



III

Ministry of Finance

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# NATIONAL STRATEGY

## FOR THE PROTECTION OF THE EUROPEAN UNION'S FINANCIAL INTERESTS



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## PROCESSING OF THE DOCUMENT

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## OVERVIEW OF CHANGES MADE

This is the first revision, i.e. the second version of the National Strategy for the Protection of the European Union's Financial Interests (hereinafter the "National Strategy"). As the document has been considerably restructured, the table of changes / additions is not filled in on technical grounds.

Version	Chapter	Description of the change/ addition	Effective date
1	Entire document	Creation of a new document	01.06.2008
2	Entire document	The entire text restructured and revised	01.09.2017



## ENTRY INTO FORCE AND BINDING NATURE

The National Strategy was approved in Government Resolution No 535 dated 14 May 2008. This modified version of the National Strategy is presented within the scope of authorisation pursuant to Art. V of the Government Resolution. It is binding for all entities of the implementation structure and bodies involved in the protection of the European Union's financial interests in the Czech Republic (hereinafter "CR").

The National Strategy was prepared in compliance with the Union and national legislation.

The National Strategy is designed for the programming period 2014 - 2020.

Following the single methodological environment for the area of European structural and investment funds (the "ESIF"), the definitions of terms are aligned with the Methodology of Programme Management in the Programming Period 2014 - 2020, Annex 2, issued by the Ministry of Regional Development ("MoRD").

The Ministry of Finance ("MoF") shall publish this release and any subsequent revisions to the National Strategy on the MoF website.

This document becomes effective on the first day of the month following the month in which it was published on the MoF website. The effective dates of revisions of the National Strategy will normally be the first day of the month following the release of the version concerned. The extent of the changes will always be considered so that the entities have enough time to apply the changes in the implementation.

The National Strategy will be updated as necessary based on legislative developments and ongoing assessment of the achievement of objectives. In between the updates, methodological opinions of the Minister of Finance, which are binding for the implementation structure bodies, will be issued in urgent cases.

The current National Strategy reflects the legislation relating to the new programming period 2014 - 2020 and redefines the jurisdiction and competence of the coordinating services to combat fraud<sup>1</sup>. That role is played in CR by MoF - the Central Contact Point of the AFCOS network (the "CCP AFCOS").

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<sup>1</sup> Regulation of the EP and of the Council (EU, Euratom) No 883/2013, Article 3(4): *Member States shall, for the purposes of this Regulation, designate a service ('the anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, in accordance with national law, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation.*



## 1. INTRODUCTION

MoF - CCP AFCOS is responsible for coordinating the design, monitoring, implementation and modification of the National Strategy.

At the end of the 2007 - 2013 programming period, a need arose to revise and evaluate the National Strategy.

Regarding this second version of the National Strategy, the revision closely involved, apart from CCP AFCOS, also the Supreme Public Prosecutor's Office ("SPO"), General Customs Directorate ("GDC"), the Ministry of Interior (the "MoI") / Police of the Czech Republic ("PCR"), the Office of the Government ("OG") and the Czech National Bank ("CNB").

The core of the National Strategy is the setting of control mechanisms to ensure the prevention of irregularities in the area of financial control, including internal audit, fight against corruption, reporting and investigation of irregularities and their correction, including the recovery of funding affected by irregularities and to ensure the return of the recovered EU funds to the EU budget.

The area of protection of EU's financial interests covers many important topics. The document maps the state of play in this topic in CR; it describes the opportunities for cooperation and coordination among the implementation structure bodies, evaluates the previous programming period and provides concrete measures to implement tasks in the 2014 - 2020 programming period. The text is supplemented with three annexes (Annex 1 Legal Framework, Annex 2 Action Plan, and Annex 3 the National Strategy in the context of documents concerning the protection of EU's financial interests).

Implementation of the National Strategy will not have an immediate impact on the state budget; the measures will be implemented within the existing agendas of the bodies involved.

## 2. OBJECTIVE OF THE NATIONAL STRATEGY

**The main - general objective** of the National Strategy is:

to ensure consistent protection of EU financial interests in CR, required by Articles 310 and 325 of the Treaty on the Functioning of the European Union ("TFEU") and to protect and use most effectively the funds that will be provided to CR from the EU budget in each programming period. The protection means prevention of damage or threat to the EU financial interests, in particular through fraudulent activities and international economic and financial crime, or effective sanctions when necessary.

Pursuant to Art. 317 of TFEU, Member States ("MS") cooperate with the Commission to ensure that the budget funds are used in accordance with the principles of sound financial management. These principles are specified in Articles 30-33 of Regulation of the European Parliament ("EP") and of the Council (EU, Euratom) No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (hereinafter "the Financial Regulation"). Sound financial management is linked to compliance with the principles of efficiency, effectiveness and economy (the "3E principle") and the implementation of effective and efficient internal controls.

According to Art. 59(2) (b) of the Financial Regulation, MS are responsible under shared management for preventing irregularities and fraud, their detection and correction. MS are obliged to introduce management and control systems to ensure sound financial management, transparency and non-

discrimination. MS impose effective, proportionate and dissuasive sanctions on the beneficiaries of funds (if set so in the sectoral rules and specific provisions of national law).

The National Strategy focuses on the whole income and expenditure cycle.

To achieve and safeguard that objective, CR applies, same as the other EU Member States, **the cycle of combating fraud / irregularities** - a strategic approach based on four pillars:

- prevention,
- detection of irregularities,
- investigation,
- recovery and correction (imposing sanctions).

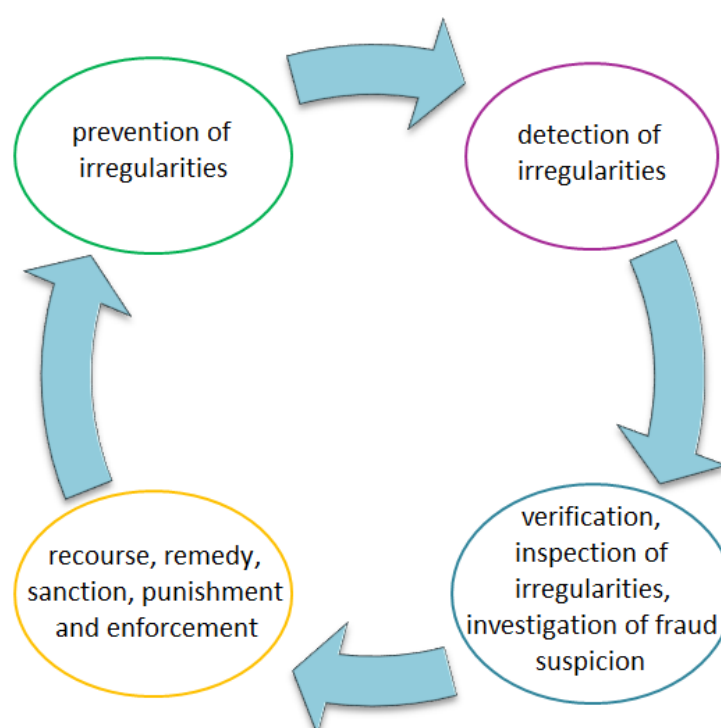


Figure 1: The cycle of combating fraud / irregularities

**The specific objectives include:**

- to introduce appropriate and effective measures to prevent fraud with regard to the identified risks, and to increase the effectiveness of measures already in place,
- to improve and streamline mechanisms for detecting, investigating and recovering of unduly paid funds; improve and streamline mechanisms for detecting, investigating and recovering of evaded (or unrecovered) income,
- to continue in effective sanctioning and to achieve its deterrent effect (educational measures),
- to increase the transparency of information on EU funds spending and on irregularities reported<sup>2</sup>,
- to increase public awareness of cooperation with OLAF.

<sup>2</sup> Regarding ESIF, the publication of information on beneficiaries of subsidies is a regulated process under Art. 35 of the Financial Regulation; for funds of the Common Agricultural Policy, it is procedure under Art. 111 and 112 of Regulation of EP and of the Council (EU) No 1306/2013 and Art. 59 of Commission Implementing Regulation (EU) No 908/2014.

To meet the objectives of the National Strategy, it is necessary to set up and effectively apply:

- general legislation on the fight against fraud,
- operational cooperation in the prevention, detection, reporting, investigation and treatment of irregularities, the recovery of unduly paid funding from the EU funds and the imposition of sanctions, and in evaded (or unrecovered) income,
- interministerial approach to preventing and combating corruption,
- expansion of the criminal judicial dimension<sup>3</sup>.

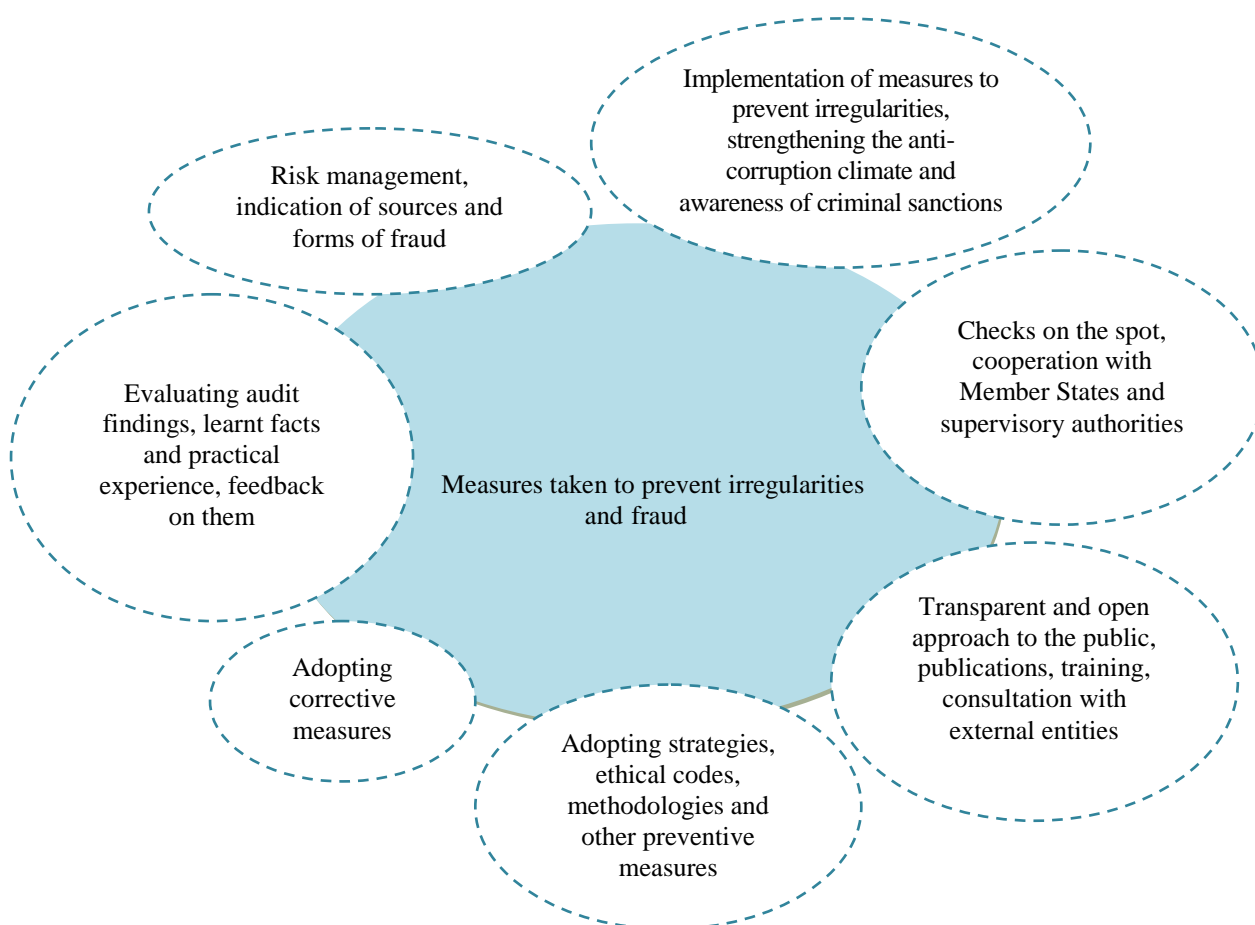


Figure 2: Measures of administrative and legislative nature taken to prevent irregularities and fraud

By failing to adopt or approve the National Strategy, the Czech Republic puts itself at risk of compromising the basic principles of the TFEU that lie in ensuring the fulfilment of the obligation of consistent protection of EU's financial interests by MS and in using European and national funds in accordance with the 3E principle. That could also lead to the Czech Republic being perceived as an unreliable and untrustworthy partner among MS.

<sup>3</sup> Already defined in the Commission Action Plan for 2001 - 2003 (COM 2000-358) of June 2000.



	+	-
<b>Internal factors</b>	<b>Strengths</b> <ul style="list-style-type: none"> <li>• Securing protection of the EU financial interests in the Czech Republic</li> <li>• Objective approved by the Government</li> <li>• EC also sees the need of adaptation in the Czech Republic</li> <li>• Up-date pursuant to the newest legislation development for programming period 2014 - 2020</li> <li>• Increase of the Czech Republic's attraction for foreign investors</li> <li>• Stabilisation of administrative capacities</li> </ul>	<b>Weaknesses</b> <ul style="list-style-type: none"> <li>• The National Strategy cannot cover all areas in detail</li> <li>• In case of the National Strategy absence there would be a negative evaluation of the CR in the EC reports</li> <li>• Due to the use of national language the usability is reduced for sharing of good practice among the MS.</li> <li>• Costs for administration and functioning of necessary information systems.</li> </ul>
<b>External factors</b>	<b>Opportunities</b> <ul style="list-style-type: none"> <li>• Positive perception of the Czech Republic within the area of combating fraud</li> <li>• Reinforcement of the EU financial interests protection</li> <li>• Reinforcement of improved perception of the law enforcement within other areas</li> <li>• Improvement of the positive perception of EU funds in the Czech Republic</li> <li>• Extending cooperation among involved entities</li> </ul>	<b>Threats</b> <ul style="list-style-type: none"> <li>• Acts not adopted and their late implementation</li> <li>• Inconsistent observance of the National Strategy by involved entities</li> <li>• Change of political direction and priorities</li> <li>• Distribution of information on fraud detection can lead to invention of new fraudulent techniques</li> <li>• Lack of quality human resources</li> </ul>

## 2.1 Prevention

**Prevention** plays a very important role in the cycle of fight against fraud. Effective prevention can significantly reduce the risk of irregularities and damage to the EU's financial interests<sup>4</sup>. It is much cheaper to prevent irregularities than to correct their consequences.

The individual managing authorities ("MAs") primarily focus on measures to reduce the risk of the occurrence of irregularities to a minimum. The emphasis is put on a correct setting of control mechanisms. MAs should prevent irregularities and fraud already when setting the conditions of implementation (clear rules for granting subsidies and the setting of implementation processes within the MA) to reduce the likelihood of irregularities.

It is necessary to focus on verification and assessment of the adequacy and effectiveness of the already established system of protection against possible irregularities, fraud and corruption, including its possible adaptation to the given conditions in all entities involved in the implementation process, according to established internationally recognized standards (e.g. COSO, AIIA etc.).

