree) and title).</b>
	<p>co-financed from the European Union Funds, as well as procedures by which payments are made and the expenditure declaration is prepared' of 26 June 2007.</p> <ul style="list-style-type: none"> <li>- Cabinet Regulation No 419 'Procedures by which institutions involved in the management of European Union Structural Funds and the Cohesion Fund ensure the preparation of planning documents and the implementation of such funds' of 26 June 2007.</li> </ul> <p>PHARE and Transition Programme:</p> <ul style="list-style-type: none"> <li>- The Law on the European Union Financial Instruments PHARE Programme and the Transition Programme (adopted on 15 June 2006).</li> <li>- Cabinet Regulation No 874 'Procedures by which the PHARE Programme and the Transition Programme are prepared, approved, implemented, monitored and evaluated' of 24 October 2006.</li> <li>- Cabinet Regulation No 875 'Procedures by which irregularities found in the management of the PHARE Programme and the Transition Programme are reported' of 24 October 2006.</li> </ul> <p>Rural Funds:</p> <ul style="list-style-type: none"> <li>- Cabinet Regulation No 573 'Procedures by which the European Agricultural Guidance and Guarantee Fund, the European Agricultural Fund for Rural Development and the European Fisheries Fund, as well as the State and the European Union Support for Agriculture, Rural and Fisheries Development are administrated' of 17 June 2009.</li> </ul>
LT	Resolution No 590 of the Government of the Republic of Lithuania of 30 May 2005 approving the rules on the repayment into the Lithuanian national budget of financial aid paid and/or used in violation of the law. Resolution No 1443 of the Government of the Republic of Lithuania of 19 December 2007 approving the rules on the administration and financing of projects.
LU	<p>Grand-Ducal Regulation of 8 June 1979 on the procedure to be followed by central government and local authority departments and agencies.</p> <p>Law of 8 June 1999 on the State Budget, Accounts and Treasury (Article 65(1)) (recovery list)</p> <p>Law of 18 April 2008 on renewing rural development support (Article 57).</p> <p>In the case of the ERDF, the managing authority applies the European legislation (Article 28 of Regulation (EC) No 1828/2006).</p>
HU	Act CXXVI of 2003 on the implementation of Community customs law in the case of public debts under the responsibility of the Customs Authority; Government Decree 55/2005 (III. 26:) on the procedure for recovering state aids originating from and connected to EU resources used in an unlawful or inappropriate way or contrary to the contract; Act XCII of 2003 on taxation
MT	Customs rev.: Chp 37 - Customs Ordinance + chp 337 - Import Duties Act (Laws of Malta) Vat rev.: VAT Act (chp 406 - Laws of

<b>Member State:</b>	<b>3.1.1 Indicate the national provisions on securing the recovery of irregular amounts as regards EU revenues and expenditures (type of act (e.g. law, regulation, decree) and title).</b>
	Malta) arts. 58 to 68. Expenditure: Relevant regulation is the Law of Obligations under the Civil Code. What is paid without being due is recoverable as long as the action is commenced within 2 yrs from when the wrong payment was discovered or ought to have been discovered
NL	Article 4:57 General Administrative Law Act.
AT	Customs: ( <i>Bundesabgabenordnung</i> ) [Federal Tax Code] BGBl. 1961/194 Sections 226-233; ( <i>Zollrechts-Durchführungs-G</i> ) [Customs Law Implementing Act] BGBl. 1994/659 Section 80; BMLFUW: Section 1438 ABGB [Austrian Civil Code]; ERDF: Conditions for recovery set out in contracts. Conditions can also be enforced under private law. Where fraud is suspected the matter is referred to the public prosecution service+C52. A judgment may also result in forced recovery. ESF: If fraud is suspected the Federal Financial Prosecutor is informed.
PL	<ol style="list-style-type: none"> <li>1) Public Finance Act of (27 August 2009);</li> <li>2) Tax Ordinance Act of 29 August 1997;</li> <li>3) Enforcement Proceedings in Administration Act of 17 June 1966;</li> <li>4) Public Procurement Act of 29 January 2004;</li> <li>5) Regulation of the Minister for Regional Development of 7 September 2007 concerning expenditure in connection with the implementation of operational programmes, amended by Regulation of 14 July 2009;</li> <li>6) Cabinet Regulation of 12 June 2007 on the detailed rules and arrangements for relief, deferral or payment in instalments of amounts due to paying agencies under the common agricultural policy;</li> <li>7) Regulations of the Minister for Agriculture and Rural Development on the detailed conditions and arrangements for granting financial assistance under individual measures covered by the 2007-2013 Rural Development Programme;</li> <li>8) Agricultural Restructuring and Modernisation Agency Act of 9 May 2008;</li> <li>9) Agricultural Market Agency and Organisation of Certain Agricultural Markets Act of 11 March 2004.</li> </ol>
PT	<i>Código do Procedimento Administrativo</i> (Code of Administrative Procedure) (DL 442/91); <i>Código Civil</i> (Civil Code) (DL 47344/66); <i>Código de Processo Civil</i> (Code of Civil Procedure) (DL 329-A/95); <i>Código da Insolvência e da Recuperação de Empresas</i> (Insolvency and Corporate Recovery Code) (DL 53/2004); <i>Código Penal</i> (Penal Code) (DL 48/95); <i>Código de Processo Penal</i> (DL 78/87); <i>Lei-Quadro dos Institutos Públicos</i> (Framework Law of Public Institutions) (L 3/2004); DL 155/92, DL 191/99, DL 433/99 and DL 398/98.
RO	Expenditure: Government Order (OG) No 79/2003 on monitoring and recovering Community funds and related irregular co-

<b>Member State:</b>	<b>3.1.1 Indicate the national provisions on securing the recovery of irregular amounts as regards EU revenues and expenditures (type of act (e.g. law, regulation, decree) and title).</b>
	financing funds, as amended; Government Decision (HG) No 1306/2007 on implementing rules for the Code of Fiscal Procedure; Code of Criminal Procedure. Revenues: Romanian Customs Code, approved by Act No 86/2006; Order No 633/2006 of the Ministry of Agriculture, Forestry and Rural Development.
SI	Decree on the Implementation of Procedures for the Use of European Cohesion Policy Funds in the Republic of Slovenia in the 2007–2013 Programming Period. Budget Implementation Act. Criminal Procedure Act. Tax Procedure Act. Rules implementing the Tax Procedure Act (PZDavP-2; Official Gazette of the Republic of Slovenia No 141/06). Agriculture Act.
SK	1. Act No 523/2004 on the budgetary rules of public administration, amending certain acts; 2. Act No 71/1967 on administrative procedure (Code of Administrative Procedure); 3. Act No 528/2008 on assistance and support from European Community funds; 4. Act No 233/1995 on bailiffs and enforcement activities (Enforcement Code), amending and supplementing other acts.
FI	The same regulations as apply to other debts governed by public law (applies to questions 3.1.1 - 3.1.5) Provincial Act on loans, interest relief and subsidies from provincial funds and on regional government guarantees, ÅFS 1988:50, ÅFS 2008:110, provincial Act 1995:40.
SE	Ordinances on EC Regulations on Agricultural Products (1999:1148), on EC Direct Aid to Farmers, etc. (2004:760) and on Support for Rural Development Measures (2007:481); rules for repayment of support (SJVFS 2003:46); Ordinances on Management of State Claims (1993:1138) and on Management of EC Structural Funds (2007:14). See Art. 242(27), (28), and (28)(a) of Council Reg. (EEC) No 2913/92.
UK	These are under the Civil Procedure Rules 1998.  S: For ESF, the detailed requirements are set out in the Management and Control Report and corresponding Regulations. For EAGF & EAFRD, the rules and procedures are detailed in control system instructions to staff, and also by both EU & domestic legislation.  HMRC: Two Acts are applied in securing the recovery of irregular amounts concerning revenues: Commissioners For Revenue & Customs Act 2005 (law); and Customs & Excise Management Act 1979 (law). The department also has a formal partnership agreement in place with the UK Border Agency whereby extra duties are imposed on and collected from passengers who breach Customs rules relating to goods entering the country.

