BETKONEXT
Better Knowledge for the Next Generations

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Policy Brief

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Introduction

BETKONEXT Final Recommendations

Every year, a measurable share of EU public money is lost to fraud, mismanagement, and irregularities — resources collected from citizens and businesses across the Union that never reach their intended destination. The question this Policy Brief addresses is not whether the problem exists, but whether the institutional architecture designed to prevent and remedy it is keeping pace with an increasingly complex environment. The European Commission's White Paper on the Anti-fraud Architecture Review (COM(2025) 546 final, 16 July 2025) reflects precisely this concern. It maps the current EU Anti-Fraud Architecture (AFA), including OLAF, the EPPO, Europol, Eurojust, AMLA, the ECA, and the forthcoming EU Customs Authority. It identifies four strategic areas for reform: strengthening preventive measures, improving detection through data sharing and AI, enhancing investigation and prosecutorial capabilities, and streamlining the recovery process. A Commission Communication on the outcomes is expected in 2026.

The 'Better Knowledge for the Next Generations' (BETKONEXT) Project, funded under the EUAF Programme (2024-2026), was developed in direct response to these pressures.

Its final output – this Policy Brief – sets out twelve concrete recommendations for reform.
The unprecedented expansion of the Union's budgetary capacity, the experience gained under Next Generation EU, and the forthcoming redesign of the Multiannual Financial Framework have intensified scrutiny of the effectiveness, coherence, and resilience of the existing anti-fraud architecture. At the same time, the growing sophistication of cross-border fraud schemes, the digitalisation of financial flows, and the closer link between financial protection and the rule of law have revealed structural tensions that can no longer be addressed through incremental or purely sectoral measures.

The research, developed through a series of working papers, building on the analytical path begun under a previous project, BETKOSOL, has progressively moved from a diagnostic mapping of legal and institutional challenges to a reform-oriented analysis aimed at identifying structural points of intervention within the EU financial interest (EUFI) governance

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system. Rather than providing an exhaustive catalogue of deficiencies, the project focuses on the institutional and procedural nodes that exert the greatest influence on the system's effectiveness.

Methodologically, this approach draws on complexity theory as elaborated by Donella Meadows in *Thinking in Systems* (2008), with particular reference to the concept of 'leverage points' (further developed by Mandl, 2023). It was also inspired by one of the BETKONEXT events – the Seminar in Barcelona – addressing the themes of prevention and anti-corruption.

Within a complex adaptive system, leverage points are strategic locations where targeted interventions can produce ripple effects across multiple layers of governance. Identifying them requires a thorough understanding of interdependencies, feedback loops, and systemic dynamics. In a governance network comprising European institutions, national authorities, judicial bodies, networks, and decentralised administrative actors, reform efforts that fail to account for systemic complexity risk either producing unintended consequences or being absorbed without transformative impact.
The system examined in this Policy Brief covers the full cycle of EU financial resources across the Member States. Resources are mobilised via the Union's fiscal and budgetary framework, processed through a multi-layered governance structure, allocated, and managed by public authorities before being reinvested into the European economy through strategic policy and public investment. Normatively, the protection of the Union's financial interests reflects the ideal alignment between resources collected and resources spent in accordance with legitimate public objectives. In practice, however, a structural gap persists between what is lawfully collected and what is effectively and properly spent. Fraud, irregularities, conflicts of interest, missing recoveries, and systemic inefficiencies contribute to this discrepancy. The scale of this phenomenon is periodically documented in official instruments, such as the European Commission's Annual PIF Report and the European Public Prosecutor's Office's Annual Report, which quantify both the number of detected cases and the estimated financial impact.

Reducing this gap requires more than strengthening detection mechanisms. It calls for gradual adjustments to governance structures, legal definitions, procedural frameworks, and coordination tools to realign the system with its constitutional objective of sound financial

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management and the effective protection of the EU budget. The urgency of such adjustments is heightened by the shift toward performance-based funding models, the centrality of digital monitoring systems, and the growing transnational character of financial crime. In this context, protecting the Union's financial interests becomes a test of the Union's capacity to guarantee accountability and integrity at the heart of an increasingly integrated and performance-driven budgetary environment.

Against this background, this policy brief is structured around three main sections: I. The institutional network; II. Management of EU funds: performance, costs, and effectiveness; III. Instruments and procedures in the different phases of the fight against irregularities and fraud affecting the EU's financial interests.