The aim of the standards is to define and enforce a uniform approach to the content of the system of internal management and controls and to ensure:

- effectiveness and efficiency of operational activities,
- compliance with legal and regulatory requirements,
- reliability of financial reporting and management reporting,
- security of assets and information.

<sup>4</sup> Using the procedure pursuant to Art. 32(2)(d) of the Financial Regulation: "For the purposes of the implementation of the budget, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives: prevention, detection, correction and follow-up of fraud and irregularities."





A clearly and effectively set control process and strong managerial accountability are a prerequisite of an effective fight against fraud.

As part of strengthening the anti-corruption climate, codes of ethics are adopted as preventive tools and compliance with them is required. Representatives of EU institutions and national authorities involved in the implementation of EU funds must adhere to high standards of ethical behaviour and integrity. It is necessary to continually emphasise the principle of zero tolerance towards fraud and corruption, to strengthen transparency, awareness of criminal sanctions for corruption. The forms and sources of corruption are mainly indicated as part of control activities<sup>5</sup>.

Furthermore, pursuant to Art. 32(3) (c) of the Financial Regulation, the role of the internal control system is to prevent conflict of interest. Public procurement is one of the major areas of public administration, where conflicts between public and private interests may occur. Conflict of interest is one of the fundamental conditions for the formation of corruption. Prevention of corruption and the possibility of its detection and prosecution in the area of public procurement must therefore be one of the main purposes of the public procurement legislation.

The prevention pillar should include the early detection and exclusion system<sup>6</sup> ("EDES"), established and run by the European Commission. From 1 January 2016, EDES replaces the central exclusion database ("CED"), defined in Commission Regulation No 1302/2008. The point of contact responsible for sending information to the CED is MoF, based on Government Resolution No 941 dated 20 July 2009. Based on the procedure under this Regulation, MoF transmits information on persons lawfully sentenced for crimes damaging the financial interests of the EU and on obliteration of the sentence. The Ministry of Justice ensures<sup>7</sup> that individual courts provide information on definitive convictions for selected criminal offenses affecting the Union's financial interests. At the same time, the Criminal Record informs MoF about the deletion of a sentence.

While CED focused only on the exclusion of persons lawfully sentenced for selected crimes, EDES seeks to intervene already at the stage of identification of the risks.

The new EDES system aims to facilitate:

- early detection of risks affecting the financial interests of the Union,
- elimination of economic operators that are in any of the exclusion situations,
- imposing financial penalties on economic operators.

The database will be filled by the Commission on the basis of evaluation of the findings from its own audits and during OLAF investigations.

In the context of the EDES, the Czech Republic is obliged not only to protect the financial interests but also detect and correct irregularities and fraud, and to pass information to the Commission about those irregularities / frauds through the Irregularity Management System ("IMS"). The contact point for EDES in CR remains to be MoF, or the CCP AFCOS. CCP AFCOS is currently working on the possibility of using the information contained in EDES for CR, and of allowing access for authorised users.

<sup>5</sup> Interpretation of Commission COCOF On the Commission Anti-fraud Strategy COM (2011) 376 ("COCOF") Section 2.2.2. *"OLAF should be involved in the process of combating fraud at an early stage."*

<sup>6</sup> Setup and operation of the EDES is regulated in Art. 105a - 108 of Regulation of the EP and of the Council (EU, Euratom) No 2015/1929 and Art. 143 of Commission Delegated Regulation (EU) No 2015/2462.

<sup>7</sup> Ministry of Justice Instruction No 1/2002, ref. No 505/2001-Org (internal and office rules) for the district, regional and high courts, in Section 99 par. 2 and Annex 3 point 27.



Another preventive measure is the Database of Audit Findings ("DAF") in the information system MS2014+, the first module which MoRD has filled since 2017<sup>8</sup> with crucial decisions of the Office for the Protection of Competition (the "OPC") and of the courts in the area of public procurement. The module serves as prevention of the most common errors in applying for financial support and is available to all applicants / beneficiaries. Another benefit of the DAF should be regular sharing of experience in the area of controls and audits among the EU-funds implementation structure bodies.

The Commission supports MS in efforts to combat fraud through the Hercule III programme<sup>9</sup>. This financial instrument of the Commission is focused mainly on cooperation between OLAF, national authorities and other European institutions and bodies involved in the area. The programme can co-finance projects aimed at the acquisition of specialised equipment, and a database preventing contraband trade, smuggling, piracy and other criminal activities detrimental to the interests of the EU. It is also possible to spend its funds on educational activities, exchange information and experience of good practice through seminars, conferences and, last but not least, on training for staff working in the fight against fraud, including smuggling and counterfeiting of cigarettes. CR used this programme in the past (see Chap. 5.2, 6.2).

In the fight against euro counterfeiting, the Commission supports MS in the programming period 2014 - 2020 through the Pericles 2020 programme<sup>10</sup>. It is an exchange, assistance and training programme aimed to strengthen the protection of euro banknotes and coins in Europe and worldwide. The Czech Republic does not use this programme (for more see Sec. 3.3).

In order to spread awareness of the achievements and activities of the EU and national authorities carried out in the fight against fraud, OLAF has established a working group OAFCN (OLAF Anti-Fraud Communicators' Network) designed especially for employees of PR departments. CR (MoF) is a full member of that group and takes an active part in it.

## 2.2 Detection of irregularities

In **detecting irregularities**, bodies involved in the implementation of financial assistance from EU funds shall ensure that the most efficient use is made of all possibilities, such as a comprehensive system of controls, databases and other IT tools and, last but not least, human resources.

An important part of this pillar is regular reporting of irregularities.

The Czech government is committed to revealing irregularities at the fullest possible extent and to ensuring that all identified cases undergo proceedings leading to rectification of the undesirable situation and that offenses connected with irregularities are sanctioned. Therefore, it is necessary to use all the resources and possibilities that will help detect irregularities.

Most irregularities are detected by inspection activities. Effectiveness of controls can be increased through consistent cooperation, exchange of experience and information, organisation of meetings / working groups to coordinate control plans of individual ministries and other entities. Draft Act on Management and Control of Public Finances (hereinafter "AMCPF") establishes the obligation to send plans and to coordinate controls so as to avoid unjustified duplications (Section 11 para. 7). For this purpose, the information system of financial control in public administration should operate a

<sup>8</sup> Department of the law on public procurement and concessions

<sup>9</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2014:084:TOC>

<sup>10</sup> [http://eur-lex.europa.eu/legal-content/CS/TXT/?uri=uriserv:OJ.L\\_.2014.103.01.0001.01.CES](http://eur-lex.europa.eu/legal-content/CS/TXT/?uri=uriserv:OJ.L_.2014.103.01.0001.01.CES),  
<http://eur-lex.europa.eu/legal-content/CS/TXT/?uri=CELEX:32015R0768>



Module for Coordination of Planning of Financial Support Controls to which MAs, intermediate bodies ("IBs") and other selected control authorities will be obliged to enter semi-annual inspection plans. The module will automatically coordinate the entered plans and will warn of possible duplicate inspections and checks on the spot scheduled for the inspected person in the previous period<sup>11</sup>.

It is necessary that the individual ministries cooperate in the field of risk analysis, in determining the priority areas for controls, and that, in assessing the coherence of the focus of inspections, they pay increased attention to the risks identified in the particular areas. For that purpose, it is necessary to make full use of the existing information systems, for example MS2014+, IMS, CEDR, ISPROFIN or ARACHNE.

### 2.2.1 System of controls

The prevention and detection of irregularities is intertwined by a comprehensive system of controls. At the level of national legislation, the basic legal framework for the protection of financial interests is formed by Act No 320/2001 Coll., on financial control in public administration and amending certain laws ("the Financial Control Act"). The Act defines a system of financial control, the principles and criteria of the financial control system and its main objectives. The implementing regulation for the Act is Decree No 416/2004 Coll., issued by MoF and providing more details on the methods and procedures for exercising the various types of financial control. Another related element is Act No 255/2012 Coll., on control (control rules). It regulates the procedure of executive authorities, local governments, other authorities and legal entities or natural persons if they exercise their competence in the field of public administration, in controlling the activities of the executive authorities, local governments, other authorities, legal entities and natural persons.

In relation to financial control regarding the European funds it is to be noted that the management and control are the joint responsibility of the Commission and MS.

MS should ensure within the implementation structure:

- definition of the functions of the bodies involved in the management and control, and the allocation of functions within each body,
- observance of the principle of separation of functions between and within each entity (separation of the management, payment, certification and audit lines),
- procedures for ensuring the correctness and regularity of expenditure declared under the operational programmes ("OPs"),
- reliable accounting systems, monitoring systems and financial reporting systems in computerised form; a system of reporting and monitoring where the responsible body entrusts the execution of tasks to another body,
- arrangements for auditing the functioning of the system, systems and procedures to ensure adequate audit tools focusing on financial flows,
- procedures for reporting and monitoring irregularities and the recovery of unduly paid funds.

MoF is the central authority for financial control, which in accordance with the relevant provisions of Act No 2/1969 Coll., on establishment of ministries and other central government authorities of the Czech Republic, and in accordance with the Financial Control Act, methodically manages and coordinates the performance of financial control. In connection with OP implementation, MoF has partial responsibility at the level of the Paying and Certifying Authority ("PCA"), Audit Authority ("AA") and CCP AFCOS. Financial control under a specific OP is the responsibility of the relevant MA.

<sup>11</sup> For more see the Methodological Guideline for execution of controls under the responsibility of managing authorities in the implementation of the European Structural and Investment Funds for the period 2014 - 2020.



According to the Financial Control Act and in accordance with EU regulations, the system of financial control of operational programmes consists of:

- internal control system,
- control under the responsibility of the MA and the PCA,
- audit under the responsibility of the AA.

In the control system of the MA, the control system within the MA's responsibility and its management controls must be clearly separated from the internal audit system and the audit under the responsibility of AA.

Currently, the Chamber of Deputies of the CR Parliament approved a draft of the AMCPF, which should replace the Financial Control Act and be forwarded to the Senate. The purpose of the new Act is to revise the legal basis of the issue of management and control so that it is brought into compliance with the updated internationally accepted standards of internal management and control systems and with proven European practice. The aim of the bill is to meet the obligations and long-term needs of CR as a MS and to take into account experience from the application of the existing legislation.<sup>12</sup>

AMCPF should simplify the current confusing system and reduce the administrative burden on the providers as well as beneficiaries of subsidies. The mechanisms, which the bill will introduce, will allow for better and more transparent control of European and public funds. Furthermore, these mechanisms should limit the space for corruption, improve the functioning of public administration through tools such as risk management and comprehensive evaluation of projects. AMCPF defines the responsibility of specific bodies and persons for the management, maintenance and improvement of the system of management and control of public finances (Section 6).

Other bodies performing control / audit activities:

**a) Supreme Audit Office**

The Supreme Audit Office ("SAO") carries out independent inspections pursuant to the relevant provisions of Act No 166/1993 Coll., on the Supreme Audit Office, as amended<sup>13</sup>.

**b) Financial administration authorities ("FAA")**

Financial administration of CR is regulated by Act No 456/2011 Coll., on Financial Administration of the Czech Republic, as amended, as well as its position and competence. CR financial administration consists of a system of financial administration authorities: General Financial Directorate ("GFD"), Appellate Financial Directorate and the tax offices. Those bodies are subordinated to MoF. At the beneficiaries of aid from the various OPs, the FAAs perform activities related to breaches of budgetary discipline pursuant to Act No 218/2000 Coll., on budgetary rules, and Act No 280/2009 Coll., the Tax Code.

**c) Office for Protection of Competition**

According to Act No 273/1996 Coll., OPC is a central government authority with powers in the field of competition protection, supervision of public procurement, monitoring and coordination of State Aid and supervision over compliance with the Act on significant market power in the sale of agricultural and food products.

<sup>12</sup> The planned effective date of the AMCPF depends on the course of the legislative process, according to Section 47 of AMCPF, the effective date is set for 1 January 2018.

<sup>13</sup> Pursuant to Section 57 of the proposed AMCPF, findings from a management economic control or internal audit include recommendations from the results of ECA audits and SAO controls.

**d) *The Commission and the European Court of Auditors***

The Commission's aim is to make sure that management and control systems have been introduced and are effectively functioning in each OP. The Commission gains such assurance from annual control reports and opinions of the AA on those reports and based on findings from its own audits.

The European Court of Auditors ("ECA"), within its competency, performs independent and separate audits resulting from its scope of powers.

## 2.2.2 Reporting irregularities

The basic duty of every MS using EU funding in the implementation of European Structural and Investment Funds (the "ESIF"), the Fund for European Aid to the Most Deprived ("FEAD"), the European Globalisation Adjustment Fund ("EGF"), the Asylum, Migration and Integration Fund ("AMIF"), the Internal Security Fund ("ISF") and the Common Agricultural Policy ("CAP") is, based on the relevant European Parliament and Council regulations, to report irregularities detected.

For statistical purposes, OLAF deems fraudulent conduct to be a version of irregularity.

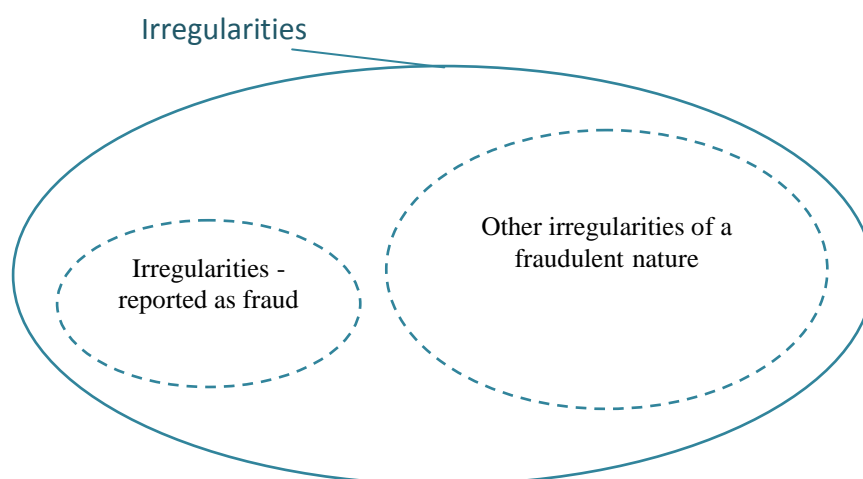


Figure 3: Irregularity vs. fraud

In a procedure pursuant to EU legislation<sup>14</sup>, MS are obliged to report to the Commission any irregularities in contributions from the funds in excess of EUR 10,000. At the same time, they inform the Commission regularly about substantial progress in the related administrative and judicial proceedings. Relevant EU legislation also defines situations where MS do not report irregularities to the Commission (so-called exemption from reporting).

The actual reporting of irregularities in the programming period 2014 - 2020 is detailed in the following documents:

**a) at the European level:**

- Commission delegated regulation governing the reporting of irregularities<sup>15</sup>,
- Commission Implementing Regulation specifying the frequency and format of reporting irregularities<sup>16</sup>,

<sup>14</sup> Regulation of the EP and of the Council (EU) No 1303/2013 ("Common Provisions Regulation"), Regulation of the EP and of the Council (EU) No 1306/2013, Regulation of the EP and of the Council (EU) No 514/2014, Regulation of the EP and of the Council No 223/2014.