<b>Member State:</b>	<b>3.1.2 In terms of expenditure, list the specific legal instruments and measures for securing the recovery of irregular payments included in contracts involving EU budget (e.g. different types of guarantees, personal or joint surety, etc.).</b>
BE	<ul style="list-style-type: none"> <li>- The guarantee is provided for by the Civil Code (under Title XIV of Book III “On guarantees”). (Articles 2011 et seq.)</li> <li>- Reclaiming undue payments obtained by third parties (Article 1976 of the Civil Code).</li> <li>- The administration is responsible for the payment of the aid provided for in this decree and for the recovery of undue payments or single payment entitlements granted unduly. For example: Art. 31(1) of the Decree of the Walloon Government establishing direct support schemes under the common agricultural policy- Chapter XVI of 23 February 2006.</li> <li>- On-demand guarantees and offsetting sums owed</li> </ul>
BG	Bank guarantees/cash deposit, promissory note, personal or joint surety. Procedure for public collection of unduly paid amounts is implemented by the State Receivables Collection Agency.
CZ	The specific legal instruments and measures for securing the recovery of irregular payments included in contracts involving the EU budget comprise the decisions taken by appropriate bodies issued in accordance with the regulations set out in the previous point. In operational programmes involving cross-border cooperation, the lead partner in the project is responsible for the use of the aid. If the aid is not recoverable either from the lead partner or a different partner, the Member State on whose territory the debtor’s registered office is located is liable. Aid provided under the Human Resources and Employment Operational Programme is allocated according to budgetary rules. The beneficiary is required to repay any irregular payments according to budgetary rules, on the basis of a payment order from the local Financial Office. This obligation is therefore laid down in law. Guarantees are not required. If the beneficiary goes into liquidation the provider is registered in the list of creditors. In the CAP – proceedings for the imposition of a requirement to return subsidies or part thereof in accordance with Section 11a of Act No 256/2000 on the State Agricultural Intervention Fund (SZIF).
DK	Offsetting the amounts against future payments under the same or under a different aid scheme or under other projects with the same aid recipient.
DE	Where appropriate guarantees according to the payments concerned
EE	In most of the funds guarantees are not used. Under STS 2007+ prepayments can be secured by bank guarantees, for local authorities by an equalisation fund, for government bodies by the national budget. STS and STS 2007+ Section 26 - suspension of disbursements; seizure from available funds of amounts recoverable not repaid on time; enforcement of decisions under the procedure laid down in the Code of Enforcement Procedures. KrMS Section 38 (Rights and obligations of victims), Section 142.

<b>Member State:</b>	<b>3.1.2 In terms of expenditure, list the specific legal instruments and measures for securing the recovery of irregular payments included in contracts involving EU budget (e.g. different types of guarantees, personal or joint surety, etc.).</b>
IE	An example given by the Department of Agriculture, Fisheries and Food (D/AFF) is where appropriate bank guarantees are used to secure relevant contracts, for example, export refund payments.
EL	Irregular payments are recovered via the public accounting system. Unlawful expenditure is charged a) to the official (in the event of fraud, serious negligence or collusion) or b) to the beneficiary, where he has contributed to an unlawful payment. Where necessary, special measures apply (e.g. corrections, bank bonds for 5% of the eligible budget and for 110% of the EAGGF Guarantee section).
ES	In the case of public procurement, financial guarantees are required of the contractors so that they can assume responsibility for complying with the obligations arising from the relevant contracts. Article 86 of Law 30/2007 on Public Sector Procurement requires the contractors to provide a guarantee of five percent of the amount of the contract.
FR	Once the payment document has been issued, all legal means are available to the public accountant responsible for recovery (compensation, taking a guarantee, seizure, etc).
IT	<ul style="list-style-type: none"> <li>- Set-off;</li> <li>- Autonomous guarantee agreement (negoziio autonomo di garanzia);</li> <li>- Act No 231/05;</li> <li>- General and special rights of priority (privilegio generale e speciale);</li> <li>- Mortgage;</li> <li>- Pledge (pegno);</li> <li>- Administrative seizure;</li> <li>- Suspension of payments under Act No 898/86;</li> <li>- Surety policy within the meaning of Act No 52/96;</li> <li>- Entry in the cause list, as per Legislative Decrees Nos 46/99 and 112/99.</li> </ul>
CY	Guarantees and letters of guarantee only where provided for in Community Regulations. With regard to national resources, where there has been a call for tenders and the contractor has failed to comply, notification is sent and the letter of guarantee confiscated. In case of non-compliance, legal measures are taken. Not applicable to the Structural Funds, the Cohesion Fund or the European Fisheries Fund.

<b>Member State:</b>	<b>3.1.2 In terms of expenditure, list the specific legal instruments and measures for securing the recovery of irregular payments included in contracts involving EU budget (e.g. different types of guarantees, personal or joint surety, etc.).</b>
LV	<p>In accordance with the regulatory enactments relating to EU Structural Funds and the Cohesion Fund, the decision on the recovery of irregular payments – where they have not been used in accordance with the contract or regulatory enactments – may be made as an administrative act that in fact ensures a faster process than resolution of the dispute under civil proceedings. Regulatory enactments relating to EU Structural Funds, the Cohesion Fund and the Pre-accession Funds provide for the possibility of recovering irregular expenditure from the current or the following payment to the economic operator. Such standards have been incorporated in the contracts under the EU Structural Funds and the Cohesion Fund with the economic operator for project implementation.</p> <p>Some measures under the Rural Funds provide for making a security deposit of 110% of the funding allotted.</p>
LT	<p>In accordance with Resolution No 590 of the Government of the Republic of Lithuania of 30 May 2005, a decision is taken to recover funds, on the basis of which the funds are either repaid into the account specified in the decision or deducted from the payment request, or else other action provided for by law must be taken.</p>
LU	<p>The Ministry of Agriculture (MA) does not require surety or a guarantee before making a payment except in the cases provided for by law. However, any undue payments made are recovered according to a procedure laid down by the above-mentioned Grand-Ducal Regulation of 8 June 1979. Where guarantees are requested, banks will release them only with the authorisation of the Ministry.</p> <p>In the case of the ERDF, the managing authority applies recovery by compensation or by using a recovery order. A manual of principles and practical procedures relating to management and control has been drawn up by the ERDF managing authority for this purpose indicating the procedures for detecting, reporting and recovering Community funds in cases of fraud and irregularities. The manual was approved by the EC on 25 February 2009.</p> <p>The ESF uses recovery lists. Recovery orders are countersigned in bilateral agreements with the project promoters. Payments are blocked during ongoing missions.</p>
HU	<p>Mortgage on real estate and movable assets, bank guarantee, insurance-backed aval, collateral, promissory note issued on the basis of guarantee insurance contract, guarantee, joint and several guarantee provided by the Church or an organisational unit thereof for religious institutions, additional security providing for other contracts, recovery as tax.</p>