Each section is composed of two parts: Part a – an introduction to the general topic, with focus and thematic boxes, to guide the reading of Part b – the recommendations.

The twelve recommendations formulated by the BETKONEXT Research Team are detailed in the sections that follow. Their underlying logic is anticipated here to clarify the trajectory of the argument and the reader's expectations.

At the level of institutional architecture, the Policy Brief advocates strengthening the European Anti-Fraud Office (OLAF) so that it can function as the key coordination centre for Member States' anti-fraud services (AFCOSs). OLAF, which currently has limited operational autonomy, could be re-established as an agency and granted the powers to adopt recovery decisions or sanctions. Equally important is a structural clarification and strengthening of the role of Anti-Fraud Coordination Services and 'competent authorities' under the relevant EU legal framework. The absence of a harmonised and functional definition of 'competent authority', combined with heterogeneous national arrangements, generates fragmentation, legal uncertainty, and operational inefficiencies. Introducing a minimum functional definition and reinforcing the procedural obligations for cooperation would enhance accountability, reduce delays, and strengthen the overall coherence of interactions among the European Anti-Fraud Office, the European Public Prosecutor's Office, and national administrations. This reform is not merely technical; it constitutes a structural intervention aimed at aligning responsibilities within a complex multilevel network.

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A second cluster of recommendations focuses on the transformation of EU financial governance under the so-called Recovery and Resilience Facility effect ('RRF effect'). The Recovery and Resilience Facility has accelerated the transition toward performance-based standards and milestone-driven disbursement. This evolution increases the importance of management-type controls and cost-effectiveness assessments, while simultaneously creating new categories of irregularities that may not reach the criminal threshold but still distort allocation processes and undermine programme credibility. The Policy Brief therefore calls for greater harmonisation of the operational understanding of suspected fraud, serious irregularities, and conflict-of-interest situations, as well as for the incorporation of integrity-based indicators into performance monitoring frameworks. In a system where performance determines funding, the integrity of governance structures becomes inseparable from the protection of EU financial resources.

The third strategic dimension concerns the instruments and procedures that structure the control chain from prevention to recovery. The recommendations stress the need to strengthen preventive mechanisms, particularly by more effectively implementing and harmonising whistleblowing frameworks. A further focus is on the structural weaknesses in the sanctioning and recovery phases, where detection and prosecution often fail to translate into the timely and effective reintegration of misappropriated resources into the EU budget. In this context, the proposal to establish a dedicated European coordination mechanism for asset recovery reflects the recognition that enforcement gaps at the final stage of the cycle undermine the credibility of the entire system. The recommendations also address the adaptation of preventive administrative tools to counter the infiltration of organised crime into public procurement and funding schemes. This dimension raises its own questions about the balance between effectiveness and fundamental rights.

These recommendations are urgent because the current moment represents a convergence of pressures and opportunities. The redesign of the Union's budgetary architecture, the increasing digitalisation of financial controls, and the consolidation of the European Public Prosecutor's Office create a window in which structural reforms are both feasible and necessary. Without targeted interventions at systemic leverage points, the growing complexity of financial governance risks outpacing the capacity of existing mechanisms to ensure equivalent and effective protection across the Union.

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By explicitly articulating and justifying these leverage points, this Policy Brief aims to contribute to the ongoing policy debate with a coherent and actionable reform agenda – one directed not only at correcting identifiable deficiencies but at building a governance system capable of keeping pace with the challenges ahead and sustaining the constitutional legitimacy on which public trust in European institutions ultimately depends.

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Section I.

The Institutional Framework

The EU anti-fraud architecture consists of a large number of players who must work together in a coordinated manner to ensure maximum protection of the EU's financial interest: EC and OLAF, EPPO, ECA, CJEU, EUROJUST, EUROPOL, different authorities in specialised sectors (such as AMLA, EIB, ECB), AFCOSs and all the other national competent authorities.

THE INSTITUTIONAL FRAMEWORK FOR THE PROTECTION OF THE EU'S FINANCIAL INTERESTS. A VERY SHORT INTRODUCTION

The increasingly complex anti-fraud landscape and the sophistication of fraudsters make both 'cooperation' and 'coordination' across organisational boundaries more important than ever. 'Cooperation' must be developed with key partners, such as authorities from Member States and the EPPO, to effectively combat fraud. The European Commission must boost its support, particularly in terms of 'coordination', to decentralised agencies and joint undertakings. Under the umbrella term 'cooperation', Administrative Cooperation Arrangements (ACAs), for example, are an important instrument for OLAF to enhance collaboration with investigative bodies and other partners in the fight against fraud. They outline practical ways to increase operational cooperation, such as by designating contact points and encouraging operational exchanges.