<sup>15</sup> Commission Regulation (EU) 2015/1970, 2015/1971, 2015/1972, 2015/1973

<sup>16</sup> Commission Regulation (EU) 2015/1974, 2015/1975, 2015/1976, 2015/1977



b) at the national level:

- Methodological Guideline for financial flows of the programmes co-financed from the European Structural Funds, the Cohesion Fund and the European Maritime and Fisheries Fund for the programming period 2014 - 2020 (the "MGCF"),
- Methodological Guideline laying down a methodology for reporting irregularities on the external level to the European Anti-fraud Office (OLAF) for the programming period 2014 - 2020<sup>17</sup>.

The national-level documents are continuously updated.

The system for reporting irregularities in the Czech Republic is divided into the internal and the external level. The internal level refers to entities at the national level, i.e. especially reporting between entities involved in the implementation of an operational programme up to the level of the AFCOS network staff. The MAs are responsible for the correctness of the filled-out forms of the individual reported irregularities, they are obliged to consult and correct any deficiencies.

The external level of reporting irregularities follows up the internal reporting level and describes the information duty in relation to the Commission. In CR, the external level of reporting irregularities is ensured by CCP AFCOS and AFCOS local contact points ("LCPs AFCOS")<sup>18</sup>.

As the LCPs AFCOS are responsible for drafting and sending the reports to CCP AFCOS, or to OLAF, they are entitled to request from the MAs all relevant information on the individual cases. It is further desirable that the LCPs AFCOS within ministries / the City of Prague, in cooperation with the MAs, participate in setting up the work procedures and methodological interpretations (with the support of CCP AFCOS) relating to irregularities reporting on the external level.

The partner in the field of reporting irregularities to OLAF is, in the administrative-legal area, the CCP AFCOS, in the area of criminal law it is the SPO and for the revenue side of the budget it is GDC.

For reporting on irregularities arisen in the implementation of ESIF, FEAD and EGF, the internal level uses the information system MS2014+. For reporting on irregularities in connection with the AMIF, ISF and the CAP, the relevant bodies of the internal level use their own systems. Reports falling within the external level for all the above funds are entered into IMS.

If an irregularity in the form of fraudulent or other conduct establishing suspicion of a committed crime is reported to OLAF, or if further steps are taken in the form of lodging a complaint in accordance with the legal obligation of a State authority under Section 8 para. 1 of the Criminal Code, the authority submitting the report on an irregularity (MA) shall also inform SPO - Department of serious economic and financial crime (the AFCOS point of contact for criminal matters). The information shall be transferred by sending an irregularity report or complaint, unless such complaint has been filed directly by SPO.

In accordance with the obligations of MS, arising from Art. 8 of Regulation of EP and of the Council No. 883/2013 and then in the regular reports, SPO informs OLAF about criminal proceedings concerning the detected criminal-law irregularities, and provides additional information as requested.

<sup>17</sup> The guideline for external reporting of irregularities in the programming period 2007 - 2013 was also known as CHU - 12.

<sup>18</sup> The method of reporting irregularities is described in MGCF and a Methodological Guideline regulating the methodology of reporting irregularities at the external level.



GDC announces fraud and irregularities to the Commission pursuant to Art. 5 of Council Regulation (EU, Euratom) No. 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union. This notification obligation in respect of traditional own resources is implemented through the OWNRES system and concerns the reporting of fraud and irregularities exceeding EUR 10 000. Although the information transmitted is primarily intended for the Commission, OLAF has been allowed to use this application for its own analytical purposes.

#### Preventive measures:

- identifying and sharing good practice,
- raising awareness of the risks / kinds of fraud,
- providing consultancy in order to improve existing legislation,
- providing educational activities and creating manuals and handbooks for stakeholders (continuous improvement of the professional level helps to reduce potential errors<sup>19</sup>).

#### Revealing measures:

- reports on irregularities (a great emphasis is put on transparent information flow. Electronic systems are used to guarantee the control of data transmission and to increase the transparency of the process. Every employee of the implementation entities should have their own access data that are deactivated upon termination of service/ employment),
- setting multilevel controls (compliance with deadlines, accuracy and completeness of the data) and transparent organisational structure,
- identification of risk areas,
- formulating appropriate recommendations and adopting corrective measures.

## 2.3 Investigations

For the competent administrative authorities and enforcement authorities, it is necessary in the **investigation** phase to ensure seamless access to the necessary information in accordance with applicable laws. Equally important is the continuous cooperation between the institutions and entities that have the relevant documents and information and those that require it. An important role is played by the human factor - the inspectors, auditors, investigators, prosecutors should be continuously trained and educated in the topic.

One of the objectives of the CR government is to investigate and detect irregularities, corruption and fraud and other infringements. For that purpose it is necessary to use all available tools and options so that the investigation of frauds leads to rectification of the undesirable situation and to adequate sanctions.

It should be based on a broader definition of fraud (Art. 1(1) a), b) of the Convention on the protection of the European Communities' financial interests), where:

“a) Fraud in respect of expenditure shall mean any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of

<sup>19</sup> Interpretation of Commission COCOF On the Commission Anti-fraud Strategy COM(2011) 376 Section 2.2.4: "All staff working in project management and financial operations have a responsibility for fraud prevention and detection and should be sufficiently trained even in matters of the fight against fraud."





the European Communities or budgets managed by, or on behalf of, the European Communities,

- non-disclosure of information in violation of a specific obligation, with the same effect,
- the misapplication of such funds for purposes other than those for which they were originally granted

b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- misapplication of a legally obtained benefit, with the same effect.”

The definition implies a necessary condition for an activity to be fraudulent: **intentional act or omission** resulting in damage to the EU budget or public budgets of the Czech Republic.

To successfully protect the financial interests of the EU, it is necessary, among other things, for the entities involved in the fight against fraud to cooperate effectively (see Chapter 4 Coordination and cooperation).

The investigation of irregularities as part of the protection of EU's financial interests is ongoing at all levels of implementation of EU programmes under administrative management from the checks carried out by the MAs, through tax audits performed by tax offices and AA audits up to the acts conducted by law enforcement authorities.

## 2.4 Recovery of resources affected by irregularities and sanctioning

The Czech Republic is committed to combating fraud, corruption and any other illegal activities damaging the financial interests of the EU with the same zeal as when dealing with national resources. The reasons deterring potential perpetrators from their actions are effective **recovery of resources affected by irregularities and imposition of sanctions** (administrative, financial and criminal). It is also important to define the powers and responsibilities of the competent authorities, to set effectively the systems for recovery of the affected funding and to monitor the fulfilment of obligations arising from the sanctions imposed.

TFEU Art. 325 sets out the general criteria for sanctioning activities aimed against the financial interests of the EU in a particular country.

The Czech Republic has pledged that, in case of danger or damage to the EU's financial interests, it will exert the same effort to rectify the situation as it would to protect its own financial interests. MS are responsible for recovering amounts unduly paid, together with default interest and inform the Commission about the progress of administrative and court proceedings. If amounts unduly paid to a beneficiary cannot be recovered, the MS is responsible for reimbursing the amounts lost to the general EU budget when it is established that the loss has been incurred as a result of fault or negligence on its part.

In sanctioning, the primary responsibility is borne by the MA for the adoption of appropriate measures to remedy the situation and prevent further irregularities, mainly arising from systemic





irregularities<sup>20</sup>, if the irregularity occurred at the level of the programme MA, IB or aid beneficiary. In the event that the IB is also the provider, the IB remains responsible at its level for the provision of funds under the applicable laws of the CR.

The individual MAs should be aware of the common interests and goals. Cooperation should be helpful to law enforcement authorities in the detection, screening and investigation of crime in the area of misuse of EU funds. CR Police designated employees must be given access to information systems that register the individual grant applicants and to the information related to the subsidies received.

Persons responsible for the infringement may be punished in administrative or tax proceedings, for example by withdrawal of the subsidy, imposition of a levy for breach of budgetary discipline and by assessment of a penalty relevant to that levy. If their infringement meets the characteristics of a crime, they may be punished in criminal proceedings. In this area, it is important to inform the public about the prosecution of infringements as it may deter potential offenders from such infringements.

The grant providers can be released from secrecy by law enforcement authorities, in a procedure pursuant to Section 14 of Act No. 283/1993 Coll. on the Public Prosecutor's Office. Pursuant to Section 11 of Decree No. 23/1994 Coll., the Public Prosecutor's Office has the right to demand the lending of files, documents and explanations as necessary.

Concerning the breaking of confidentiality in the case of a tax administrator, it is possible to apply:

- Section 71a of Act No. 273/2008 Coll. on the Police of the Czech Republic, which allows a special unit of the police authority to request information acquired in course of the tax administration, not only for ongoing criminal proceedings but also in order to initiate criminal proceedings (screening)<sup>21</sup>,
- Section 11a of Act No. 17/2012 Coll., on Customs Administration of the Czech Republic, which allows a designated customs authority for the purposes of criminal proceedings or for the purpose of initiating criminal proceedings to request from the tax administrator information acquired in tax administration, if it is necessary for the performance of a specific task in the fight against crime in cases where the customs authorities represent enforcement authorities.

On the contrary, confidentiality is not breached if the tax administrator provides information obtained in tax administration for the purpose of criminal proceedings when requested by the prosecutor and, after filing a suit, by the court in connection with clarifying the circumstances indicating that any of the offenses listed in Section 53 par. 2 Act No. 280/2009., the Tax Code, as amended, has been committed.

As part of the administration of levies for breach of budgetary discipline, the tax office provides upon request information obtained in the administration of levies to the administrative body that decided on the provision of public funds pursuant to Section 44a par. 11 of Act No. 218/2000 Coll., on budgetary rules and amending certain related acts, as amended.

<sup>20</sup> In a procedure pursuant to Article 2(38) of the Common Provisions Regulation.

<sup>21</sup> The amendment to the CR Police Act returned to the enforcement authorities the option to gain, in criminal proceedings, access to information from tax proceedings, which has contributed to more effective taking of evidence of illegal profit from crime. Section 71a of Act No 273/2008 Coll. on the Police of the Czech Republic sets out that a specialised police unit designated by the Police President may, for the purposes of criminal proceedings or for the purpose of initiating criminal proceedings, request from the tax administrator information acquired in tax administration, if it is necessary for the performance of a specific task in the fight against corruption, terrorism, organised crime, tax, financial and serious economic crime and legalisation of proceeds from crime. The provision of information under that Section is not a breach of confidentiality according to the Tax Code. A Police body as an enforcement authority can in CR obtain information from tax proceedings in two ways: a) directly using the statutory authorisation referred to in Section 71a of Act No 273/2008 Coll. on the Police of the Czech Republic; b) through a supervising prosecutor on the basis of the statutory authorisation referred to in Section 8 par. 2 of Act No 141/1961 Coll. (the Criminal Code).



In connection with the use of EU funds in CR, tax offices assess levies for breach of budgetary discipline and appropriate penalties and they then recover those amounts. Similar activities are performed by the State Agricultural Intervention Fund ("SAIF") under the CAP and by the State Transport Infrastructure Fund pursuant to Section 3 para. 5 of Act No. 104/2000 Coll., on the State Transport Infrastructure Fund, which recover amounts of irregularities and impose sanctions. An important role in the recovery of funds affected by irregularity or breach of budgetary discipline to the budget is played by the MA itself.

The criminal law does not know the concept of irregularity. In the field of criminal law, serious forms of irregularities (not a mere administrative error) detrimental to the financial interests of the EU, are qualified and sanctioned as subsidy and customs fraud, fraudulent manipulation of public contracts and tender procedures, fraudulent making or altering of currency (counterfeiting of the euro) and use of the counterfeited and altered currency (EURO currency). The offenders' actions can be subsidiarily affected also with crime facts of participation, legalisation of crime proceeds, infringements of rules for stickers and other objects for identification of goods, misuse of officials' powers, obstruction of officials' tasks due to negligence, bribery, indirect bribery and others.

Currently, the European institutions prepare the establishment The European Public Prosecutor's Office ("EPPO"). The intention of its creators is to create a system of European institutions in the field of public lawsuit, with its scope of activities in the MS, in particular as for the supervision of investigation of crimes affecting the financial interests of the EU and the representation of prosecution in proceedings before national courts. The Ministry of Justice provides appropriate interaction to other state authorities in the discussion and preparation of this project which, in the future, could significantly affect with the criminal level of protection of the EU financial interests.

EPPO should have a close link to OLAF, based on mutual cooperation within the mandates of each office and on their exchange of information. Cooperation should be focused particularly on the use of all available resources to protect the financial interests of the EU, thanks to the principle of mutual complement and support. It will be very important to set the competences and mutual cooperation of both institutions so that their action is most effective.

Within CED, respectively EDES the persons convicted for offenses affecting the financial interests of the EU are excluded from their participation in the public procurement or grant procedures.

Regarding other possible recourse, the following legislation can be mentioned:

The amendment of the Criminal Code made by the Act No. 170/2007 Coll., amending certain acts in connection with the Czech Republic's accession to the Schengen area, regulates the functioning of the Schengen Information System (Section 378a). The act allows to the National member of the Czech Republic and his assistant at Eurojust to access records made in the Schengen Information System, among others regarding matters and property values and means of evidence sought for purposes of their seizure, forfeiture or confiscation. It also adapts the institute of the preliminary seizure of property (Section 441a).

The amendment of the Criminal Code made by the Act No. 539/2004 Coll. amending the Act No. 141/1961 Coll., on Criminal legal Procedure (Criminal Procedure Code), as amended, and certain other acts introduced, among others, a procedure for the transfer of persons among the EU Member States on the basis of a European Arrest Warrant. In this connection it was possible for the first time to transfer a citizen of the Czech Republic for criminal proceedings to a MS.

The new Criminal Code (Act No. 40/2009 Coll.) affects within the criminal liability also the legal entities besides to individuals. An offense committed by a legal person is an unlawful act committed



in its interest or in the context of its activities in accordance with Section 8 of Act No. 418/2011 Coll., on the Corporate Criminal Liability<sup>22</sup>.

The imposition of appropriate penalties aims at its educational effect, or to discourage from potential fraudulent behaviour.

### 3. ANOTHER INTEGRAL ELEMENTS OF THE PROTECTION OF THE EU FINANCIAL INTERESTS

#### 3.1 Fight against corruption

The fight against corruption belongs among the priorities of the current as well as the previous government. They declared their political commitment to implement realistic and targeted anti-corruption measures. Important documents in this area are the Government's policy for combating corruption, together with its annual Action Plans. Every year the Government evaluates its Action Plans and adopts the necessary measures<sup>23</sup>. The aim of the key documents is to actively contribute to the improvement of the legal environment in the Czech Republic, to increase the trust of citizens in decision-making and legislative processes and to reduce the overall level of corruption in the Czech society.