<b>Member State:</b>	<b>3.1.2 In terms of expenditure, list the specific legal instruments and measures for securing the recovery of irregular payments included in contracts involving EU budget (e.g. different types of guarantees, personal or joint surety, etc.).</b>
MT	Money received as public assistance (including EU funds) can only be given priority if there is a special law providing that debts resulting from such assistance have a prior ranking to other debts, which at present there is not. The exception is where assistance is tied to a hypothec created by the recipient of funds as a guarantee should he fail to repay the funds received if requested to do so
NL	Article 4:57 General Administrative Law Act.
AT	BMLFUW: No special provisions, Section 1438 ABGB is applied (see 3.1.1). ERDF: Recovery procedures can if appropriate be enforced under private law. ESF: If fraud is suspected the Federal Financial Prosecutor is informed.
PL	Blank promissory note with a promissory note declaration; bank and insurance guarantee; notarised statement on voluntary submission to enforcement proceedings; security (cash deposits, guarantee, insurance, mortgage, surety, assignment of rights to an insurance policy, lien, pledging of movable property as security).
PT	Where guarantees have been provided, these are implemented. Funds are recovered through: the offsetting of debts; enforced payment/judicial recovery - lodging claims in insolvency or reorganisation proceedings; - claim for civil damages in criminal proceedings; - tax execution procedure and/or enforcement proceedings (seizure of assets/or attachment of rights).
RO	The managing authority takes all necessary measures to recover the debt, including the suspension or cancellation of the contract (advance payment guarantee, final payment guarantee, conformity guarantee). If the budget debts cannot be recovered by voluntary payment, the managing authority requests the competent authority to initiate the enforcement procedure.
SI	Legal instruments and measures: <ul style="list-style-type: none"> <li>– re-itemising of use to items that are not connected to State budget funds for cohesion policy;</li> <li>– re-itemising of commitments on the part of the budget user from items of the overall budget to items of the general margin;</li> <li>– withholding payments from cohesion policy funds until the intermediate body re-itemises use in line with the previous paragraph;</li> <li>– forfeiture of guarantee;</li> </ul>

<b>Member State:</b>	<b>3.1.2 In terms of expenditure, list the specific legal instruments and measures for securing the recovery of irregular payments included in contracts involving EU budget (e.g. different types of guarantees, personal or joint surety, etc.).</b>
SK	Enforcement of decisions – Act No 71/1967, Act No 233/1995, Act No 523/2004; instalment agreements – Act No 278/1993; pledge, lien or security – Act No 528/2008.
FI	Provisions on recovery can be found in Section 17 of the Provincial Act on loans, interest relief and subsidies from provincial funds and on regional government guarantees (ÅFS 1988:50); provisions on support for businesses are to be found in Section 11 of the Act on aid to industry in the Province of Åland (ÅFS 2008:110), and provisions on assistance from the European Fisheries Fund are in Section 11 of the Provincial Act on the implementation of the common fisheries policy in the European Communities (1995:40).
SE	Regulation on the System of Securities for Agricultural Products (SJVFS 1995:68). Sweden does not apply sureties, guarantees and the like within the structural funds.
UK	CLG: EC Regulations 438/2001 – 1260/1999. RPA: If voluntary means of recovering irregular payments are unsuccessful and they cannot be recovered by interception of further payment, a judgement in the County or High Court will be obtained before enforcement measures can be taken. There are, however, circumstances where this procedure can be bypassed in which non-satisfaction of a Statutory Demand can lead directly to bankruptcy proceedings or proceedings for the liquidation of a Limited Company. S: Unjustified enrichment; and Specific provisions in relevant payment regulations (e.g. Rural Development Contracts (Rural Priorities) (S) Regulations 2008. NI: In terms of EU Projects, the LoO is the measure for securing recovery.



<b>Member State:</b>	<b>3.1.3 Are there any legal instruments and measures against financial loss or damage, designed to speed up the recovery of outstanding amounts (i.e. amounts which in case of being irregularly paid would be more difficult to recover), by putting a certain amount into a reserve or earmarking it, provided within the national legislation in particular the procurement and recovery legislation and procedures referring to the EU budget?</b>
BE	Yes: Yes, specific provisions provide for this in certain matters (on-demand guarantee, etc.). There are similar provisions concerning public contracts.
BG	Yes
CZ	In the CAP, possibility to offset the debt against subsidies which the applicant is eligible to receive by virtue of meeting the conditions in Section 11a of Act No 256/2000 on the State Agricultural Intervention Fund (SZIF). Under the internal rules of regional operational programmes it is possible to suspend subsequent payment claims for multi-year projects when previous payments have not made because of a suspected irregularity.
DK	No
DE	No
EE	Yes
IE	No
EL	Yes
ES	Yes
FR	Yes
IT	No
CY	No
LV	Yes
LT	Yes
LU	Yes (Ministry of Economic Affairs - ERDF) No (Ministry of Agriculture, Ministry of Labour and Employment - ESF)
HU	Yes
MT	No
NL	Yes

<b>Member State:</b>	<b>3.1.3 Are there any legal instruments and measures against financial loss or damage, designed to speed up the recovery of outstanding amounts (i.e. amounts which in case of being irregularly paid would be more difficult to recover), by putting a certain amount into a reserve or earmarking it, provided within the national legislation in particular the procurement and recovery legislation and procedures referring to the EU budget?</b>
AT	Yes
PL	Yes
PT	Yes
RO	Yes
SI	Yes
SK	No
FI	No
SE	No
UK	Yes: RPA: Application to the Court for Summary Judgement (Civil Procedure Rule 24) can be used in special Circumstances to speed up the process of obtaining a Judgement in the Court, prior to the commencement of enforcement proceedings. Irregular payments can in certain circumstances be recovered through intercepting other payments due to be paid to the debtor. There are no other circumstances, not referred to above, where the process can be expedited. No: DWP, Scotland, NI

<b>Member State:</b>	<b>3.1.4 Does your national legislation or guidelines contain any conservative or precautionary measures to be taken after the detection of suspected irregular amounts as regards EU revenues and expenditures? If Yes, describe.</b>
BE	<p>Yes: To prevent VAT-payers from bringing about their own insolvency, during a dispute procedure the tax collector can take any available measures to guarantee recovery of the contested VAT debt. When a case of customs and excise fraud is found, the goods involved and the means of transport used in the fraud can be seized as a precautionary measure with a view to confiscation. Precautionary seizure procedure in both civil recovery procedures and in the case of information or criminal investigation. The legislation on the State accounts, coordinated on 17 July 1991 (Annex 9), Art. 58: full or partial suspension of payment of EU support.</p> <p>No: ALV, OPW, BIRB: No</p>
BG	<p>Yes. Precautionary measures may be imposed in respect of the debtor's assets in order to protect them from subsequent creditors' claims. Precautionary measures are imposed by a court decision.</p>
CZ	<p>Yes. The government-approved National Strategy for Protecting the Financial Interests of the European Communities, the Methodology of Financial Flows and Control, Central Harmonisations Unit Guidance Note 12 – Procedural guidance note concerning irregularities. Act No 218/2000; In the case of well-founded suspicion of an irregularity the managing authority or, in the case of the Cross-border Operational Programme, the Czech National Authority (NO), issues a written proposal to suspend payment. The payment is suspended by the Payment and Certification Authority (PCO).</p>
DK	<p>Yes. Act No 1599 of 20 December 2006 on the administration of assistance from the European Regional Fund and the European Social Fund, section 17, paragraphs 2-4, which contain provisions on the penalties for aid applicants who have acted fraudulently.</p>
DE	<p>No</p>
EE	<p>Yes. Conditions and procedure for the disbursement of structural aid, period 2007–2013, Sections 3, 4; Government Regulation No 278, Section 12(3) - if a beneficiary is required to repay part of the aid, the amount of aid payable subsequently for the same project can be reduced by any amounts not repaid.</p>
IE	<p>Yes. Regarding Structural Funds where there is doubt about eligibility; expenditure is removed from claims at the earliest opportunity. Further payments will also most likely be halted until the matter is resolved. National guidelines issued by DAFF have always required that irregularities relating to EU funds be offset, where possible, against subsequent payments under the same or other EU schemes</p>