Although considerable progress has been made in strengthening anti-fraud governance and improving coordination, cooperation, and processes within the Commission, these efforts need to be sustained and further strengthened in specific areas to remain effective and efficient in the long term. OLAF continues to support Commission departments and executive agencies through the Fraud Prevention and Detection Network and by providing advice on anti-fraud strategies. However, the anti-fraud policy must be considered within its wider EU policy context. Anti-fraud considerations must be further integrated into other policy areas intrinsically linked to anti-fraud, such as anti-corruption and the Rule of Law, and steps must be taken to leverage potential synergies.

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Box 1.1 Special Report 26/2025 of the European Court of Auditors – EU bodies fighting fraud: Clear mandates but exchange of information and Commission oversight remain insufficient.

Special Report 26/2025 of the European Court of Auditors contributes to the ongoing debate on the review of the EU's anti-fraud architecture, which the Commission formally launched in the July 2025 White Paper. It provides a systematic assessment of the four main bodies operating within the system to protect the EU's financial interests — EPPO, OLAF, Eurojust, and Europol — covering the period 2022–2024. Regarding the allocation of competences, the Court reaches a broadly positive conclusion: the mandates of the four bodies are clearly defined in their respective founding regulations and do not overlap. The distinction between EPPO's criminal function and OLAF's administrative role constitutes one of the defining features of the current architecture. The most significant weaknesses, however, emerge at the operational level. The divergent reporting requirements – which oblige EU institutions, bodies, offices, and agencies (IBOAs) to report to both EPPO and OLAF, thereby creating a dual-track system – generating procedural redundancies without ensuring that all allegations systematically reach EPPO for an assessment of their criminal relevance. More serious is the structural deficit in information exchange between the two principal bodies: over the period under review, of 681 investigations discontinued by EPPO, only 5% were communicated to OLAF, preventing the latter from assessing the merits of opening complementary administrative investigations and, consequently, from adopting protective measures for the EU budget. This has resulted in marginal use of the complementary investigative instrument, which accounted for merely 2% of the criminal investigations opened by the EPPO. Further gaps concern the Commission's oversight role: the Commission lacks a consolidated information framework covering the amounts owed to the Union's budget arising from investigations conducted by the two bodies, as well as adequate mechanisms to monitor recoveries ordered by national courts in criminal proceedings. In response to these shortcomings, the Court issues three recommendations addressed to the Commission: the establishment of an interoperable system for the centralised management of fraud allegations and the flow of information between EPPO and OLAF (target date: end 2028); a systematic analysis of the variations in fraud reporting levels across Member States and different categories of reporting entities (end 2026); and the development of a unified methodology to measure the overall financial impact of investigations on the Union's budget, including the monitoring of recoveries ordered in criminal proceedings (end 2028).

Box 1.2 EUROPOL and EUROJUST: the density of the framework and the operational rollout of AMLA operations

Although the following recommendations will not focus specifically on these institutions, they deserve special attention. Anti-fraud governance lies at the crossroads of longstanding and

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more recent efforts towards administrative coordination and structured cooperation to address the sector's ever-changing challenges. For the Policy Brief to be complete and self-contained, this Box rounds out the institutional picture by including the two bodies that already support police and judicial cooperation: the European Union Agency for Judicial Cooperation in Criminal Matters (Eurojust) and the European Union Agency for Law Enforcement Cooperation (Europol).

As stated in COM(2025)546, closer collaboration between Europol and Eurojust is essential to ensure comprehensive coverage of the entire criminal justice process, from investigation through to prosecution and conviction (Section 3.2.b).