The priority areas of the Government for years 2015 - 2017 were selected as follows:

- efficient and independent executive (e.g. the adoption of the Act on Civil Service, enforcement of new Act on the Public Prosecution),
- transparency and open access to information (e.g. amendment to the Act on Conflict of Interest, tightening of financing of political parties, creation of mandatory standards for nomination of representatives of the state in business corporations with partial state ownership and in state-owned enterprises, projects of electronic Collection of Acts and Collection of International Treaties and of the electronic legislative process),
- economical management of state property (e.g. preparation of new rules for public procurement, expanding the powers of the Supreme Audit Office, design and adoption of AMCPF, submission of the Act on the Contract Register or submission of the Act on the Central Register of Accounts),
- development of civil society (e.g. through adoption of legislative solution to protect whistle blowers).

The Council of Government for Coordination of the Fight against Corruption was established in order to coordinate and to evaluate the implementation of these goals<sup>24</sup>. The activities of this Council are ruled by the statute and the Rules of Procedure. The Council meetings are not public but the records of meetings are published on the website <http://www.korupce.cz>. The Council members<sup>25</sup> fulfil the

<sup>22</sup> The adoption of the Act on corporate criminal liability and the amendment of the Criminal Code removed the last obstacle to ratification of the UN Convention against Corruption (UNCAC) that the Czech Republic has ratified.

<sup>23</sup> Based on the Government Resolution from 30 July 2014 No. 629 the Minister for Human Rights, Equal Opportunities and Legislation was charged with coordination of the fight against corruption at the government level.

<sup>24</sup> The Government Council for Coordination of the Fight against Corruption was established as an advisory body to the Czech Government under the Government Resolution from 30 July 2014 No. 629.

<sup>25</sup> The Minister for human rights, equal opportunities and legislation is the Chairman of the Government Council for Coordination of the fight against corruption. Minister of Finance, Minister of Justice, Minister of Interior and Deputy Prime Minister for science, research and innovation are its vice-chairmen. Other members comprise Director of NCOC, Director of General Inspection of Security Forces, Supreme Public Prosecutor, President of the Union of Towns and Municipalities of the CR, President of the Association of Regions of the CR, President of the Economic Chamber of the Czech Republic, Ombudsman and six representatives of non-profit organisations, academic public, professional associations established by law and other professionals.



tasks set by the Council related to anti-corruption measures. These tasks must not interfere with the individual or independent exercise of powers or activities of the relevant members or entities represented by them.

In the fight against corruption, in addition to the Minister for Human Rights, Equal Opportunities and legislation active in the administrative legal area, also the Mol/PCR are involved in the criminal sphere. They focus on detection, screening and investigation of corruption related to the offense of abuse of officials powers or to damages to the financial interests of the EU, in the field of public administration and local government, or business entities supported by them, subordinate organisations and state enterprises, in the management of state and municipal property, state subsidies, manipulated tenders for investment actions, including projects involving EU funds, from development state funds as well as corruption linked to administrative activities. In the fight against corruption Mol ensures the continuity of long-term tasks performance arising from the Government's policy for combating corruption for the years 2015-2017. In this context, the Mol has set up a grant programme "Prevention of corruption" from which projects of non-governmental non-profit organisations are annually supported. The content of these projects is to provide free legal advice in the area of corruption, including the increase of efficiency of citizens' involvement in anti-corruption activities, etc.

As another important element in the fight against corruption there is also the Strategy to combat fraud and corruption in CSF funds spending in the period 2014 - 2020 (Strategy) which was prepared in 2013 and is based on MoRD effort to use the experience from the programming period 2007 - 2013 to prevent the misuse of funds from the EU, to prevent impacts and to minimise the impact of such behaviour. In the programming period 2007 - 2013, based on investigation of individual cases, some measures were taken to strengthen the implementation of control activities and to increase the processes transparency, however, for the programming period 2014 - 2020 it was necessary to approach this area more conceptually and to define and to set up mechanisms and tools preventing fraud just within the rulemaking. Within the preparation of programming period 2014 - 2020 a Concept of single methodological environment was made as a basic document for rules making. It defines targets through standardisation of processes and rules in order to achieve efficiency and economisation in the management of financial resources from the EU funds, transparency of processes and clarity of rules for support provision, and all this at a low administrative burden for subjects of the implementing structure. A number of principles and objectives of this Strategy is reflected, through sub-measures, in relevant methodological documents, thus such rules for spending of the support from EU funds are set that incorporate elements preventing any fraudulent and corruption practices. The strategy is based on the knowledge and experience in fraud and corruption area within the public sector and in the implementation structure of EU funds.

### 3.2 Combating Money Laundering and Terrorism Financing (AML/CFT)

Subsidy frauds, fraudulent manipulation in public procurement and corruption are the major source of crime of money laundering. Measures in the field of AML/CFT may therefore significantly contribute to the detection of crime in general, but in particular of crime to which the presented strategy relates. At the same time they effectively help to find and possibly to block crime proceeds and therefore could allow their eventual returning where possible. From this point of view the obligation of obliged persons to identify and to report a suspicion to the Financial Analytical Authority ("FAA") and the related right of FAA to block suspicious transaction are the key factors. The obliged entities to which the legal obligations in the area of AML/CFT (in particular the obligation to conduct identification and due diligence of client, to keep clients' records and to monitor



transactions to identify any suspect) belong are the financial institutions but also other persons, such as lawyers, notaries, auditors or gambling operators.

FAA is the main state body that oversees the system of AML/CFT prevention in the Czech Republic. In this context it ensures more of important tasks. The primary task is to fulfil the functions of a financial intelligence unit. This means that, as a national entity, it collects, analyses and disseminates information on suspicious transactions. The work results in high quality prepared complaints given to the law enforcement authorities within criminal proceedings, i.e. especially to the Police of the Czech Republic, or passing of other outcomes to the Financial Administration and Customs Administration. It also provides a high standard of information (including detailed financial data and information obtained from the control of the client) to foreign partner financial intelligence units within their international cooperation. Another important area that FAA ensures relates to the legislation in the area of AML/CFT prevention. The amendment to the AML Act established since 1 January 2017 the Financial Analytical Authority, an independent administrative authority that functions as a financial intelligence unit. The Authority has its formal independence for the exercise of its powers on behalf of the state.

The Authority is also the main supervisory body in the field of AML/CFT prevention. Within the supervision performance over some types of obliged entities it cooperates with other supervisory authorities, such as the Czech National Bank, Czech Trade Inspection and supervision institutions for gambling that at the same time supervise the compliance with AML/CFT regulations on their own.

In order to prevent money laundering and financing of terrorism the above mentioned supervisory authorities perform on-the-spot checks pursuant to the authorisation contained mainly in the Act No. 253/2008 Coll. on some measures against the legalisation of crime proceeding and the financing of terrorism (hereinafter as "Act No. 253/2008 Coll."). Inspections are focused on efficiency and effectiveness verification of the system that the controlled person introduced and maintained in order to prevent its misuse for crime proceeds legalisation or financing of terrorism and also to verify the conditions created for the detection of such behaviour. On the basis of deficiencies found at audited entities within the exercise of on-site inspections the controlled entities are charged with corrective measures to remedy those deficiencies or sanctions. The supervision performance in the area of AML/CFT over the financial institutions is, in particular, performed by the CNB (in collaboration with FAA) within the supervision over the financial market.

### 3.3 The fight against euro counterfeiting

In this area of cooperation, the PCR (National Centre against Organised Crime, "NCOC", Office of Criminal Police and Investigation, "OCPI") regularly cooperates with OLAF as well as with other relevant institutions (the European Central Bank, Europol, Eurojust, etc.). Legislative changes in this area carried out by the Czech Republic appear to be correct and beneficial for the practice.

In connection with legislative changes that were introduced in the previous period, it shall be strongly emphasised that some MS, for example Italy, did not adopt some changes which complicates the police work in the area of Euro counterfeiting within the criminal proceedings.

CNB as another actor in the fight against Euro counterfeiting does not currently plan to join the programme Pericles by 2020. The reason is that spending of funds from this programme is limited to activities related to the protection of the Euro against counterfeiting and cannot be used for activities related to the protection of the Czech currency or other of foreign currencies. Participation in this programme can therefore be considered only in the longer term, probably in preparation for the adoption of the Euro in the Czech Republic.



### 3.4 The fight against customs fraud

Cooperation with OLAF in the fight against customs fraud is made based on the Council Regulation (EC) No. 515/97 of 13 March 1997 on mutual assistance among administrative authorities of the Member States and their cooperation with the Commission to ensure the proper application of customs and agricultural regulations since the Czech Republic joined the European Union. On the basis of Section 3 par. 6 b) Act No. 185/2004 Coll., on the Customs Administration of the Czech Republic, in the version valid until 31 December 2012, this form of cooperation was entrusted to the National Coordination Unit of GDC. The same unit of the Customs Administration, which was renamed on 1 August 2016 to the Independent Department GDC 073 - International Cooperation, carries out cooperation with OLAF also on the basis of the currently effective Act No. 17/2012 Coll., on Customs Administration of the Czech Republic, as amended.

The execution of the cooperation with OLAF is mainly based on reports of mutual cooperation through which OLAF coordinates the MS in the fight against fraud and any other illegal activities affecting the financial interests of the EU. Annually, based on its own findings or finding of other MS, OLAF launches several dozen (30-50) of investigations of cases in which there is reasonable suspicion of violation of customs regulations and customs duty evasion. Coordinated cases are focused not only on the prevention of reduction of contractual and anti-dumping duties, but also on the violation of regulations related to the protection of industrial property or dealing with drug precursors, pesticides and the like. However, since the beginning, the main objective of cooperation of OLAF with the MS is to protect the financial interests of the EU and therefore the largest volume of reports of mutual cooperation is aimed precisely at the prevention of evasion of anti-dumping duties in connection with the incorrect declaration of goods' origin.

Based on OLAF's recommendations the post-clearance checks are made on the basis of which the identification of fraud and subsequent additional assessment of customs duties is performed. Another important form of cooperation, which is in the area of the fight against customs fraud coordinated by OLAF, consists in the joint customs operations. These operations aim at the detection of various forms of customs fraud, in which the cooperation with other international organisations and third states often occurs.

In order to further strengthen the cooperation of the MS and OLAF in the fight against customs fraud the amendment of Council Regulation (EC) No. 515/97 of 18 September 2015 was adopted based on which, on 1 September 2016, the registers CSM (Control Status Messages) and Import, Export and Transit were established. Shipping companies are obliged to register in CSM detailed information about the movement of containers imported into the EU, which allows the control authorities to better verify the movement of goods from the loading at the export point to the unloading in one of the MS. The Register Import, Export, Transit will enable the customs authorities of MS and OLAF to analyse data provided by shipping companies with data shown in customs import, export and transit documents and to verify the correctness of the declared data.





## 4. COORDINATION AND COOPERATION

The cooperation and coordination are focused on long-term and strategic provision of the EU financial interests' protection. The coordination of this area involves a comprehensive approach and the use of necessary tools and procedures. The cooperation is set by the legislation and specific methodological guidelines of the Czech Republic and the EU. When an irregularity occurs extending to another MS or if a new fraudulent practice is used, it is necessary to immediately inform OLAF and the concerned MS. This should ensure the blockage of risk propagation of committing a similar irregularity.

OLAF seeks to cooperate with the institutions and all European and national officials who are obliged to provide any information relating to possible cases of fraud or corruption or any other illegal activity of which they are aware. The Office is also interested that everyone who has any available information on cases of fraud against the EU budget passes such information to OLAF<sup>26</sup>.

Any suspicion may be reported to OLAF in the Czech language in three ways:

- through an online system for reporting fraud (anonymously, documents transmission is secured)
- online using the electronic form (with your name, e-mail address, enclosing of documents is not possible here)
- by post service to the address of the office.

In order to fulfil the objective to effectively set control mechanisms and to ensure the effective detection of corruption, or any infringement of the Code of Conduct, the systems for notification of suspected corruption are set in entities of the implementation structure. Phone lines, email addresses and mailboxes are used to receive notifications of corruption.

In this context it is necessary to ensure the protection of fraud whistle-blowers<sup>27</sup>. One of the priorities of the Government's policy for combating corruption for the years 2015-2017 is the development of civil society – adoption of a legislative solution to protect corruption whistle-blowers. This priority is further developed and anchored in Action plans of the fight against corruption for years 2015, 2016 and 2017<sup>28</sup>. The actual legislative solutions were preceded by a thorough issue analysis based on the collection of relevant data from the field, consultations and expert discussions, which should lead to finding an optimal model of corruption reporting and of protection of whistle-blowers in the Czech legal order. The relevant documents for legislative preparation are published by the Government Council for Coordination of the fight against corruption and its working committee regarding the whistleblowing. On 8 February 2017, the Government approved a draft act amending the Act No. 99/1963 Coll., Civil Procedure Act, as amended, which aims to provide employees with protection from reprisals in situations in which they report an offense, and to provide them with better procedural position in any legal disputes with the employer. This draft Act was presented to the Chamber of Deputies on 17 February 2017 as the Parliamentary Print No. 1034<sup>29</sup>.

<sup>26</sup> More information is available at ([https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud\\_cs](https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_cs)).

<sup>27</sup> For government employees the legislation contained in the Government Decree no. 145/2015 Coll., on measures related to the reporting of suspicion of an infringement in the service office, is binding.

<sup>28</sup> In connection with the parliamentary elections in autumn 2017, an Action plan for 2018 and the Basis for creation of strategic anti-corruption document of the Czech Republic for the period after 2017 will be prepared.

<sup>29</sup> At the same time on 29 April 2016, a draft act was submitted by deputies that protects the whistle-blower since the beginning of suspicion reporting, in contrast to the government proposal (Parliamentary Print no. 799, 7<sup>th</sup> parliamentary term).



## 4.1 OLAF

Based on the decision of the European Commission (EC, ECSC, Euratom) No. 352/99 from 28 April 1999, OLAF, whose mission is to protect the financial interests of the EU, was established. This office is equipped with powers for investigations within the administrative law sphere and related responsibilities. OLAF enjoys its special independent status in order to fulfil its main tasks. Its scope of action is regulated by the regulation of the EP and the Council (EU, Euratom) No. 883/2013<sup>30</sup>. OLAF, among others, performs checks and inspections under the Council Regulation (EC) No. 2988/1995 which relates to the protection of financial interests, as well as under other regulations concerning the relevant area.

The fraudulent behaviour and misconducts are always detected in practice in close cooperation between OLAF and national investigation authorities. Basic duties in the sphere of incomes and expenditures in relation to the EU budget lie in individual MS. OLAF is authorised to perform administrative investigations within all EU institutions and for the fulfilment of this task it is authorised to request information necessary for this purpose from anyone. OLAF is an authority of administrative type without powers in criminal matters, although its ambitions lead more and more to the criminal sphere.

In order to fight frauds, corruption and any other illegal activities affecting the financial interests of the EU, OLAF may, based on its powers, perform its administrative investigation in the implementation structure of the OP of Member States and in third countries (in accordance with relevant agreements). This investigation means inspections, checks and other measures performed by OLAF employees.