<b>Member State:</b>	<b>3.1.4 Does your national legislation or guidelines contain any conservative or precautionary measures to be taken after the detection of suspected irregular amounts as regards EU revenues and expenditures? If Yes, describe.</b>
EL	Yes. The State Audit Department carries out proactive monitoring of financial payment orders. If an irregularity or violation comes to light, no payment is made. Generally speaking, provision is made for both regular and exceptional on-the-spot sampling checks by the competent inspection bodies. The Code of Civil Procedure allows measures to be taken (freezing of bank accounts, seizure of fixed and mobile assets, etc.)
ES	Yes. Article 34(5) of the General Law on Grants states that the grant cannot be paid if the beneficiary has become a debtor because of a procedure to recover other aid granted to him. Article 35 of the Law on Grants provides for the precautionary suspension of payment to the beneficiary of amounts pending.
FR	Yes. Conservative measures are provided for under Sections 67 and 68 of Law No 91-650 of 9 July 1991 reforming the civil execution procedures, and its implementing decree No 92-755 of 31 July 1992.
IT	Yes: <ul style="list-style-type: none"> <li>- action to prevent fraudulent diminution of debtor's assets, with subrogation (azione revocatoria e surrogatoria);</li> <li>- precautionary and protective seizure, emergency measures;</li> <li>- injunction proceedings;</li> <li>- expropriation of movables, immovables and assets held by third parties;</li> <li>- confiscation;</li> <li>- administrative seizure;</li> <li>- mortgage;</li> <li>- request for a guarantee in regard to the presumed debtor;</li> <li>- right of retention of goods subject to tax.</li> </ul>
CY	Yes. Articles 94 and 111 of Law 94 (I)/2004 on the Customs Code As explained in 3.1.1, Cyprus has chosen the method of deducting irregular amounts and recovering them immediately for the European Commission, thus debiting the national budget, irrespective of whether the irregular expenditure is fully recovered at the end of the national recovery procedures.

<b>Member State:</b>	<b>3.1.4 Does your national legislation or guidelines contain any conservative or precautionary measures to be taken after the detection of suspected irregular amounts as regards EU revenues and expenditures? If Yes, describe.</b>
LV	<p>Yes. The regulatory enactments of the Republic of Latvia regarding EU Structural Funds, the Cohesion Fund, the Pre-accession Funds and the Rural Funds provide for the following precautionary measures: assessment of irregularities; reporting identified irregularities; making a decision on recovery of irregular expenditure; recording and recovery of irregular expenditure; decreasing the amount of eligible expenditure under the EU Funds project by the amount of the irregular expenditure, including:</p> <ul style="list-style-type: none"> <li>- the regulatory enactments regarding EU Structural Funds and the Cohesion Fund of 2004–2006 and 2007–2013 programming periods provide for the possibility of agreeing with the economic operator on voluntary repayment of irregular expenditure, as well as – where possible – irregular expenditure may be deducted from the current or the following payment to the economic operator in accordance with the contract on the EU Funds project implementation;</li> <li>- regarding the Pre-accession Funds, the regulatory enactments provide for the possibility of agreeing with the economic operator on voluntary repayment of irregular expenditure, as well as deduction of irregular expenditure from the current or the following payment to the economic operator;</li> <li>- some measures under the Rural Funds provide for making a security deposit, and, where an irregularity is found, funding of the relevant economic operator is suspended.</li> </ul> <p>The Procurement Monitoring Bureau (hereinafter the PMB) as an institution that monitors procurement of State and local government institutions, in accordance with the Public Procurement Law, the Law on Procurement for State or Local Government Needs and clauses 34-41 of Cabinet Regulation No 419 ‘Procedures by which institutions involved in the management of European Union Structural Funds and the Cohesion Fund ensure the preparation of planning documents and the implementation of such funds’ of 26 June 2007, assesses compliance of procurement by the institutions with the requirements of regulatory enactments. The procurement checks under the EU Funds projects carried out by the PMB may prevent irregularities because the Bureau gives its opinion before the procurement contract is entered into under the EU Funds projects.</p> <p>In cases where it is found that public procurement fails to comply with the regulatory enactments, or signs of corruption are possible in assigning a contract, the PMB reports the relevant case to the institutions involved in the EU Funds management or the relevant authorities to which the institutions checked are subordinated, as well as to other competent authorities, including the Competition Council, KNAB or other law enforcement institutions.</p>
LT	<p>Yes. When funds are found to have been paid or used unlawfully, one of the following decisions is taken: to terminate the project financing and administration agreement and demand repayment of the funds paid, to reduce funding for the project and/or demand repayment of part of the funds paid, or to deduct part of the funds paid from the payment request submitted by the project implementer. A list of restrictions on the granting of aid has also been approved.</p>

<b>Member State:</b>	<b>3.1.4 Does your national legislation or guidelines contain any conservative or precautionary measures to be taken after the detection of suspected irregular amounts as regards EU revenues and expenditures? If Yes, describe.</b>
LU	No
HU	Yes. The head of the intermediary body/managing authority/paying agency may decide to suspend the payments at any time. In the case of unlawful or inappropriate use there is a recovery order, in the case of unauthorised use the aid has to be repaid increased by the interest. The competent body initiates a disciplinary, infringement, criminal, civil or any other proceeding.
MT	Yes. The Internal Audit and Investigations (IAID) has the remit to consider the facts related to the suspected irregular amounts and to possibly conduct an investigation. Moreover in risk analysis exercises by the Authorities managing the EU Funds, the related beneficiaries feature as risky beneficiaries and are subject to stricter controls. (Precautionary measures)
NL	No
AT	Yes. BMLFUW re 3.1.3 yes. Securities claimed; application of section 1438 ABGB. Re 3.1.4 yes. Future/pending payments blocked. Structural Funds: re 3.1.3 and 3.1.4 yes.
PL	Yes. Expenditure: the contract concluded provides for ad hoc inspections to be carried out/ordered; withholding of payments pending the investigation of the case; reduction/blocking of a subsequent tranche of funding/refunds to offset amounts spent inappropriately; notification of the prosecutor's office; Revenue: securing of the assets of the person liable if it is suspected that a commitment might not be met.
PT	Yes. Standards/guidelines were issued by both the MA and the PA which stipulate that the formal notification sent to the beneficiary informing him that he is liable for payment should expressly state that it is forbidden to transfer amounts owed in respect of the executing authority's payment request in any OP project. Precautionary and provisional administrative (suspension of payment) and legal measures (e.g. seizure of assets) apply.
RO	Yes. Expenditure: The Certifying and Paying Authority and the managing authorities have their own procedures on irregularities, which include provisions on measures for preventing irregularities. Revenues: Order No 6259, dated 1 June 2007, of the Vice-President of the National Tax Administration Agency.
SI	Yes. Temporary protection of pecuniary claim or claim for deprivation of pecuniary benefit in accordance with the Criminal Procedure Act, which refers to the application <i>mutatis mutandis</i> of the Execution of Judgments Act, which governs all forms of protection and the conditions that a party may claim when bringing an action, including in the civil procedure.