Eurojust, the European Union's judicial cooperation body, is responsible for investigations and prosecutions of serious crimes involving at least two EU Member States. Article 85 TFEU states that Eurojust's task is to support and strengthen coordination and cooperation among national authorities responsible for investigating and prosecuting serious crimes affecting two or more Member States or requiring prosecution on a common basis, based on the operations carried out and information provided by Member State authorities and Europol. Furthermore, while Article 85 TFEU specifies that Eurojust's role is to bolster coordination and cooperation among national authorities responsible for investigation and prosecution, this remains within the domain of intergovernmental cooperation. However, it is equally true that the direction taken – given the possibility for the European Parliament and the Council to directly confer the power to initiate criminal investigations and resolve conflicts of jurisdiction under Article 85(1) TFEU – is one of increasing moves towards supranational cooperation.

Eurojust works closely with Europol. In fact, contacts between Eurojust and Europol have been steadily improving. The secure communication network has enabled the exchange of information and allowed easier access to Europol's analysis files. Article 88 TFEU states that Europol's mission is to support and reinforce the work of Member States' law enforcement authorities and other law enforcement agencies in preventing and combating serious cross-border crime involving Member States, terrorism, and crime affecting common interests regulated by EU policy. Regulation (EU) 2016/794, which amends and expands the provisions of Decision 2009/371/JHA establishing Europol, assigns several tasks to achieve these objectives. Among them, Europol works to support the competent judicial authorities by facilitating the exchange of information, providing criminological analysis, and assisting in coordinating cross-border operations. It is also the main hub for information on crime in the EU, identifying common information gaps and investigation priorities.

At the EU level, increased cooperation with Europol regarding risk analysis and operational support, and with Eurojust concerning the functioning of the Joint Investigation Teams (JITs), would allow for greater support to the EPPO, particularly in cross-border cases. In addition, a semi-automated hit/no-hit system tailored for the EPPO, Eurojust, Europol, and OLAF—which respects the procedural guarantees and mandates of each body and agency—could improve

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early detection of cross-border criminal patterns and facilitate cooperation (COM(2025) 546, Section 3.3.c).

For various reasons, it has become clear over time that the measures for countering the financing of terrorism and anti-money laundering must also be strengthened at the EU level. The connection between cybercrimes and money laundering is intricate and concerning. Cybercriminals often employ money laundering techniques to conceal their illicitly obtained funds. By funnelling the money through various bank accounts and financial transactions, they aim to make it appear legitimate and remove any trace of its criminal origins. Money laundering is a crucial component of the cybercrime ecosystem, enabling criminals to enjoy the financial benefits of their illegal activities without raising suspicion. The unregulated nature of cryptocurrency also presents opportunities for cyber criminals to launder money, due to the difficulty in tracing transactions.

The rapid development of new technologies is shaping this 'illegal' economy, making it even more urgent for public authorities to intervene in a coordinated fashion to prevent it through regulation and control. The link to the protection of the financial interests of the European Union is evident (COM(2025)546, Section 1, list AMLA among the anti-fraud architecture (AFA) actors). So, with the intervention of public authorities in the economy on the rise, regulation for Anti-Money Laundering (AML) became even more imperative.

The Anti-Money Laundering Regulation (AMLR), Regulation (EU) 2024/1624, forms the new legal framework, creating a 'single rulebook to address the diverging interpretations and fragmented application of AML/CFT rules by Member States'. AMLA was created in 2024 to prevent money laundering and the financing of terrorism. It will be fully operational as of 1 January 2028. Its powers will enable it to support the operational coordination of national authorities tasked with supervision or the production of financial intelligence. In addition, AMLA has been conferred direct supervisory powers, including the ability to impose pecuniary sanctions and administrative measures on operators and financial institutions (including banks) under its direct supervision, to ensure that they correctly and consistently apply the EU AML/CFT rules. These rules have been overhauled and will apply across the EU as of mid-2027 (COM(2025) 546, Section 2).

The establishment of this additional authority will facilitate coordination among all the different actors previously mentioned, who are part of the governance for the specific sector. At the same time, it represents an additional actor in an already complex anti-fraud governance structure.

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Focus 1.1: OLAF and the EPPO

The European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO) are two key EU bodies contributing to the protection of the EU's financial interests.

Established in 1999, OLAF, entrusted with the power to conduct administrative investigations, has been the main anti-fraud authority at the EU level for twenty years. The scope of OLAF's activities covers any fraud, administrative irregularity, or other harmful activity likely to affect the EU's financial interests. At the conclusion of its inquiries, it can formulate a report and make recommendations. The Court of Justice of the European Union – see T-289/16, Inox Mare srl, para. 28 – has clarified that OLAF's recommendations have no binding legal effect on EU or Member State authorities. It is up to the EU institution or Member State authorities to determine whether or not to apply OLAF's recommendations and pursue administrative or legal action in court.