Besides the protection of financial interests, the office's responsibility also relates to the protection of the EU interests against nonstandard behaviour that could lead to administrative or criminal proceedings. In order to coordinate their actions in their fight against frauds against the interests of the Union, OLAF provides the MS with the support of the EC with the aim of organising a close and regular cooperation between the competent national authorities. The office, as a service of the EC, finally contributes to planning and developing the prevention and to the process of fight against frauds.

As for consultations and the cooperation with the Member States, the Advisory Committee for the Coordination of Fraud Prevention – COCOLAF was established which along with its working groups (hereinafter referred to as "WG") represents a platform for exchanging of opinions on general issues of protection of financial interests between the EC and its main partners. Deeper discussions and considerations on needs of the Member States as well as on a specific added value of OLAF are held within individual working groups. The Committee, in close cooperation with the European Commission departments and the MS, also publishes working documents for national authorities regarding frauds and other irregularities. In accordance with Article 325 of the Treaty on the Functioning of the European Union, COCOLAF is also responsible for enhancing a close cooperation among the Member States and the EC (OLAF). It also presents a forum within which the EC may consult with the Member States the content of the annual report on the protection of EU financial interests and the fight against frauds. This report provides an overview of activities and initiatives of the EU and individual countries made during the year, including case reporting and trends within the sphere of frauds and other irregularities within the EU.

<sup>30</sup> In October 2017, the outcomes of the effectiveness evaluation of the Regulation of the EP and the Council (EU, Euratom) No. 883/2013 should be known.



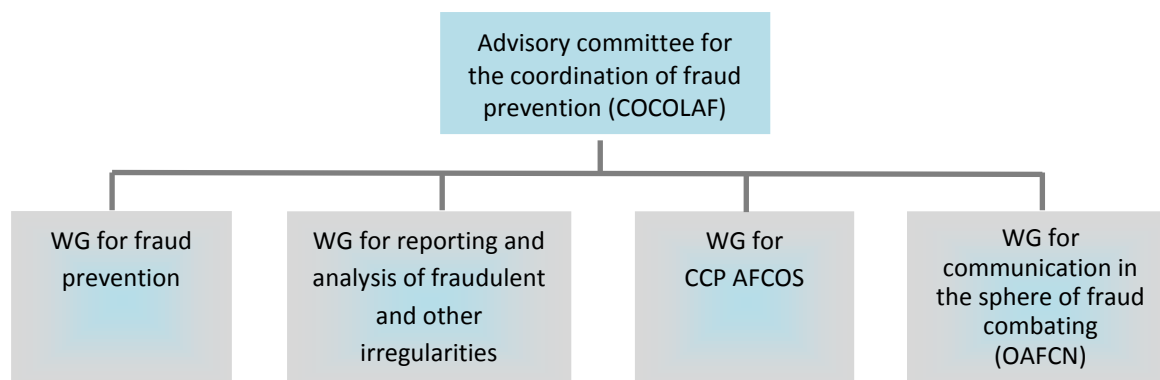


Figure 4: Working groups organised by OLAF

OLAF, in cooperation with national partners (investigation services, police, legal and administrative bodies etc.), tries its best to fight frauds in illegal activities organisation at the international level. With regard to the strengthening of the fight against frauds, OLAF performs its external investigative responsibility which was assigned to it through the Regulation governing on-the-spot checks and inspections in the MS in order to protect the EU financial interests against frauds and other illegal acts (Council Regulation (EC, Euratom) No. 2185/96). In case where cooperation agreements exist, OLAF can also apply its authority in third countries.

In areas where particularly lucrative sources of illicit income are generated, ad hoc WG specialised in specific products (e.g. cigarettes, alcohol, and olive oil) are created.

Based on the European Parliament and the Council Regulation (EC) No. 1073/1999, OLAF Supervisory Committee (hereinafter referred to as "SC") has been established and its existence and scope of action are further specified by the EP and the Council Regulation (EU, Euratom) No. 883/2013. SC regularly oversees how OLAF fulfils its role in the investigation sphere whereas its goal is to strengthen the independence of the office in its proper exercise of powers. SC particularly oversees the development in procedural guarantees application and the duration of investigations based on information reported by the OLAF Director-General.

SC is composed of five independent members having experience in senior judicial, investigation or similar functions. They are nominated through a mutual agreement among the EP, the Council and the EC. The term of office of SC members is five years and is not renewable. Three and two members alternately rotate to ensure a smooth transfer of information and quality functioning of the SC. Its new members also include a representative of the Czech Republic (Mgr. Petr Klement) whose mandate started on 23 January 2017. Mgr. Petr Klement works at the Department of Serious Economic and Financial Crime of the Supreme Public Prosecutor's Office.

Mutual cooperation and information exchange between the Member States and effective coordination at the EU level can be extremely useful in combating large cases of smuggling and frauds.



## 4.2 AFCOS network in the Czech Republic

In the Czech Republic, the network of organisations involved in the protection of EU financial interests is covered and methodically guided by CCP AFCOS. Based on the Resolution of the Government of the Czech Republic from 5 September 2007 No. 1010 amending the status of CCP AFCOS in the Czech Republic, this position was transferred from the Supreme Public Prosecutor's Office to the Ministry of Finance, with effect from 1 January 2008.

The AFCOS service was established in the new Member States (that joined the EU in 2004 and later). To ensure easier and more effective cooperation and communication, OLAF demanded the creation of coordination points for the sphere of the EU financial interests' protection and the fight against frauds also in the old MS. The obligation to establish the AFCOS service in the Member States is enacted in the regulation of the EP and the Council (EU, Euratom) No. 883/2013.

CCP AFCOS is the sole partner of OLAF on behalf of the Czech Republic within the administrative legal sphere. CCP AFCOS organises for OLAF meetings with related entities and ensures the continuity of its investigation in the Czech Republic. Its important task consists in covering irregularities reporting at the external level and in providing related methodological interpretation. In this matter, CCP AFCOS cooperates with AFCOS LCP established in ministries / Prague City Hall<sup>31</sup> that are responsible for assessment of irregularities from the inner circle of reporting and for due formation of regular as well as extraordinary reporting of irregularities at the external level. Employees of CCP AFCOS check, consult, and possibly return for correction reports on irregularities found within the implementation of EU funds elaborated by other AFCOS LCP and subsequently send the final version of reports to OLAF through the IMS system.

Tasks related to CCP AFCOS role accomplishment are performed by eight employees whereas the most capacity falls on irregularities reporting at the external level. As for the proper and smooth functioning of the individual AFCOS LCP, such activity is performed by two professionals at least (thereby their substitutability is guaranteed).

A key element of success consists in the effective cooperation among entities at both internal and external levels and in the access to information (participation of MA, AFCOS LCP and CCP AFCOS in setting of workflows and methodological interpretations related to the irregularities reporting at the external level).

SPO acts as a contact point of AFCOS network for criminal sphere and within the scope of action of the Section for Serious Economic and Financial Crime it performs monitoring, control, methodological and coordinating activities within the system of the SPO in the area of protection of EU financial interests. In addition, prosecutors of regional Public Prosecutor's Offices, as well as the prosecutors of specialised divisions of serious economic and financial crimes of the High Public Prosecutor's Office monitor the activities of police authorities involved in examination and investigation of crimes committed to the detriment of the EU. The scope of action of divisions of serious economic and financial crime at the Supreme and High Public Prosecutor's Offices relates to crimes causing damages of CZK 150 mil. at least<sup>32</sup>.

PCR - NCOC is an executive division of OCPI with nationwide scope of action that focuses on the detection of organised crime, serious economic crime and corruption, terrorism, extremism and

<sup>31</sup> In the programming period 2007 - 2013, LCPs AFCOS have been also established at Regional Councils of the Cohesion Regions.

<sup>32</sup> The subject-matter jurisdiction of the regional Public Prosecutors' Offices to crimes that affected financial or economic interests of the EU, if damages thus caused were at least CZK 150 mil., is defined in Section 15 of the implementing decree No. 23/1994 Coll.



cybernetic crime. PCR - NCOC is the guarantor and designated department that is competent and responsible for the detection and investigation of crimes related to the use of financial means from the EU funds. Based on the local jurisdiction, other departments of PCR also participate in detection, verification and investigation of crimes related to grants from EU funds. The unified procedure of PCR departments for the performance of their obligation to report to NCOC OCPI irregularities related to the misuse of funds from the EU is ruled by the Binding Instruction of the Police President.

NCOC OCPI is, on behalf of PCR, also involved in the network of AFCOS contact points. SPO in close cooperation with NCOC OCPI also provides the evaluation and provision of information from criminal proceedings as requested by OLAF within its scope of action and for the purpose of the investigation performed by it.

GDC reports irregularities incurred in the income part of the EU general budget (irregularities can also occur in case of own resources deductions).

CCP AFCOS regularly organises specialised seminars for representatives of AFCOS LCP and other entities involved in the protection of EU financial interests for the purpose of coordination and cooperation in this area. It also provides a methodological explanation for the correct elaboration of reports of irregularities at the external level and provides consultations for processing and sending of regular quarterly reports to OLAF.

For the purpose of effective collaboration, representatives of e.g. internal audit sections, inspection services or external consultants can be invited ad hoc, based on the discussed topic.

The national AFCOS network entities include:

Ministry of Finance (MoF)	Supreme Public Prosecutor's Office (SPO)
<ul style="list-style-type: none"> <li>Central contact point (CCP) of AFCOS</li> <li>Audit Authority (AA)</li> <li>Payment and Certification Authority (PCA)</li> <li>Central Harmonisation Unit (MoF - dpt. 47)</li> </ul>	
Ministry of Transport (MoT)	Police of the Czech Republic (PCR)
Ministry of Labour and Social Affairs (MoLSA)	General Directorate of Customs (GDC)
Ministry of Regional Development (MoRD)	General Financial Directorate (GFD)
Ministry of Industry and Trade (MoIT)	Office of the Government of the Czech Republic (OG)
Ministry of Education, Youth and Sports (MoEYS)	Czech National Bank (CNB)
Ministry of Interior (Moi)	MoRD - NCA (National Coordination Authority)
Ministry of Agriculture (MoA)	Supreme Audit Office (SAO)
Ministry of the Environment (MoE)	
Prague City Hall (PCH)	
State Agricultural Intervention Fund (SAIF)	

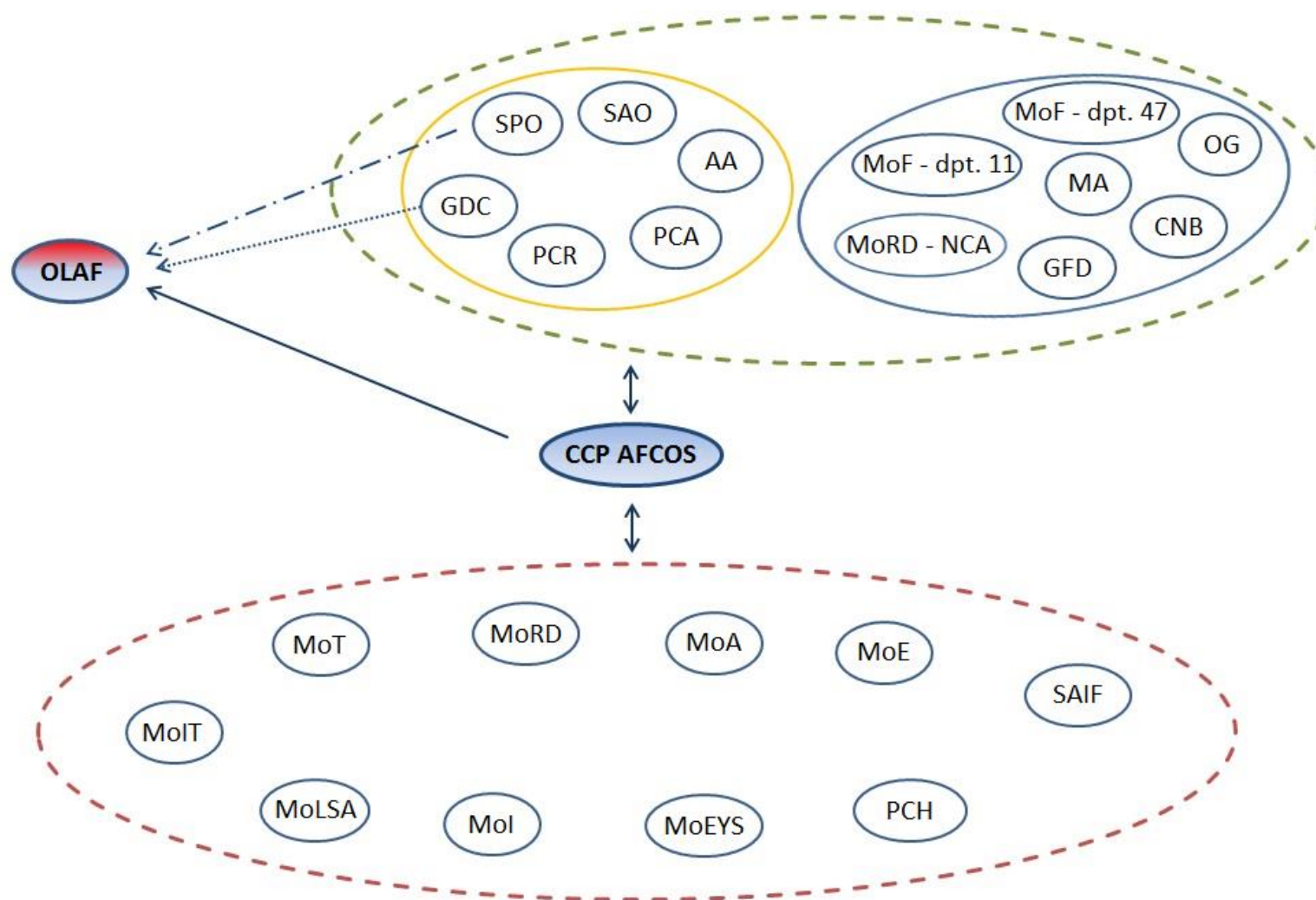


Figure 5: Entities involved in the protection of the EU financial interests in the Czech Republic within the programming period 2014 - 2020



**Key:**

	Local contact points of the AFCOS network (registering irregularity reports in IMS)
	Entities authorised to view IMS
	Entities not authorised to view IMS
	Entities cooperating in the protection of the EU financial interests
	Coordinator of the AFCOS network at the national level within the administrative legal area and towards the EC – OLAF
	EC – OLAF – ensuring protection of the EU financial interest and cooperation with MS
	Reports from the criminal area
	Reports from the administrative legal area
	Reports from the revenues area



MoF has signed three Agreements on the provision of information and cooperation so far. It is the agreement with the Ministry of Interior, as well as the Agreement with the Ministry of Labour and Social Affairs and the Agreement with the State Agricultural Intervention Fund. These agreements were concluded with the conviction of the need to develop the cooperation in detection and prosecution of irregularities in the area of EU financial interests' protection and defined the necessary framework for the cooperation in passing of irregularities reports concerning the specific EU support funds. Subsequently further agreements will be concluded with selected entities of the implementation structure.