<b>Member State:</b>	<b>3.1.4 Does your national legislation or guidelines contain any conservative or precautionary measures to be taken after the detection of suspected irregular amounts as regards EU revenues and expenditures? If Yes, describe.</b>
SK	Yes. Where defective implementation of assistance from EC funds is detected, the management or certification authority may suspend, refuse or adjust the level of a payment for a project or part of it. Where there are irregularities with financial consequences, the management authority sends the recipient a request for return of the funds under the terms of the contract for the provision of non-returnable financial assistance. Preventive measures are laid down in Guidance Document No 16/2008-U.
FI	No
SE	No
UK	Yes. S: As point 3.1.1 BIS: Suspension of future payments, refusal to pay current payment claims. DWP: Open Projects (2000-6 programmes): once an irregular amount has been quantified, it is removed from EU claims via future provider payments and adjusted accordingly. However in the Closed Projects (2000-6 programmes), a revised Project Closure Report taking account of the irregular funding is requested from the provider which removes it from the EC claims and liability for the debt transfers to the DWP.

<b>Member State:</b>	<b>3.1.5 Does your national legislation or guidelines contain any obligation/possibility for the national administration to stand as offended party in criminal proceedings for frauds to the EU budget? If Yes, under which terms?</b>
BE	Yes: no legal obligation but administrative guidelines.
BG	Yes. The Law on the Liability of the State and the Municipalities for Damages of 12 July 2006, amended in State Gazette No 30 of 11 April 2006, covers damages inflicted on persons through unlawful acts, deeds or omissions committed by State and municipal bodies and officials during the performance of administrative activities. Article 84(1) of the Penal Code of Procedure states that persons who have suffered damages as the result of a crime may file a civil claim for compensation as civil claimants.
CZ	Yes. Registration as an injured party in proceedings regarding crimes or offences, under the conditions stipulated in Section 43 of Act No 141/1961 on criminal proceedings in court. The national administrative authority must have been the provider of the assistance and the criminal offence in relation to the assistance granted must also have been committed within the Czech Republic. In these cases the administrative body has the status of an injured party in criminal proceedings and has the right to present additional evidence, to inspect the files, to participate at the court in the trial and in public sittings of any appeal, and to make a statement before the close of proceedings. It is also authorised to propose that the court, in its ruling on the accused, impose a requirement to rectify the damage caused. If there is a well-founded concern that the injured party's claim for the damage caused by the criminal act to be rectified could be obstructed or hindered, the court may also decide, upon request by the injured party, that the claim be secured during the criminal proceedings themselves against the property of the accused (that is, before the ruling has legal force).
DK	Yes. Under Chapter 89 of the Administration of Justice Act compensation may be awarded for damages in a criminal case in certain circumstances. That will depend on the court's assessment of who can be regarded as the injured party in the case. The Ministry of Justice is not aware of any legal practice specifying how a national administration can stand as an injured party in criminal proceedings for fraud against the EU budget.
DE	Yes. Only possibility, no obligation
EE	Yes. Normally, in accordance with the KrMS and other legislative instruments regulating court proceedings. STS and STS 2007+ provide for the possibility of recovery through enforcement procedures.



<b>Member State:</b>	<b>3.1.5 Does your national legislation or guidelines contain any obligation/possibility for the national administration to stand as offended party in criminal proceedings for frauds to the EU budget? If Yes, under which terms?</b>
IE	Yes. Where a suspected fraud is discovered it should in the first instance be reported to the relevant authorities. Such instances would be pursued and investigated by the Garda Síochána (National Police Force) or other appropriate civil authorities for investigation and possible criminal prosecution.
EL	Yes. Under the terms and conditions set out in the Code of Criminal Procedure.
ES	Yes. The Directorate-General of the Legal Service – State Legal Service and the Legal Services of the various Autonomous Communities have the power to appear in criminal proceedings relating to fraud concerning European Union grants, which is explicitly classified in our Criminal Code.
FR	Yes. By bringing a civil action under Articles 85 et seq. of the Criminal Code.
IT	Yes. Under Articles 74-79 of the Code of Criminal Procedure, the Italian legal system allows parties who have sustained prejudice to institute a civil action, authorised by the Prime Minister with the agreement of the Attorney-General's Office, within the framework of criminal proceedings, without necessarily having to institute a separate civil action.
CY	Yes. Any procedure for collection of duties, taxes or financial penalties is approved and signed by the head of the competent directorate. The proceedings are brought in the name of the head of the Customs Department in all courts. Irrespective of the procedure, since the irregular expenditure is deducted, the Community budget is not affected by any type of irregularity.
LV	Yes. The Criminal Law provides for the liability for fraud (for example, simple fraud, fraud on a large scale, fraud on a small scale, insurance fraud, etc.), and it may also be applicable to cases of fraud to the EU budget. In such cases, public prosecution is performed where the public prosecutor implements the indictment function on behalf of the State and in the interests of society independently from the will of the offended person. Criminal proceedings for fraud may be initiated in accordance with the application of an institution involved in the EU Structural Funds management, and in some cases it is established by the public prosecutor's office or another institution.

<b>Member State:</b>	<b>3.1.5 Does your national legislation or guidelines contain any obligation/possibility for the national administration to stand as offended party in criminal proceedings for frauds to the EU budget? If Yes, under which terms?</b>
LT	Yes. Under Article 28 of the Code of Criminal Procedure (CCP), a natural person who has suffered physical, material or moral injury as a result of a criminal act is deemed to be the victim. Under Article 110 of the CCP, a natural or legal person who, in a criminal case, is requesting compensation for material or non-material damage suffered as a result of a criminal act perpetrated by the defendant or suspect is deemed to be a civil claimant.
LU	Yes
HU	Yes. In accordance with the Act on criminal procedure, administrative bodies may act as injured parties, and are entitled to the other rights of injured parties – such as to act as private parties – in cases where the budget has suffered losses, that is unlawful payments have been made and effective depreciation of the budgetary assets has taken place. In these cases there is a possibility to bring a civil action.
MT	Yes (possibility)
NL	Yes, provided that the relevant (ERDF) programme can stand as a party.
AT	Yes. Customs: No, because the AT authorities conduct the procedure themselves in the case of fraud relating to customs duties. BMJ: Yes. Right of the victim to participate in the procedure (Section 66 StPO [Code of Criminal Procedure). Section 65 StPO defines "victim". AT is generally to be classified as a victim in cases of fraud involving EU funds. The financial crime authority as a private party (Section 200 (Finanzstrafgesetz) [Financial Crime Act]). BMLFUW+Structural Funds, see BMJ explanation.
PL	Yes. An institution involved in the management and implementation of EU funds may appear as an injured party in criminal proceedings in its capacity as a party to the agreement signed with the beneficiary for the funding of the project. It can take an active part in criminal proceedings alongside the public prosecutor as a "subsidiary prosecutor" or civil party.
PT	Yes. The national administration may defend the financial interests of the EU as a civil defendant or assistant in criminal proceedings, particularly for the purposes of bringing a civil claim for damages in accordance with Articles 68 to 77 of the Code of Criminal Procedure. It may also participate in investigations and the taking of evidence, bring charges and appeal against decisions affecting it.