The EPPO, the formerly missing pillar in the EU anti-fraud architecture, became operational on 1 June 2021. Article 86 TFEU finally established the necessary legal foundation for the creation of the EPPO. This provision allowed the Council, acting unanimously and with the consent of the European Parliament, to establish the European Public Prosecutor 'from Eurojust'. The provision also permitted a group of at least nine Member States to request a Council decision and establish the EPPO through enhanced cooperation. The Treaty of Lisbon placed two provisions of equal fundamental importance before Article 86 TFEU: Articles 82 and 83 TFEU. These provisions, which specify the guidelines set out in Article 325 TFEU, enshrine the European Union's legislative power to lay down common minimum rules to approximate the criminal, substantive, and procedural aspects of national legislation. Article 86 and the regulation establishing the EPPO, from which it derives its legitimacy, affect these normative bases with a distinctly derogatory character.

The EPPO, an innovation in the EU legal framework, is a rare example of growing collaboration within the EU. In fact, twenty-two EU Member States currently participate in it. Prior to its creation, the EU had no power to investigate and bring to justice the perpetrators of crimes against the EU's financial interests. Existing EU bodies – such as OLAF, Eurojust, and Europol – do not have, and cannot be given, a mandate to conduct criminal investigations and have no coercive powers if Member States refuse to carry out OLAF investigations. Previously, only national authorities had the power to investigate and prosecute EU fraud, but their jurisdiction ended at national borders. The EPPO fills the institutional void since fraud that harms the EU's financial interests is mostly transnational in nature.

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However, EPPO's and OLAF's areas of activity are closely linked. The shared goal of both bodies is to improve fraud detection at the EU level and optimise the recovery of the EU budget. In addition, both EU bodies combine their investigative and other capacities to further the protection of the EU's financial interests. To prevent unnecessary duplication of tasks, the relationship between OLAF and EPPO relies heavily on their working arrangements.

Box 1.3 Complementary investigations

Complementary investigations are a cooperation mechanism established within the EU antifraud enforcement framework that allows the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF) to conduct coordinated but distinct investigations concerning the same conduct affecting the financial interests of the European Union.

They were introduced following the establishment of the EPPO and the subsequent amendment to Regulation (EU, Euratom) No. 883/2013, to ensure that criminal enforcement and administrative action can operate simultaneously without interfering with each other. In practice, complementary investigations enable OLAF to address administrative, financial, and disciplinary aspects of a case while the EPPO conducts a criminal investigation.

Under this system, the EPPO retains exclusive competence for criminal investigations and exercises coercive powers, including searches, seizures, interceptions, and precautionary measures. OLAF, by contrast, carries out administrative investigative activities, including on-the-spot checks, inspections, documentary collection, and interviews, with the objectives of supporting the recovery of misused EU funds, identifying administrative irregularities, and recommending disciplinary or financial measures.

Complementary investigations may be initiated either upon a request by the EPPO or by OLAF on its own initiative, provided that the EPPO is consulted beforehand. This consultation mechanism is designed to ensure coordination between the two bodies and to avoid investigative overlaps or actions that could compromise criminal proceedings.

In essence, complementary investigations are a structural element of the EU's integrated anti-fraud architecture: they enable the Union to pursue criminal accountability through the EPPO while ensuring administrative follow-up and financial recovery through OLAF, thereby providing a comprehensive response to fraud affecting the EU budget.

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Focus 1.2: AFCOSs and their NETWORK

Regulation (EU, Euratom) No. 883 of 2013 highlights in recital 10 that OLAF's operational efficiency depends largely on cooperation with the Member States. In this regard, the recital mentions the need for Member States to identify the competent authorities capable of providing OLAF with the necessary assistance in performing its tasks. Where a Member State has not established a specialised service at the national level to coordinate the protection of the Union's financial interests and combat fraud, an anti-fraud coordination service should be designated to facilitate effective cooperation and the exchange of information with OLAF. In addition, Article 3 of Regulation (EU, Euratom) No. 883/2013 states that Member States may designate an anti-fraud coordination service to facilitate effective cooperation and information exchange, including operational information, with OLAF. Where appropriate, and in accordance with national law, the Anti-Fraud Coordination Service may be considered a competent authority for the purposes of this Regulation.