In order to protect the EU financial interests, WG discussions at the national level are organised, for example WG CAI (check, audit, irregularities) – module of checks and irregularities, WG BBD (Breach of budgetary discipline), Working committee of the chairman of the Government Council for Coordination of the Fight against Corruption for the Protection of Whistle-blowers. In addition to the mentioned groups, there are many other WG to ensure a comprehensive approach to the management of EU funds.

CCP AFCOS also participates in regular meetings of the WG of the Council D08 - Fight against Fraud (GAF). During the meetings, materials proposed by the EC on the topic of protection of EU financial interests are discussed. Depending on the presiding country, the discussed topics change too.

### 4.3 Other forms of cooperation

Within the EU, SPO participates in the representation of the Czech Republic in the European Judicial Cooperation Unit (Eurojust) which is a body ensuring increased efficiency of international judicial cooperation in criminal matters among the EU Member States, particularly in the area of investigation and prosecution of serious cross-border crime and organised crime.

In preventing and combating serious forms of crime with an international aspect, SPO and PCR cooperate with the European Police Office (Europol). The cooperation is especially focused on a quick and confidential exchange of criminal intelligence information, on providing of operational and strategic analysis, coordination of investigations, organisation of training and courses, providing of contacts to various specialised departments including the departments of forensic science disciplines.

In the Czech Republic, a specialised team "Tax Cobra" has been operating since 2014 which solves complex cases of tax evasion and tax crime, especially in the field of VAT, excise duties and frauds. This team consists of specialists representing the police, tax administrators and custom officials who jointly evaluate the information collected in their jurisdictions and coordinate actions in tax and criminal proceedings in order to exploit the full potential of both kinds of proceedings to maximise the amount of secured financial funds and to effectively convict the offenders. Its aim is to establish the rules for permanent and mutual exchange of information and joint action of coordinated state bodies in the fight against tax evasion and tax crimes with the primary objective of ensuring the due collection of taxes, or the return of illegally acquired funds to the state budget. The work team "Tax Cobra" has been established also thanks to the experience from the cooperation with the Slovak police. In the coming years, it is planned to further exchange the experience with the newly designed system and activities of individual units within the tax area.

PCR ensures the involvement in the activities of the network "CARIN" (international information network that brings together on an informal basis bodies working for institutions that deal with



securing proceeds of crime). One of the main objectives of the network is to promote the cooperation and information exchange in the field of detection and securing of illegal proceeds.

Other international activities of PCR include its participation in the international network "StAR Focal Point Initiative" of which the members come also from countries outside the EU. Interpol is the main coordinator of this network. The network focuses on the exchange and sharing of information related to corruption and proceeds of crime (mainly of the corruption offenses) in form of conferences and publication activities on its own website.

PCR is also active in the network "ALEFA" (Association of the Law Enforcement Forensic Accountants). It is the network covered by Europol administration that consists of experts engaged in the fight with serious economic crime in particular in the field of accounting.

Regarding the issue of money laundering, PCR is involved in the international network "AMON". Its purpose is to exchange experience and best practices in combating the crime of legalisation of crime proceeds.

Their mutual cooperation and information exchange among the Member States and the effective coordination at EU level can be extremely useful in combating large cases of smuggling and frauds.

## 5. EVALUATION OF THE PROGRAMMING PERIOD 2007 - 2013

### 5.1 Criminal sphere

In the programming period 2007 - 2013 in the area of criminal law and related spheres, there was a gradual deepening of changes that facilitated the detection, prosecution, confiscation of proceeds of crime and facilitated international cooperation, among others in prosecuting of crimes disrupting financial and economic interests of the EU. A new codification of substantive criminal law was approved in the form of a completely new Criminal Code that defines the conditions for imposition of property forfeiture (Section 66), forfeiture of items or other assets (Section 70), forfeiture of substitute values (Section 71) as well as the conditions for imposition of protective measures - the detainer of items or assets (Section 101) and the detainer of replacement value (Section 102). Act No. 41/2009 Coll., amending certain acts in connection with the adoption of the Criminal Code then charged the relevant Regional courts to decide on crimes damaging the financial interests of the EU in accordance with Section 260 of the Criminal Code. The Act No. 253/2008 Coll., on some measures against the legalisation of proceedings from crime and the financing of terrorism, and the Act No. 254/2004 Coll. on cash payments limitation were also adopted.

The regulation on tax confidentiality break at the authorities acting in criminal proceedings has undergone several years of development while based on Act No. 341/2011 Coll. (on the General Inspection of Security Forces and amending related acts) the authorisation to break the tax confidentiality without scope for the purpose of criminal proceedings is included in Section 71a of the Police Act. The scope of crimes was preserved, however, in the context of Section 71a of the Police Act a special unit of the police authority can request information acquired at the tax administration not only for ongoing criminal proceedings (procedure after the initiation of criminal proceedings), but also in order to initiate the criminal proceeding (procedure before the initiation of criminal procedure acts) without the need to involve the authorisation mechanism of the public prosecutor. Similarly in the case





of the authorised customs body under Section 11a of the Law on the Customs Administration of the Czech Republic.

In terms of protection of EU financial interests it is necessary to mention the amendments to the Criminal Procedure Code No. 253/2006 Coll. and No. 170/2007 Coll. The first regulation amended the existing rules for securing of funds at bank accounts (Section 79a) and securing of booked securities (Section 79c) and newly modified the procedure for securing of properties (Section 79d), securing of other property values (Section 79e) and securing of alternative values (Section 79f). The procedure for returning of secured funds, securities and other assets was also amended. The punishment execution of forfeiture of items or another asset value or the execution of replacement value forfeiture (Section 349b and related) were also newly adapted. The legislator also amended the special provisions on recognition and execution of decisions on securing of property or of evidence means among the Member States of the European Union (Section 460a - Section 460n, i.e. the procedure for property or evidence securing in another MS, recognition of order for property forfeiture issued by the judicial authority of another MS and for the execution of decision on such order approval, delay of decision execution, duration / restrictions and abolition of the property forfeiture, securing and handing over of evidences etc.). Other regulation modified the functioning of the Schengen Information System (Section 378a). The Act allows the national member of the Czech Republic in Eurojust and his assistant to access records made in the Schengen Information System, among other on items and property values and evidence means sought for the purposes of their seizure, forfeiture or confiscation. The institute of preliminary seizure of property (Section 441a) was also adapted.

The amendment to the Criminal Code made by the Act No. 253/2006 Coll. introduced with effect from 1 July 2006 also the possibility of forfeiture of substitute value obtained for an item gained through a crime (proceeds of crime) or used for commitment of an offense in case when the offender thwarted the forfeiture act such item, particularly by transferring it to a third person etc.

Another significant change also consists in the adoption of Act No. 539/2004 Coll. that amends the Act No. 141/1961 Coll. on Criminal Legal Procedure (Criminal Procedure Code), as amended, and certain other acts through which, among others, a procedure for the transfer of persons among the EU Member States on the basis of a European Arrest Warrant was established. In this connection it was possible for the first time to transfer a citizen of the Czech Republic for the criminal prosecution in the MS.

The amendment to the Criminal Procedure Code No. 55/2017 Coll. should be also mentioned. This regulation amended the processing of precautionary institutes and the transformation of confiscation regulation of the EP and Council 2014/42/EU from 3 April 2014 into the criminal law was performed. This amendment to the Criminal Procedure Code differentiated the mode of presentation and seizure of items serving for evidential purposes and to ensure movables which are the instruments and proceeds of crime and do not serve for evidential purposes. The precautionary institutes are, compared with the earlier ones, summarised in one provision (Section 79a of the Criminal Procedure Code). The amendment, among others, allows the seizure of assets where the value of the property that the offender has acquired or transferred to another person in the period of five years at most before committing of such an offense, at the time of its committing or after, is grossly disproportionate to the income of the offender gained in accordance with the law.

In addition to the above provisions of the Criminal Procedure Code and the Criminal Code, the Act on international judicial cooperation No. 104/2013 Coll. allows the public prosecutor to issue an order to seizure the value or evidences in another Member State of the European Union in accordance with Section 229 of this Act.





Within the area of corruption and fraud fight, in addition to the framework decisions and regulations, the Convention on the protection of the financial interests of the European Communities was adopted with two additional Protocols, the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and the Directive against money laundering and terrorism financing.

The amendment No. 122/2008 Coll. reflected in the Criminal Code the international obligations in the field of protection of EU financial interests. With effect from 1 July 2008 it adjusted the facts of an offence harming the financial interests of the European Communities in accordance with Section 129a of the Criminal Code. The new Criminal Code No. 40/2009 Coll. that entered into force on 1 January 2010 also adapted the crime of damaging of the financial interests of the European Communities in accordance with Section 260 of the Criminal Code. It includes two basic facts. The objective aspect of the first one assumes that the offender prepares, applies or submits false, incorrect or incomplete documents or states in such documents false or grossly misleading information relating to revenues or expenditures of the general EU budget or a budget administered by the EU or on behalf of it, or conceals such documents or information and thereby enables the misuse or withholding of funds from any such budget or the reduction of sources of any such budget. The objective aspect of the second fact consists in the fact that the offender unlawfully reduces or uses the funds that present the revenues and expenditures of the general EU budget or budgets administered by the EU or on behalf of it. Such person who is charged with a particular obligation to protect the EU interests is even more strictly punishable. Through the codification of this crime the complete implementation of all provisions stated in the Convention on the protection of the financial interests of the European Communities was performed.

In terms of the substantive criminal law, or the valid Criminal Code, the individual offenders' actions being detrimental to the EU interests can be currently qualified and punished primarily as crimes damaging the financial interests of the European Communities under Section 260 and crimes of tax, fees and similar due charges evasion in accordance with Section 240 (customs frauds), Section 212 (subsidy frauds), forgery and money alteration under Section 233 (forgery of EURO currency), release of counterfeit and altered money under Section 235 (EURO currency). The offenders' actions can also be subsidiarily considered as crime facts of participation pursuant to Section 214, legalisation of crime proceeds under Section 216, legalisation of crime proceeds due to the negligence under Section 217, breach of duties in administration of foreign assets under Section 220, infringements of rules for stickers and other objects for identification of goods under Section 244, negotiation of benefits in public procurement, public tender and public auction pursuant to Section 256, machinations in public procurement and public tender under Section 257, abuse of official's authorities under Section 329, obstruction in the task of an official due to the negligence under Section 330, reception of a bribe under Section 331, bribery under Section 332, indirect bribery under Section 333, and others if necessary.

Since 1 January 2012 the Act No. 418/2011 Coll., on criminal liability of legal persons and proceedings against them, allowing criminal prosecution of legal persons, has been effective.

As for the findings on form of crimes, the actions of applicants for grant funding prevailed in the programming period 2007 - 2013. These actions were committed by offenders primarily in order to reach the grant funds without complying with the formal conditions for their granting. The grant beneficiaries also committed their illegal activities in order to obtain a subsidy covering the full amount of the subject of financing, although the formal conditions assumed some co-financing by the applicant. Thus the offenders often purposefully overestimated the subject of financing in cooperation with suppliers, they bought used manufacturing equipment although formally it declared as new goods. This



type of crime appeared especially in connection with purchases of various manufacturing technologies and lines for processing of wood, wastes and other raw materials.

Crimes related to spending of funds from the EU funds are also closely linked to the sphere of public procurement as part of the process of allocation of the European as well as national budgets within individual operational programmes of grant financing. Such criminal action linked to the course of public procurement was most evident especially in the areas of construction, IT technology supplies and medical equipment purchases. The effort of offenders to influence the course of public contract awarding was typical for this area, especially through secret negotiations with representatives of contracting authorities in order to influence the tender conditions or the subsequent evaluation process of bids or the exclusion of some other applicants and to achieve the contract awarding. Another common way of influencing of the course of public procurement remained the mutual cooperation of applicants in order to achieve the contract awarding to a candidate agreed in advance, at a price that is higher than the price that could have been achieved at the proper and due competition of bids. In this respect, competitors concluded agreements on the amount of bids, machinated withdrawal from the tender or purposeful creation of bids by some applicants in a manner that would result in their future exclusion from the competition according to the previous agreement.

Crimes committed by persons within MA can be determined as a specific type of prosecuted crimes. Such persons, in some regional operational programmes (hereinafter as "ROP"), participated in the evaluation of individual projects of applicants. In some cases a purposeful favouring of specific projects, that would not have met the conditions for grant allocation under their due evaluation, was committed.

## 5.2 Area of EU budget revenues

The Czech Republic belongs for a long time among countries that actively cooperate with OLAF, both in the area of mutual cooperation reports and joint customs operations. Due to cases coordinated by OLAF, mainly on the basis of successful post-clearance checks of goods in passed period, the evaded custom duty was additionally levied at several tens of millions of crowns. In many cases the Customs Administration of the Czech Republic sent its representative to missions conducted under the auspices of OLAF in countries of Southeast Asia.

In terms of legislative changes in this area, the European Commission issued on 26 November 2013 its document COM (2013) 796 final in which it proposed an amendment of Council Regulation (EC) No. 515/97 particularly aimed at more effective prevention of frauds in the area of duties and strengthening of the protection of the EU financial interests. The EC proposal pursued following goals:

- possibility to use gained evidence in criminal proceedings,
- possibility to obtain from public and private entities information about the movement and condition of containers that are subject to import or export operations within the EU,
- keeping of central register of data related to import, export and transit of goods and the use of registers for the purposes of investigation performed by OLAF,
- definition of EC authorisation to require the evidence directly from economic entities for its investigation,
- precise specification of retention period for data in the Customs Information System (CIS).

Since initial discussions the Czech Republic had supported the EC efforts focused on the amendment of Council Regulation (EC) No. 515/97 aimed at streamlining of the administrative cooperation in customs matters, as well as its efforts to create new measures to effectively help in the fight against frauds in the area of transit system abuse, frauds related to false descriptions of imported goods and frauds in



the area of incorrect origin of imported goods. In 2014, the Customs Administration of the Czech Republic actively participated in the discussion of this amendment within the WG of the Council for the Customs Union. In the view of the Czech Republic, the issues concerning the use of evidence obtained under the administrative cooperation for criminal proceedings and the authorisation of OLAF to directly request economic entities were the most important ones. The Czech Republic commented these points in order to avoid the breach of statutory procedures valid at the territory of the Czech Republic. In September 2014, the MS managed to reach a compromise on all key issues. In the subsequent trialogue among the EP, the Commission and the Council in December 2014, a compromise wording of the concerned amendment was achieved. The mentioned amendment came into force on 1 September 2016. In connection with this amendment, the implementing and delegated regulations shall be adopted to govern the implementation of new regulations implemented on the basis of this amendment.

As for the programme Hercule, it was established by the decision of the EP and the Council No. 804/2004/EC for the period 2004 - 2006 (Hercule I) and subsequently extended by the decision No. 878/2007/EC for the period 2007 - 2013 (Hercule II). In 2014, a new regulation establishing the Hercule III programme for the period 2014 - 2020 entered into force. The structure of drawn funds mainly consists of technical assistance to national authorities, specialised trainings focused on the issue of combating frauds and of support to associations for the European criminal law within the area of protection of the EU financial interests.