<b>Member State:</b>	<b>3.1.5 Does your national legislation or guidelines contain any obligation/possibility for the national administration to stand as offended party in criminal proceedings for frauds to the EU budget? If Yes, under which terms?</b>
RO	Yes. If they suffer a loss due to a criminal offence against the financial interests of the European Communities, the national authorities can constitute themselves as injured party in the context of the criminal trial, in accordance with the provisions of the Code of Criminal Procedure.
SI	Yes. The State Attorney's Office represents the State in actions for damages and civil actions, and the State Prosecutor's Office conducts criminal prosecution on behalf of the State. Through its statutory representative, the State claims all the rights of the injured party under the State Attorney Act. The court may advise the injured party to claim for the damage incurred in a civil procedure or, in the case of customs or tax infringements, in an administrative procedure.
SK	Yes. An offended party is any natural or legal person who, as a result of a criminal act, has suffered injury to health or property, moral or other damage, or whose other legally protected rights and freedoms have been infringed or endangered. This means that the national administration may be the offended party in criminal proceedings provided that the alleged injury was caused by the specific criminal act.
FI	Yes. Fraud affecting the EU budget is also fraud directly affecting the national budget and subsidy fraud in general. The national funding agency is thus the injured party in criminal proceedings.
SE	Yes. See Chapter 22 of the Swedish Code of Judicial Procedure. In fraud cases involving the EU budget, charges are brought by a prosecutor. The authority may also stand as the offended party. The advantage of this is that in the event of a conviction, the authority has an enforceable title against physical representatives of the beneficiary.
UK	Yes: Cases of alleged fraud are referred to the Special investigations Unit Risk Assurance Division and to the Police where investigations indicate suspected fraud. CLG: As Managing Authority, the case would be referred to the court where recompense would be sought particularly in cases of fraud. RPA: The prosecution has the right to make application for compensation to be paid to the victim. In relation to frauds on EU funds, there is no problem with jurisdiction as the law was extended by section 71 Criminal Justice Act 1991 (Offences in connection with taxation etc in the EU) and more generally by section 1-6 of Criminal Justice Act 1993.

### 3.2. Registration of irregularities and recovery of debts within the national administration system

Member State:	3.2.1 Can the completeness of the registration of irregularities be guaranteed? If No, please indicate the main reasons.
BE	Yes
BG	Yes
CZ	Yes
DK	Yes
DE	No. Individual error cannot be categorically excluded
EE	Yes
IE	Yes
EL	Yes
ES	Yes
FR	Yes
IT	Yes
CY	Yes
LV	Yes
LT	Yes
LU	<p>Yes.</p> <p>General remark: the managing authority/responsible authority, the certifying authority and the audit authority carry out their financial checks completely independently according to their level of involvement in the various European programmes implemented in Luxembourg under their responsibility and their level of competence.</p> <p>Ministry of Agriculture: all irregularities for which a procedure covered by the Grand-Ducal Regulation of 8 June 1979, mentioned in section 3.1.1, has been initiated by the Ministry of Agriculture are recorded in a register of irregularities.</p>
HU	Yes
MT	Yes
NL	Yes

<b>Member State:</b>	<b>3.2.1 Can the completeness of the registration of irregularities be guaranteed? If No, please indicate the main reasons.</b>
AT	No. Customs: Even in the case of comprehensive controls, there can be no 100% guarantee that all infringements of customs provisions are detected by the customs authorities (e.g. undetected smuggling or similar). BMLFUW and Structural Funds: yes.
PL	Yes
PT	Yes
RO	Yes
SI	Yes
SK	Yes
FI	Yes
SE	No. A verification question is inbuilt into the system (Board of Agriculture). Repayment demands are confirmed and monitored manually and centrally (Agency for Economic and Regional Growth). The Swedish ESF Council has introduced a manual follow-up system to ensure that all irregularities are registered.
UK	Yes:

Member State:	3.2.2 Are the recovery figures checked/audited after the recoveries are completed? If Yes, please point out the main audit authorities performing such audits.
BE	<p>Yes:</p> <ul style="list-style-type: none"> <li>- The Court of Auditors of Belgium</li> <li>- ALV: Internal audit: 2 time every 5 years. External audit: annually</li> <li>- OPW: A department responsible, inter alia, for implementing internal control measures was set up in 2009 for the OPW and DGARNE. The COSO-ERM reference list was chosen</li> <li>- WALLOON REGION: A debtors ledger is kept by the Audit Directorate for the European Funds (for the period 2000-2006) and by the Certification Cellule for the period 2007-2013.</li> </ul> <p>No:</p> <p>FLEMISH COMMUNITY:</p> <p>b) EFRO Vlaanderen:</p>
BG	Yes. Control, checks and audits are performed by the Managing Authorities, Intermediate Bodies, Certifying Authorities, Internal and External Audit Bodies during the process of recoveries and afterwards.
CZ	Yes. As part of ex post checks and audits carried out by inspection and audit bodies. The recovery phase is deemed to have ended when funds (payments and penalties) have been paid into the account of the PCO, or when the proceedings have been closed or the repayment requirement has been cancelled. In the CAP, the SZIF (legislative and legal department) checks the repayment of debts, if these have not been repaid, or have been only partially repaid; this body offsets the debt against payments or recovers the debt.
DK	Yes. There is a permanent internal audit of amounts recovered by the managing and certifying authorities; checks are also carried out by the internal audit authorities and the national external audit authority.
DE	Yes. The recovering authorities such as Land or Federal courts of auditors
EE	Yes. Follow-up activities after project audits are carried out via the SFOS (database on SF projects). No (follow-up) audit is carried out on the implementation of recommendations, but an assessment is made in the course of follow-up activities of whether the recommendations in the audit findings, including recovery in respect of ineligible expenditure, have been implemented. Information on recoveries is checked by the paying authority after it has been entered into the information system.

<b>Member State:</b>	<b>3.2.2 Are the recovery figures checked/audited after the recoveries are completed? If Yes, please point out the main audit authorities performing such audits.</b>
IE	Yes. Irish Comptroller & Auditor General Departments Internal Audit Units ESF Financial Control Unit EU Commission and the European Court of Auditors The Department of Agriculture, Fisheries and Food Deloitte & Touche (currently the D/AFF independent Certifying Body as per Reg 885/2006) The Department of Enterprise, Trade and Employment
EL	Yes: a. the Financial Control Committee, which is responsible for collecting details of the irregularities uncovered during the course of the checks carried out by itself and the competent authorities and forwarding these details to OLAF; b. the paying authority, which is responsible for forwarding the recoveries register, and c. the tax offices, which are responsible for the collection of amounts overpaid.
ES	Yes. The various managing and paying agencies keep registers which make it possible to monitor the recovery of payments in the event of irregularities in their various spheres of competence. The State Audit Department and the Autonomous Communities' internal control bodies carry out checks on these monitoring systems.
FR	Yes. They are: the Court of Auditors, the Inspectorate General of Finance, the Inspectorate General of Administration, the Inspectorate General of Social Affairs, the General Council on Agriculture, Food and Rural Areas, the Inspectorate of Customs Administration Services. For agricultural funds, the Commission for the Certification of the Accounts of the Paying Agencies.
IT	Yes. The administration constantly monitors irregularities detected and inspections carried out by other competent bodies (managing authority and certification authority). Where the CAP is concerned, an audit is carried out by each paying agency and certification body. The Court of Auditors analyses the breaches found and the ways in which subsequent recoveries are pursued.
CY	Yes. The Cypriot Agricultural Payments Organisation (KOAP) for matters relating to agricultural payments. Regular accounting and auditing for matters relating to the Customs Department. The Treasury via the Paying Authority for matters relating to the Structural Funds, Cohesion Fund and European Fisheries Fund.
LV	Yes. The Responsible Institution, the Co-operation Institution, the Paying Authority, the Certifying Authority and the Audit Authority.
LT	Yes. The National Audit Office, managing authority, certifying authority, intermediate body, implementing body and internal audit units.