In 2020, as part of the most recent amendments to the OLAF Regulation, the provision for the anti-fraud coordination service, known as AFCOSs, was improved to increase understanding of its mandate in relation to cooperation with OLAF. In this regard, Article 12a of Regulation 2013/883, as amended by Regulation (EU) 2020/2223, stipulates that EU Member States are required to designate an AFCOS to facilitate effective cooperation and exchange of information with OLAF, including information of an operational nature, and to provide or coordinate the assistance necessary for OLAF to effectively carry out its tasks (M. Jurić, 2025, here). However, the provision does not specify the legal nature, investigative powers, or functional autonomy of AFCOSs. This lacuna has resulted, at the Union level, in a highly uneven setup: Member States' AFCOSs differ in terms of structure, capacity, and functions. Some are endowed with a certain operability and enjoy an autonomous institutional location; others are embedded in ministerial offices with purely administrative functions and lack incisiveness. Comparative analysis suggests that the effective functioning of AFCOSs vis-à-vis the provisions of Regulation (EU) 883/2013 (as more recently updated) and its corresponding networking must still be achieved in many countries.

Without a clear regulatory definition, adequate resources, and proper integration with other actors in the European anti-fraud system, AFCOSs risk remaining a merely formal figure, unable to truly impact the protection of the Union's financial interests. Member States are autonomous in deciding where to best place the AFCOS within their national administrative structures. Italy (COLAF – Italy's Anti-Fraud Coordination Service, the Department for

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European Policies), Romania (the Fight Against Fraud Department – DLAF), and the Slovak Republic (the National OLAF Office) established dedicated services within the Prime Minister's/Government Office. Most of them opted for the Ministry of Finance (or a similar body), except for three countries: Sweden, which opted for the Ministry of Justice, and Lithuania, which chose the Ministry of the Interior.

Others chose technical authorities, with Greece opting for the National Transparency Authority (NTA), Hungary for the National Tax and Customs Administration (NTCA), and the OLAF Coordination Bureau. OLAF cooperates directly with EU Member State authorities to improve fraud prevention policy and practice through the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), which coordinates how the European Commission and its Member States combat fraud involving EU funds. The legal basis for COCOLAF is Decision 94/140/EC, as amended by Decision 2005/223/EC. The committee has also adopted its own Rules of Procedure (Group Art 280/19-07-05/7/EN). OLAF and the AFCOSs meet regularly under the umbrella of COCOLAF, usually once or twice a year.

Box 1.4 AFCOSs and the definition of 'competent authority' under Regulation 883

In Regulation (EU, Euratom) No 883/2013, the 'competent authority' is a designated national or institutional body that cooperates with the European Anti-Fraud Office (OLAF) to investigate fraud and protect the EU's financial interests. The Regulation currently lacks a definition of 'competent authority'. In general terms, for an institution to be a competent authority, it should have the legal power to enforce laws in a specific area. OLAF will assist Member States, through the Commission, in organising close and regular cooperation among their competent authorities to coordinate actions protecting the financial interests of the Union against fraud, in accordance with the relevant Article. 1, para. 2 of the Regulation mentioned above. According to the same article (para. 5), competent authorities of the Member States, as well as institutions, bodies, offices, or agencies that are not competent authorities, may establish administrative arrangements with the Office. The absence of a definition of the term 'competent authority' indeed stems from the deliberate caution exercised by the Union legislator; nevertheless, it gives rise to a number of legal and practical difficulties. Only in some countries, however, can the AFCOS be considered a competent authority (and the principal one), especially where there were no pre-existing structures to protect the EU's financial interests (for example, before the country joined the EU). This is, for example, the case of Romania. In other cases, the AFCOS is essentially a coordination module (without legal personality), considering the great variety of competent authorities typically involved in the protection of financial interests and the specificities of the sectors. In this sense, the NRRP anti-fraud network established in Italy is evidence of this complexity.

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Focus 1.3: no definition of 'competent authority' under Regulation (EU) 883/2013. An open issue

Regulation (EU, Euratom) No 883/2013 is silent on the legal definition of what constitutes a 'competent authority'. This silence is not accidental. It reflects a conscious choice of the Union legislator to respect Member States' institutional autonomy and constitutional identity, in line with Article 4(2) TEU (see Box 1). A central reform priority within the current reflection on the future of the EU anti-fraud architecture should be the introduction of a functional and harmonised definition of 'competent authority' in Regulation (EU, Euratom) No 883/2013. The Regulation repeatedly relies on this notion when defining obligations of cooperation, assistance, and information exchange with OLAF, yet it does not clarify what institutional or functional characteristics an authority must possess in order to qualify as 'competent'.