GDC has used five grants from projects listed within programmes Hercule and Pericles so far. Two of the grants (Hercule) were approved for special technical equipment within the development of special investigation units. One was performed in 2008 (at costs of approx. EUR 208,000) and the second in 2013 (approx. EUR 49,000). In 2014, the search department applied for another grant for technical renewal of radio connection. Thanks to the involvement of grants it was possible to purchase the latest technology that would not be possible to get only with the participation of financing from the regular budget. It is considered as an essential contribution of the programme. The co-financing by the EU only at the amount of 50 % and, moreover, of the total costs without VAT was its weak point. The amount of co-financing shifted to 80 % in the next period but the problematic own VAT financing remained in its original form.

In the years 2007 – 2016 for the area of traditional own resources (OWNRES), GDC reported to the EC (DG Budget) in total 673 irregularities exceeding the sum EUR 10,000 in total amount of EUR 48,973,252.

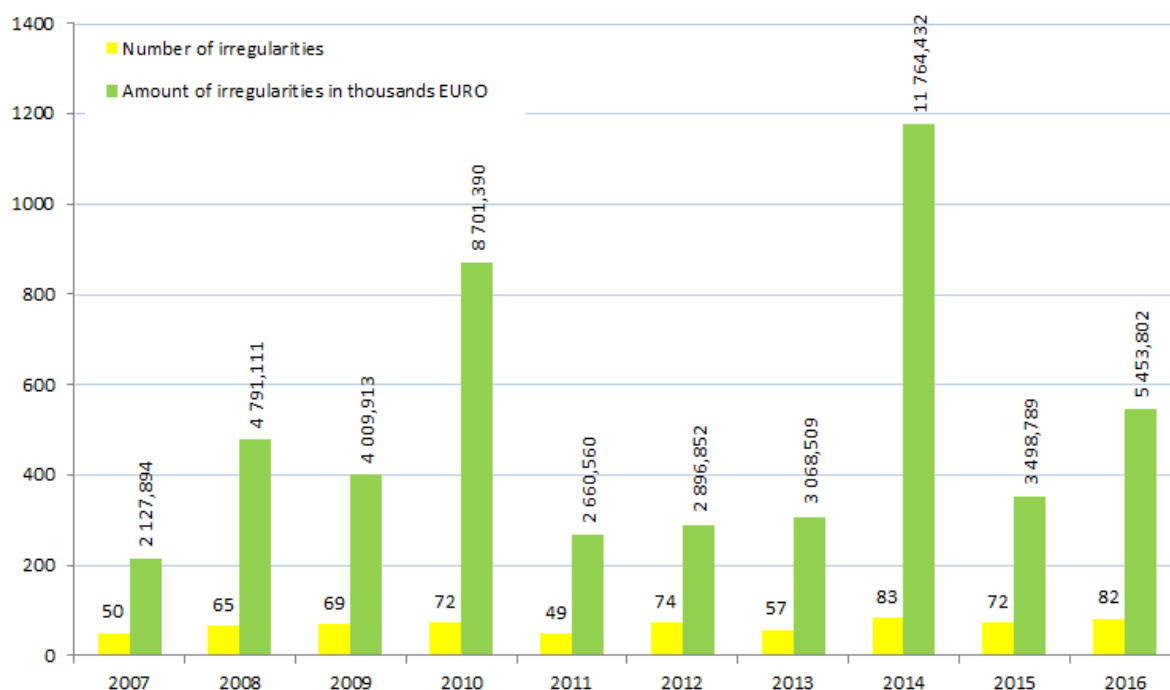


Chart 1: Overview of irregularities recently reported to the European Commission in the amount above € 10,000 in the area of Traditional own resources (OWNRES) and respective amounts involved in each year for the period 2007 - 2016

### 5.3 Administrative legal area

The issue of conflict of interest is regulated by the Act No. 159/2006 Coll., on Conflict of Interest, as amended, which defines the term of a public official and exhaustively lists all functions in the public sector that are included in this term. Compared to the previous legislation, the scope of these functions was considerably expanded. The Act defines for public officials their duty to exercise their functions so as to avoid any conflict between their personal interests and those that they are required by virtue of their office to promote or to defend, to report facts that allow public control of their activities made in parallel with the performance of the public official function, that allow the public control of assets acquired during the performance of the function and of other incomes, gifts or other benefits obtained under the term of the function, or of possible financial liabilities that public official has. The Act also restricted certain activities of public officials and established the incompatibility of functions with other functions and responsibilities of public officials for any breach of statutory obligations, including penalties which can be levied to public officials for violation of these obligations.

Based on the required change in the area of conflict of interest, based on the commitment of the Government of the Czech Republic in its Policy Statement and with regard to the Government concept of corruption combating for the period 2015 - 2017 and to the Action Plan of corruption combating for the year 2015, an amendment of the Act on conflict of interests was adopted. The amendment seeks to address shortcomings in the current legislation such as the fragmentation of recording bodies, inconsistency in the management of information provided, resulting impaired public and institutional control and reduced informative value of information, insufficient preventive function as well as minimum enforcement capability of sanctions. A long-term absence of determination of the central administrative authority that would provide adequate and unifying methodological assistance has also its inadequate negative effect - thus the Ministry of Justice was determined as such authority.



In the area of public procurement, the Act No. 137/2006 Coll., on Public Procurement, as amended, included the EU legislative requirements and adapted the procedures for public procurement, competition for the proposal, supervision of compliance with the law and the conditions of management and the function of the list of qualified suppliers and the system of certified suppliers. It defined the terms of public contract, contracting authority, it defined types of public contracts and exemptions from the scope of action of the Act. Other sections of the Act amended the initiation and the course of tender procedure, protection against contracting authority's incorrect conduct, supervision over the compliance with the law and administrative offenses. This Act has been amended for more than 20 times.

In October 2016 a new Public Procurement Act (hereinafter "PPA") came into force. It is in accordance with the requirements of the Directive of the EP and the Council 2014/23/EU, 2014/24/EU and 2014/25/EU. In addition to the provision of compliance with the European legislation it sets clear rules that to the maximum possible extent prevent corruption, guarantee efficient management of public funds, rapid implementation of necessary public projects and fair competition of suppliers and also reduce the administrative complexity of the procurement process. Thus the sufficient transparency of the process is ensured.

PPA ensures the transparency in accordance with the requirements for open data where, based on the procedure pursuant to the provisions of Section 219, the contracting authority is obliged to publish in its profile the concluded contract (including changes and amendments) and the price actually paid for the performance of this contract. There are important rules for the system of using electronic marketplaces by public administration bodies in the acquisition and replacement of defined commodities that contribute to greater transparency in public procurement. These rules were approved by the Government in its Resolution of 21 June 2017 No. 467 that imposes an obligation to use the National electronic tool for public procurement.

To ensure transparency, the Act No. 340/2015 Coll., on Special Conditions for the Effectiveness of Certain Contracts, on Publication of These Contracts and on the Register of Contracts (Act on the Register of Contracts) was adopted. Its provision Section 7 imposes for the non-compliance with statutory conditions and with the procedure for publication of concluded contract a penalty of invalidity of such concluded contract<sup>33</sup>.

In the area of money laundering prevention, the Act No. 253/2008 Coll., on some measures against the legalisation of crime proceedings and the financing of terrorism, was amended.

By the amendment of the AML Act, the 4<sup>th</sup> AML Directive is transposed<sup>34</sup>. The new or newly modified measures include for example:

- extension of the definition of politically exposed persons (hereinafter referred to as "PEP") to include also the domestic PEP because the current wording of the act has covered only foreign PEP so far. Mandatory persons are, among others, obliged to identify PEP and to apply increased vigilance to such persons in the client's control,
- coverage of service providers associated with a virtual currency which is motivated, among others, by possible misuse of virtual currency for money laundering, corruption, etc.,
- reduction of the cash payment amount for which every entrepreneur must identify its client (from 15,000 to 10,000 EUR).
- precision of the definition of the actual owner,

<sup>33</sup> The effectiveness of the provision of Section 7 of the Act on the register of contracts is, based on the provision in Section 9, deferred since 1 July 2017.

<sup>34</sup> The Directive of the European Parliament and the Council (EU) 2015/849 of 20 May 2015 on the prevention of the financial system use for money laundering or terrorism financing.



- obligation of legal persons to know their actual owners. This amendment of the AML Act is effective since 1 January 2017.

In the legislative field of money laundering combating, the Decree No. 281/2008 Coll. was also amended through the Decree No. 129/2014 Coll., among others in relation to the evaluation of the Czech Republic by the Moneyval committee. Expected changes in this area consist in the transposition of prepared amendment of the 4<sup>th</sup> AML Directive and in the need to incorporate implementing instructions EBA, ESMA and EIOPA as well as implementing technical standards of this Directive into the Czech legislation. In connection with the transposition of the 4<sup>th</sup> AML Directive, its amendment and incorporation of related implementing regulations, the CNB also prepares a new decree on AML/CFT, replacing the existing Decree No. 281/2008 Coll.

The adoption of the Act No. 234/2014 Coll. on the State Service, effective from 1 January 2015 is an important milestone in the anti-corruption policy of the Government. The law namely regulates the legal status of government employees engaged in administrative offices of the state administration and represents an important step towards the establishment of a stable and professional public administration. One of the main goals of the State Service Act is to improve the effectiveness and the modernisation of public administration. For example, there is an obligation to publish professional CVs of executives from the level of directors and above as well as contact details of all senior employees, based on the task laid down in the Framework departmental internal anticorruption programme that was adopted by the Government Resolution of 2 October 2013 No. 752 and updated by the Government Resolution of 21 December 2015 No. 1077.

In the area of irregularities reporting the role of CCP AFCOS fundamentally changed in 2010 when it started to act as the sole partner for OLAF in the administrative legal area. At the same time a new process of irregularities reporting at the external level (including checking, approving and sending of reports) was set in which CCP AFCOS has taken over the responsibility for reports sent to OLAF. It became an active methodological coordinator, based on the request of OLAF it began to deal with the organisation of meetings necessary for the effective course of administrative investigation conducted by OLAF in the Czech Republic and with other related tasks. Furthermore, since October 2013 CCP AFCOS assumed the responsibility for reporting of irregularities for the area of CAP.

Representatives of CCP AFCOS continuously and actively cooperated at the international and domestic level in the field of protection of the EU financial interests. In April 2010, CCP AFCOS organised in cooperation with MoRD – NCA a meeting with representatives of the V4 states. In January 2011, CCP AFCOS ensured training for colleagues from AFCOS LCP for reporting of irregularities in the then new information system IMS by representatives of OLAF. In June 2011, in cooperation between OLAF and CCP AFCOS, an international meeting of AFCOS services from individual Member States was held in Prague. CCP AFCOS regularly actively exchanged information and experience with representatives of the AFCOS service of the Slovak Republic – e.g. within a seminar intended for members of the national AFCOS network. Other meeting was held by CCP AFCOS with OLAF representatives in December 2016. Its main purpose was to introduce the setup of cooperation within the AFCOS network in the Czech Republic to the European Commission.

CCP AFCOS, in its role of contact point responsible for sending information to CED, reported since 2009 nine cases of persons lawfully sentenced for a crime damaging the financial interests of the EU to the European Commission.

In connection with co-financing of projects from EU funds within the programming period 2007 - 2013, OLAF's employees performed eight on-site inspections at 14 entities, having for their subject

25 projects in total. These checks took place mostly on the basis of pre-requested documentation. Only in one case it was stated that on-site inspection showed no error in the implementation of the project. In case of remaining 24 projects irregularities were found, consisting mainly of non-compliance with the terms of the project, breach of national legislation as well as of the EU legislation and irregularities related to incorrect setting of the control mechanisms. In 18 projects such irregularities were so serious that based on them financial correction was made in these specific projects. For the remaining six projects no recommendations were made.

In all these on-site inspections the staff of CCP AFCOS actively cooperated. This collaboration mainly consisted in the provision of appropriate required documentation and help to OLAF workers as invited persons.

For the programming period 2007 - 2013, within the administrative legal areas,<sup>35</sup> 4,188 irregularities were notified to the EC amounting to EUR 2,641,804,722 in total.



Chart 2: Overview of irregularities newly reported to OLAF and of relevant amounts involved in individual years for the programming period 2007 - 2013

Chart No. 2 does not contain data for 2007 and 2008 because in those years the funds were not fully drawn from EU funds and therefore no irregularities, i.e. their quantifications, did occur.

<sup>35</sup> These are the first cases of irregularities reported for relevant periods in IMS.



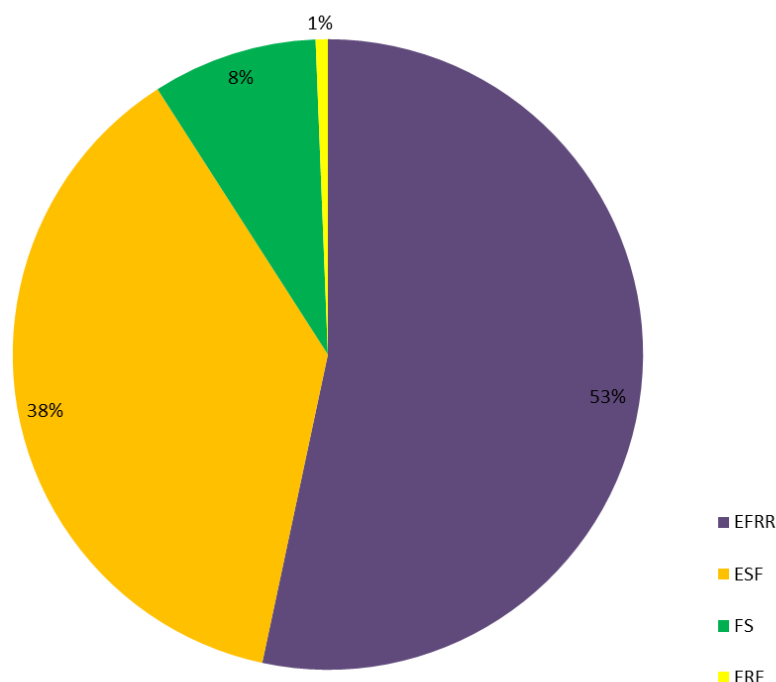


Chart 3: The percentage of individual funds in irregularities reported to OLAF in the programming period 2007 - 2013

In order to get information value of these both charts the data are deprived of CAP area (this agenda was taken over by CCP AFCOS just in the second half of the programming period).

From the total number of cases of irregularities reported to OLAF for the programming period 2007 - 2013 through IMS, about 5 % represented cases of suspected fraud, of which most of fraud suspicions were reported for the ERDF<sup>36</sup> and ESF<sup>37</sup>. Despite incomplete data for CAP, the irregularities in this area represent one of the most important shares on the fraudulent activity (reported to OLAF through IMS).

CCP AFCOS actively participated not only in reporting (reporting of irregularities) but also in the statistic and analytic area where the reported irregularities were assessed. It results from the summary of reported irregularities for the programming period 2007 - 2013 to OLAF that the modus operandi (method of committing - how it happened) most often consists in<sup>38</sup>:

- violation of the Public Procurement Act (wrongly set selection / evaluation criteria, costs of extra work, violation of legal procedure by the contracting authority (non-transparent / discriminatory process of the contracting authority), agreements restricting competition, unauthorised application of Negotiation procedure without publication, overestimation of public procurement etc.),

<sup>36</sup> Within ERDF the largest number of reported suspected frauds belongs to the regional operational programmes (ROP) and to the OP Enterprise and Innovation under the management of MoIT.