Member State:	<b>3.2.2 Are the recovery figures checked/audited after the recoveries are completed? If Yes, please point out the main audit authorities performing such audits.</b>
LU	<p>Yes.</p> <p>Ministry of Agriculture: when recovery is completed, the type of procedure involved is recorded, which guarantees the transparency of the recovery process. Moreover, when accounts are being inspected by external auditors, a certain percentage of the recoveries is checked again.</p> <p>Authority which performs these audits: Ministry of Agriculture. External audit: KPMG, under the authority of the General Finance Inspectorate (audit authority)</p> <p>Ministry of Economic Affairs / ERDF: national authorities performing the audits: ERDF managing authority and General Finance Inspectorate. European authorities: European Commission and/or European Court of Auditors.</p> <p>Ministry of Labour and Employment – ESF: the managing authority checks that recovery has been made once payments resume (which were blocked as a result of audits).</p> <p>The General Finance Inspectorate can verify the relevant data in the context of its audits on the management and control system in place.</p>
HU	<p>Yes. Government Audit Office, Inspection Authority, Ministry of Finance National Programme Authorisation Office, Certifying Authority, State Audit Office, Ministry of Agriculture and Rural Development Department of Accreditation and Audit, Inspection Authority</p>
MT	<p>Yes. The Internal Audit and Investigations Division (IAID) is the Audit Authority performing such audits. Cases in points are the winding up assignments performed by the Audit Authority in which it examines whether recoveries have been settled and the irregularities solved satisfactorily.</p>
NL	<p>Yes. They are checked under the procedures described in Article 71 and can be audited.</p>
AT	<p>Yes. Customs: Customs authorities, Finance Ministry internal audit, AT Court of Auditors. BMLFUW: Paying authority for EAGF/EAFRD expenditure. The paying authority has a special department for the recovery of claims. Procedures and financial figures are checked by the paying authority's internal audit and the competent certification body in accordance with Reg. 885/2006. Structural Funds: certifying authority; audit authority; Federal Financial Prosecutor.</p>



<b>Member State:</b>	<b>3.2.2 Are the recovery figures checked/audited after the recoveries are completed? If Yes, please point out the main audit authorities performing such audits.</b>
PL	Yes. Expenditure: Managing authorities, intermediate bodies, 2 <sup>nd</sup> level intermediate bodies, the certifying authority, the audit authority, the Supreme Chamber of Control, treasury control offices, regional audit chambers, the Ministry of Agriculture and Rural Development; (and for the period 2004-06 - the Paying Authority and the Winding-Up Body); Revenue: regional customs chambers' internal control and audit units.
PT	Yes. In addition to, of course, the audits carried out by EU authorities and bodies, the recovery of funds is also audited at internal level by the following authorities: - Inspeção-Geral de Finanças (Inspectorate-General of Finance – horizontal level); - 2 <sup>nd</sup> level Audit bodies within the national control system; as well as internal audit services when applicable.
RO	Yes. Audit Authority attached to the Romanian Court of Auditors
SI	Yes. Officials of the General Customs Directorate carry out internal expert control. The Control Department of the General Customs Directorate, the Court of Auditors of the Republic of Slovenia, the Budget Supervision Office, and internal audit services.
SK	Yes. The audit authority (Ministry of Finance of the Slovak Republic) and the bodies cooperating with it; the Supreme Audit Office of the Slovak Republic (winding-up body for the 2004–2006 programming period).
FI	Yes. The Agency for Rural Affairs (MAVI)
SE	Yes. Checks and audits are primarily done by national authorities, such as internal audit services of respective institutions, the audit authority, controls by customs authorities and The Swedish National Audit Office.
UK	Yes. NI: Through Paying Authorities and Article 15 Winding Up Bodies for the 2000-06 Programme period and through Certifying and Audit Authorities for the 2007-13 period. S: The Audit Authority will perform such audits. For EAGF & EAFRD, this is contracted by the UK National Audit Office (NAO) to Audit Scotland. BIS: The audit bodies of each Authority responsible for Structural Funds. CLG: IAS for Article 10/15 and programme audits; and Article 4 teams in Government Offices, when carrying out verifications. RPA: Where payment is made, the County Court register is amended to include this information. Checks are also made by: Internal Audit, the NAO (Certifying Body / Exchequer Accounts) and by EC Auditors.

<b>Member State:</b>	<b>3.2.3 Is there at the national level a threshold under which there is no recovery order? (The question refers to all irregular amounts being paid of revenue and expenditure side of EU budget) If Yes, what is this threshold?</b>
BE	Yes: OPW: Recovery where the total amount is less than or equal to €100, per request to which recovery relates, not including interest; BIRB: €30. No: SPF FINANCES: SPF ECONOMIE: ALV: No BRUXELLES CAPITALE (PO FSE): BRUXELLES CAPITALE (PO FEDER): WALLOON REGION: FRENCH COMMUNITY: AGENCE FSE: FLEMISH COMMUNITY: a) EFRO Vlaanderen: GERMAN-SPEAKING COMMUNITY:
BG	No
CZ	No
DK	Yes. DKK 100 (see Section 1, paragraph 2 of Order No 1365 of 19 December 2008 on the recovery of amounts owed to the public authorities.
DE	Yes. This differs from one Land to another
EE	The Implementing Bodies may disclaim a recovery when it is less than 50 kroons (€ 3.20) and the amount will be covered by the interests and fines already paid.
IE	No
EL	No
ES	Yes. It is not uniform at national level. Threshold: €30.
FR	Yes. Limit of €30 set by national regulation.

<b>Member State:</b>	<b>3.2.3 Is there at the national level a threshold under which there is no recovery order? (The question refers to all irregular amounts being paid of revenue and expenditure side of EU budget) If Yes, what is this threshold?</b>
IT	Yes. The minimum threshold may not be lower than EUR 12.
CY	Yes. For the Customs Department a threshold of EUR 10 applies.
LV	Yes. Expedience and efficiency of the process of recovering irregular expenditure is evaluated within the EU Structural Funds and the Cohesion Fund and, if the administrative and other expenses related to the recovery of irregular expenditure exceed the recoverable amount, in accordance with the contract on the EU Funds project implementation, the irregular expenditure may be written off as costs, unless the recoverable amount per project exceeds LVL 50.00. Under the Rural Funds, the limit is LVL 65.00.
LT	Yes. EUR 100 (per measure, application and agreement)
LU	Yes (Ministry of Agriculture): The Ministry of Agriculture follows chapter 1bis of amended Regulation (EC) No 885/2006 which exempts irregularities of up to €100 per beneficiary, per aid, per year from recovery. No (Ministry of Economic Affairs / ERDF, Ministry of Labour and Employment – ESF)
HU	No
MT	Yes. Euro100 (Agricultural Funds) Not via national law
NL	Yes. €100 for agriculture + other funds no threshold
AT	Yes. No except BMLFUW: EUR 100 under IACS implementing Regulation.
PL	Yes. For CAP purposes: principal: €100, interest: €50
PT	Yes. The threshold is €25.
RO	No
SI	Yes. EUR 10
SK	Yes. EUR 5, unless there is a breach of financial discipline.
FI	Yes. 3 euros or 10 euros depending on the area
SE	No

<b>Member State:</b>	<b>3.2.3 Is there at the national level a threshold under which there is no recovery order? (The question refers to all irregular amounts being paid of revenue and expenditure side of EU budget) If Yes, what is this threshold?</b>
UK	No. Except there is a threshold for bankruptcy proceedings and Company Liquidation proceedings.

<b>Member State:</b>	<b>3.2.4 Is the recovery order enforceable (the recovery order as such as a legally bounding act that allows for direct recovery of the irregular amounts without further steps being necessary to enforce it - such as a court order)? If No, explain the reasons.</b>
BE	<p>Yes:</p> <p>SPF FINANCES: Customs and excise Yes, but only if the recovery order is a distraint order (Article 314(1) of the General Act on Customs and Excise: Precautionary enforcement ('Exécution parée') is implemented by means of a distraint order, issued by the tax collector responsible for recovery. The distraint order is approved and made executable by the Regional Director of Customs and Excise or by an official designated by him").</p> <p>a) ALV: Yes, governed by Article 2(4) of the Decree of 22/02/1995 governing the recovery of non fiscal debts for the Flemish Region in institutions under its authority: "... declared executable by the official in the Ministry of the Flemish Community authorised to do so by the Flemish Government and is served by a bailiff".</p> <p>b) OPW: Yes, if sent by registered post if the debt is not contested.</p> <p>BRUXELLES CAPITALE (PO FSE): FLEMISH COMMUNITY:</p> <p>a) ESF-VL b) EFRO Vlaanderen: If sums of recovery claimed are not received by the managing authority, the file is passed to the Flemish Central Recovery Cell (see Annex 12). Where appropriate, the Cell will proceed to issue formal notice and take further steps to enforce payment through the courts.</p> <p>No:</p> <p>BRUXELLES CSPF ECONOMIE: BIRB: No The Birb is a public body that is regarded under Belgian law as an ordinary individual in its relations with those under administration: there is no preferential claim.</p> <p>BRUXELLES CAPITALE (PO FEDER): WALLOON REGION: FRENCH COMMUNITY:</p>

<b>Member State:</b>	<b>3.2.4 Is the recovery order enforceable (the recovery order as such as a legally bounding act that allows for direct recovery of the irregular amounts without further steps being necessary to enforce it - such as a court order)? If No, explain the reasons.</b>
	AGENCE FSE: GERMAN-SPEAKING COMMUNITY: Regions: Only decisions by a court of law are enforceable; the recovery order does not become enforceable until after notification of the judgement.
BG	No. Only when the funds are paid by budgetary bodies and may be offset against subsequent transfers from the central budget at the request of the certifying bodies or the national authorising officer.
CZ	Yes
DK	Yes
DE	No. There is always the possibility of referral to the courts
EE	Yes
IE	Yes
EL	Yes
ES	Yes
FR	Yes
IT	Yes
CY	No. In accordance with national law it is an enforceable administrative act which can be contested on the basis of Article 146 of the Constitution. For matters relating to the Customs Department, the answer is yes.
LV	Yes
LT	Yes
LU	Yes. General remark: economic operators can lodge an appeal against the recovery procedure with the administrative court. The court's rulings in such cases are binding.
HU	Yes

<b>Member State:</b>	<b>3.2.4 Is the recovery order enforceable (the recovery order as such as a legally bounding act that allows for direct recovery of the irregular amounts without further steps being necessary to enforce it - such as a court order)? If No, explain the reasons.</b>
MT	No. Once a recovery order is not enforceable, the Authority has to open a Court case to enforce recovery.
NL	Yes
AT	No. Customs and BMLFUW: yes. Structural expenditure: no.
PL	No. Obtaining of a court payment order is necessary depending on the legal procedure on basis of which the payment was granted and the mode of debt recovery (in respect of expenditure).
PT	Yes
RO	Yes
SI	No. The Execution of Judgments Act specifies the characteristics that a document must have in order to become enforceable. A final judicial decision is enforceable. On the basis of an enforceable decision, a customs authority may directly issue a decision on enforcement covering the debtor's funds, claims, cash benefits, securities and movable property. Execution is authorised by the court conducting the procedure.
SK	Yes
FI	Yes
SE	No. Steps can be taken only when the case (and the recovery order) has become non-appealable. This takes place three weeks after communication. In the event of appeal, the case is stayed and no recovery takes place.
UK	Yes BIS, Scotland, HMRC RPA: Only where a Statutory Demand has not been satisfied, but this is only an appropriate means where no dispute exists over the debt; in which situation, the only remedy available is bankruptcy or Company Liquidation.  No NI: Recovery order process amount can be repaid as an offset or from other expenditure sources.

<b>Member State:</b>	<b>3.2.5 A forecast of revenue is useful in order to preliminary estimate a potential amount to be recovered when recovery actually starts. Does your national legislation or guidelines contain provisions requiring that such forecasts be registered in the national accounting system prior to the start of recovery? (The question refers to the expenditure side of the EU budget) If Yes, describe how this process works, and also how the recovered amount can be cancelled from the national accounting system if they are no longer valid.</b>
BE	Yes: Yes, this forecast exists for the budget of ways and means, in general terms. However, it is a simple accounting forecast as such. This forecast does not exist as regards a particular recovery.
BG	No
CZ	Yes. The discovery of a suspected irregularity is recorded in the monitoring system with a detailed description leading to the suspicion of an irregularity, including financial indicators; after this, the relevant Financial Institutions carry out a tax check which either confirms or does not confirm the irregularity. These materials are sent to the managing authority (or the NO in the case of OPPS) and it then confirms the irregularity. According to the Monitoring and Control the managing authority (or the NO in the case of OPPS) is responsible for calculating the amount to be recovered; alternatively, in the case of, for example, a breach of budgetary discipline, the calculation is done by the SZIF. The amount is recorded in the IT system. The SZIF recovers under the CAP all amounts exceeding the amount of the Commission Regulation (EC) No 885/2006.
DK	No
DE	No
EE	No
IE	No
EL	No
ES	No
FR	No
IT	No
CY	No
LV	No
LT	No
LU	No
HU	No
MT	No
NL	No
AT	Yes. Customs and BMLFUW: no. RDF: every potential recovery claim is recorded and monitored in the ESF: entered as a claim in the Federal accounts system.
PL	No
PT	Yes. Revenues cannot be intentionally quantified by default (principle of prudence). Debts to be recovered are recorded in the accounts only when the recovery starts. The IGFSE (Managing institute for the European Social Fund) informs the IGFSS (Social Security Financial Management Institute) every year of the forecasts for the recovery which are entered under headings of the social security budget.
RO	No
SI	No
SK	Yes. The accounting system (ISUF) shows the exact amount of the claim; this also applies in the case of a decision handed down in an administrative procedure may adjust the amount of the claim on the basis of the administrative procedure.



<b>Member State:</b>	<b>3.2.5 A forecast of revenue is useful in order to preliminary estimate a potential amount to be recovered when recovery actually starts. Does your national legislation or guidelines contain provisions requiring such amounts to be registered in the national accounting system prior to the start of recovery? (The question refers to the expenditure side of the EU budget) If Yes, describe how this process works, and also how the amounts recovered can be cancelled from the national accounting system if they are no longer valid.</b>
FI	No
SE	No
UK	No RPA, Scotland, NI, HMRC