<sup>37</sup> Within ESF the largest number of reported suspected frauds belongs to the OP Education for Competitiveness under the management of MoEYS.

<sup>38</sup> SAO, in the report on the financial management of EU funds in the Czech Republic (EU Report 2016) in Section B.3.2, describes factors affecting the risk of recurrence of deficiencies in the programming period 2007 - 2013: "Almost 50 % of all identified deficiencies and nearly 75 % of identified ineligible costs are associated with the public procurement process, most of them were caused by the lack of professional care on the part of contracting authorities."





- violation of the Act No. 218/2000 Coll., on budgetary rules (ineligible expenditures, VAT offsetting, offsetting of payments not related to the subject of the project, duplicate payments, etc.),
- violation of the Act No. 250/2000 Coll., on budgetary rules of territorial budgets (similarly as in the previous indent),
- violations of conditions and non-observance of the purpose of the grant (start of action before the contract is signed; unjustified rent, failure to meet deadlines, failure to submit reports or erroneous data in them; non-implementation of works related to the project; failure to ensure the sustainability, non-fulfilment of required reporting obligations in connection with the project, subject of the grant transferred to a third person etc.),
- violation of the Act No. 320/2001 Coll., on financial control (non-compliance with the 3E principle, mismatch of the actual situation with presented documentation, incorrect settings of management and control system, lack of cooperation on the part of the beneficiary (the avoidance of control), etc.),
- violation of the Act No. 40/2009 Coll., the Criminal Code (providing of false information / documents, fictitious beneficiary, false information in attendance sheets (participants were unqualified for the specific topic or did not exist), declaration of old equipment as new one, interconnection among persons, etc.),
- violation of the Act No. 563/1991 Coll., on Accounting (erroneously billed travel expenses, unauthorised reimbursement of meals, date of the invoice before the submission of application, errors in the document archiving, etc.).

Consequences resulting from irregularities lead to:

- reduction in the volume of funds effectively usable in other projects,
- restrictions of competition, machinations in public procurements,
- possible loss of public trust in the mechanism of the EU funds spending,
- economic impacts (high cost, inefficient management ...),
- a possible deterioration of the reputation of the Czech Republic abroad.

In order to get experience outside the entities of implementation, CCP AFCOS asked, in the evaluation of the programming period 2007 - 2013, the non-profit organisations for their synergy. Two non-profit organisations out of six responded to the request. Despite the low feedback the responses were very helpful and factual, they declared their interest in social situation and in the protection of the interests of the Czech Republic. Besides the obligations arising from the existing valid legislation of the Criminal Procedure Code related to the protection of a whistle-blower, a requirement to ensure the anonymity of the whistle-blower and to keep his/her existing financial remuneration or to provide him/her with similar job can be derived from their answers, in addition to the requirement to reinforce his/her procedural status (for any disputes with the employer) and to limit possible sanctions by the employer against the whistle-blower.

Questioned non-profit organisations recommended to extend the requirement of transparency<sup>39</sup> implemented among others within the compulsory publication of the grant beneficiaries in addition to the existing information (about the grant beneficiary, title and number of the approved project and the financial amount) as well as the information leading to the project itself (to trace objectives, activities, project contributions<sup>40</sup>). Recommendations were also related to the area of controlling and sanctioning

<sup>39</sup> COCOF chapter 2.6.3: "The transparency contributes to frauds prevention and their detection. Citizens should be provided with easy access to relevant information in order to ensure that the EU funds are managed transparently and in compliance with applicable legal requirements.

<sup>40</sup> Thus, as recommended by the non-profit organisations, SAO alerted in its report on the financial management of the European Union funds in the Czech Republic (EU Report 2016) in Chapter B.3 at the risk in project-driven measures: "the control exercised by the programme implementation bodies is not sufficiently focused on the appropriateness and cost-effectiveness, as well as on the benefits and results of the projects.", as specified in detail in Chapter D.2.2.



of the compliance with the law on budgetary rules (Section 18a). Furthermore, the requirement for adoption of relevant regulations of the Ministry of Finance requesting the submission of data (about ownership structure of the applicant) pursuant to PPA was presented<sup>41</sup>.

The fact of informing the public on problematic cases related to spending of EU funds led to the adoption of some important measures, e.g. adoption of the request for the European consultants' certification; in some cases unconditional imprisonment sentences and monetary fines were imposed. In this context it is necessary to note also the possible negative side of the matter, namely that the spreading of awareness about frauds can lead to improvement of the frauds themselves and thus reduce the possibility of their detection. Another risk may consist in an inaccurate and misleading information provision in the media.

One of the essential measures for ensuring better and more effective management of the EU funds is the fact that in the new programming period 2014 - 2020 there is only one regional OP administered centrally by MoRD.

Based on results of checks carried out in the programming period 2007 - 2013 and related findings, it is obvious that it will be necessary to be more focused namely on:

- sufficient implementation of effective measures to prevent frauds, including the effective control of the applicants' past while evaluating requests for payment (e.g. to track the ability to repay debts. Financial distress can also occur due to an execution over the partner's share, due to a lien or sale of a part of the company. Attention shall be drawn to frequent changes of residence or members of statutory bodies or their alternation from statutory bodies to Supervisory Board members.)
- consistent verification of the activity of the grant applicant. In the application itself, it means to verify the accuracy of data (material and formal), feasibility of the business plan, verification of application attachments (e.g. verification of the certificate of indebtedness, bank statements, statements of compliance with qualification criteria),
- exact (clearly defined) specification of requirements for qualification criteria, including the requirement for notification on a subcontractor,
- compliance with deadlines,
- proper archiving of documents.

## 6. PRIORITIES FOR THE PROGRAMMING PERIOD 2014 - 2020

For the new programming period 2014 - 2020, the Czech Republic has allocated a total of:

- EUR 23.9 billion from ESIF,
- EUR 23.3 million from FEAD,
- EUR 27.7 million from AMIF,
- EUR 32.2 million from ISF and
- about EUR 5.5 billion from CAP.

In the programming period 2014 - 2020 the European Agricultural Fund for Rural Development, from which the Rural Development Programme is co-financed, is part of the Regulation of the EP and the Council on common provisions regarding ESIF. The Ministry of Agriculture is the MA, SAIF is the paying agency.

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<sup>41</sup> The adaptation of PPA, according to Section 48.7, Section 104.2 point a) and b) section 2, does not apply to joint stock companies of which the sole shareholder is the state or of which a partner is a limited liability company. According to Section 48.9, the contracting authority shall exclude from the selected candidates such joint stock company that would not meet the condition of booked shares.



It is the intention of the European Union to ensure that these funds contribute as much as possible to the implementation of the Strategy EU 2020 – A Strategy for Smart, Sustainable and Inclusive Growth supporting inclusion. In order to effectively achieve the objectives of the Strategy, each Member State prepared its Partnership Agreement that is implemented by the realisation of each OP. Following its examination, the Partnership Agreement was approved by the European Commission on 26 August 2014.

## 6.1 Criminal sphere

Priorities in this area namely are:

- creation of conditions for ensuring a higher degree of specialisation of police authorities and prosecutors in the area of detection and investigation of crimes committed to the detriment of the EU related in particular to areas of spending of the EU funds and to the public procurement,
- close cooperation in tax crime area among the Police of the Czech Republic, BFA, Customs administration, FAA and other partners; intensive exchange of information and joint activities (e.g. creation of joint teams)
- fight against corruption and clientelism systems in the allocation of grant funds and the public procurement procedure,
- searching and seizure of proceeds of crime activities,
- effective operational search of data, primarily on organised crime activities in the area of public procurement and grant funding,
- reduction in the overall number of unfinished cases, creation of a space for own searching.

It is also emphasised that it is necessary to implement measures to improve the efficiency of collection of taxes and duties, including better communication among BFA, Customs administration, the Police and the public prosecution in the fight against tax frauds and to improve the efficiency of cooperation among individual services of the V4 countries. Tax frauds and tax evasion are generally a serious problem because due to the inefficient collection of taxes and customs in individual countries there are significant losses in budgetary resources calculated in billions of crowns. For this reason the goal is to intensify the cooperation in the development and adoption of joint measures, such as online connection among taxpayers and the financial administration, electronic summaries of tax documents (inspection reports containing information in particular of taxable transactions received and performed by payers), to establish the system of active sharing, transferring and evaluating of information among bodies of the Customs administration, BFA and police authorities in the fight against serious tax frauds.

In the area of detection and investigation of crimes it is important to focus on activities of the enforcement authorities on the most serious forms of organised crime targeted towards the creation of conditions for illegal spending of European funds. A considerable amount of funds redistributed in these areas leads to the formation of clientelism links and relationships among providers and beneficiaries of the grant resources. In extreme cases, such links and related crime can lead to systemic threatening to the support in some areas of public financing. To enable an effective detection and prosecution of the most serious forms of crime it is necessary to create conditions for closer specialisation of police officers and public prosecutors with an effective use of procedural tools to support the crime detection (procedural guarantees and adequate protection of persons reporting criminal activities, effective use of operational resources for initial detection and demonstration of serious crime), as well as for the subsequent crime investigation (status of a cooperating defendant, plea bargaining).



## 6.2 Area of EU budget revenues

The Customs Administration of the Czech Republic emphasises an active cooperation with OLAF as based on performed investigations, multimillion tax and custom evasions were found as well as evasions of other monetary transactions administered in connection with customs. With this in mind proper detection of customs frauds, as well as prevention of them, will be emphasised in the following period. For this objective the following resources will be used:

- rigorous risk assessment from reports of mutual cooperation sent within the framework of coordinated cases of OLAF,
- effective implementation of post-clearance checks in response to reports of mutual cooperation,
- entering of respective risk profiles in corresponding customs systems based on which the risks related to imports shall be eliminated that can be subject of customs- and other monetary evasions, administered together with customs, or of an illegal import of risky goods,
- in case of a suspicion that a circumvention of customs rules and damages to the EU financial interests occur, OLAF shall receive relevant incentives to initiate coordinated inquiries in other MS,
- to continue in active participation in joint customs operations,
- to continue in active participation in the completion of the amendment of the Council Regulation (EC) No. 515/97 and in preparation of implementing regulations.

In addition to the grant application from the Hercule programme for the technical renewal of radio communication of investigation units of GDC the use financing from the Hercule III programme for the years 2014 - 2020 is scheduled for further three projects covered by the Customs Administration of the Czech Republic. These include the purchase of a mobile mass radiography, purchase of a mobile X-ray device to check baggage or consignments of goods for the Customs Office Prague Ruzyně and of a technology for ICT customs forensic laboratory. It can be said that the Hercule III programme is very beneficial in terms of technological development of the Customs Administration.

## 6.3 Administrative legal area

The tasks based on defined governmental priorities shall be emphasised in the fight against corruption. It means, for example:

- putting of PPA into practice,
- submission of a legislative solution for whistle-blowers' protection,
- adoption of a new AMCPF,
- creation of material and personnel capacities in the area of international corruption evidence and cross-border punishment,
- submission of factual intention of the act on lobbying,
- implementation of the Act on central register of accounts.

Regarding the activities related to ensuring the protection of the EU financial interests, the priorities of CCP AFCOS for the coming period namely are:

- quality and permanent securing of the protection of the EU financial interests,
- setting of mutual cooperation with the implementation entities and MS; regular exchange of experience and information and their effective use in practice,
- awareness about the activities of OLAF and the AFCOS network.

Specific tasks arising from the set priorities and deadlines are defined in the National Strategy – Annex 2: Action plan.



## LIST OF USED ABBREVIATIONS

Abbreviation	Title
AFCOS	Anti-Fraud Co-ordination Structure
AA	Audit Authority
AMCPF	Act on Management and Control of Public Finances
AMIF	Asylum, Migration and Integration Fund
AML/CTF	Anti-Money Laundering and Counter-Terrorism Financing
AP	Action plan
ARO	Asset Recovery Office
BFA	Bodies of Financial administration
CAP	Common Agricultural Policy
CCP AFCOS	Central contact point of AFCOS network
CED	Central Exclusion Database
CEDR	Central Register of Grants from the National Budget
CF	Cohesion Fund
CNB	Czech National Bank
CR	Czech Republic
CSF	Common Strategic Framework
DAF	Database of audit and check findings
EAFRD	European Agricultural Fund for Rural Development
EAGGF	European Agricultural Guidance and Guarantee Fund
EBA	European Banking Authority
EC	European Commission / Communities
ECA	European Court of Auditors
ECSC	European Coal and Steel Community
EDES	System of early detection of risks and exclusion of economic entities (New Early Detection and Exclusion System)
EFF	European Fisheries Fund
EGF	European Globalisation Adjustment Fund
EIOPA	European Insurance and Occupational Pensions Authority
EMFF	European Maritime and Fisheries Fund
EP	European Parliament
EPPO	European Public Prosecutor's Office
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds
ESMA	European Securities and Markets Authority
EU	European Union
FAA	Financial Analytical Authority
FEAD	Fund for European Aid to the Most Deprived
GDC	General Directorate of Customs



GFD	General Financial Directorate
IB	Intermediate Body
IMS	Irregularity Management System
ISF	Internal Security Fund
ISOP	Information system of Operational Programmes
ISPROFIN	Information system for the programme financing
LCP AFCOS	Local contact point(s) of AFCOS network
MA	Managing Authority
MGCF	Methodological Guideline for cash flows of the programmes co-financed from the European Structural Funds, the Cohesion Fund and the European Maritime and Fisheries Fund for the programming period 2014 - 2020
MoA	Ministry of Agriculture
MoE	Ministry of the Environment
MoEYS	Ministry of Education, Youth and Sports
MoF	Ministry of Finance
MoI	Ministry of Interior
MoIT	Ministry of Industry and Trade
MoLSA	Ministry of Labour and Social Affairs
MoRD	Ministry of Regional Development
MoT	Ministry of Transport
MS	EU Member State
MSC 2007/MS2014+	The Central Monitoring System 2007 / Monitoring system for the period 2014 - 2020
NCA	National Coordination Authority
NCOC	National Centre against Organised Crime
OAFCN	OLAF Anti-Fraud Communicators' Network
OCPI	Office of Criminal Police and Investigation
OG	Office of the Government of the Czech Republic
OLAF	European Anti-Fraud Office
OPC	Office for Protection of Competition
PCA	Payment and Certification Authority
PCR	Police of the Czech Republic
PEP	Politically Exposed Persons
PCH	Prague City Hall
PPA	Public Procurement Act
SAIF	State Agricultural Intervention Fund
SAO	Supreme Audit Office
SC	OLAF Supervisory Committee
SPO	Supreme Public Prosecutor's Office
TFEU	Treaty on the Functioning of the European Union
WG	Working Group



## LIST OF ATTACHMENTS

Annex 1: Legal framework

Annex 2: Action plan

Annex 3: National strategy in the set of documents affecting the protection of the EU financial interests