In practice, the absence of an EU-level definition increases the risk of competence disputes, delays in the provision of assistance, and uncoordinated information exchanges. Such shortcomings directly affect the effectiveness of investigative activities, including on-the-spot checks, access to documentation, digital forensics, and urgent measures such as freezing funds. Since OLAF does not possess autonomous coercive powers within Member States and must rely on the assistance of national authorities under the framework of Regulation 883/2013, ambiguity at the national level translates into operational vulnerability at the Union level.

From a systemic perspective, the definitional gap also weakens accountability. When several national bodies may potentially qualify as 'competent authorities' without a clearly defined hierarchy or coordination mechanism, it becomes difficult to identify responsibility for failures or delays in cooperation. This problem has become more pronounced, considering the evolving institutional architecture of the Union's anti-fraud policy, particularly following the establishment of the European Public Prosecutor's Office (EPPO) and the strengthening of OLAF's coordination role.

These structural deficiencies provide the analytical basis for the normative reform proposed in Recommendation 4 below.

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Section I – Recommendations

1. Strengthening OLAF as an Agency

OLAF is currently an internal organisation of the Commission, albeit enjoying autonomy and operational independence (for example, according to article 17(3), of Reg. no. 883/2013, 'The Director-General shall neither seek nor take instructions from any government or any institution, body, office or agency in the performance of his or her duties with regard to the opening and carrying-out of external and internal investigations or coordination activities, or to the drafting of reports following such investigations or coordination activities. If the Director-General considers that a measure taken by the Commission calls his or her independence into question, he or she shall immediately inform the Supervisory Committee and shall decide whether to bring an action against the Commission before the CJEU').

As clarified above, OLAF's mandate is complementary to that of the EPPO, covering not only fraud but also administrative irregularities and other harmful activities likely to harm the EU's financial interests. While OLAF is entrusted with significant powers, it does not have the authority to impose sanctions. OLAF's investigations end with the preparation of a report describing the preliminary findings and recommendations. These recommendations indicate disciplinary, administrative, financial, or judicial actions to be taken by the institutions, bodies, offices, and agencies of the EU, as well as by the competent authorities of the Member States concerned. However, OLAF's recommendations have no binding legal effect on EU or Member State authorities. It is up to the EU institutions or Member State authorities to determine whether to apply OLAF's recommendations and pursue administrative or judicial action.

OLAF could be further strengthened with the twofold goal of enabling it to work more effectively as a **coordination actor** for AFCOSs and COCOLAF and of **addressing the weaknesses in the recovery and sanctioning phase**. To provide OLAF with a more solid legal basis, it could be established as an agency under Article 325 TFEU. The scope of the final acts that OLAF can adopt should be limited to **administrative and financial measures**. Two fundamental principles should be followed when reshaping OLAF's structure. On the one hand, the **limitations on the delegation of powers** should be respected, ensuring that the Commission retains the power to approve administrative and financial measures. Second, from an organisational perspective, within OLAF, there should be a **clear distinction between**

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the offices responsible for investigations and those entrusted with the power to adopt financial and administrative measures. Such a change could result not only in a more effective recovery action but also in stronger protection for those who are the object of inspections (given the current limitations on judicial review of OLAF's recommendations).

2. OLAF – EPPO

OLAF and the European Public Prosecutor's Office (EPPO) pursue common objectives in protecting the financial interests of the European Union. OLAF supports and complements the EPPO's activities within its administrative mandate, and their cooperation should be further streamlined to ensure that any overlapping tasks are efficiently coordinated. Although the current legal framework already recognises the **complementary nature of their mandates**, clearer operational parameters would help prevent duplication of investigative activities, ensure an efficient allocation of resources, and reinforce the overall coherence of the European anti-fraud architecture.

In this context, the mechanism of **complementary investigations** should be further developed as a core instrument for the integrated protection of the European Union's financial interests. Administrative and criminal investigative actions should be carefully synchronised to ensure that **criminal prosecution and the recovery of financial resources** can proceed in parallel without interference. Enhanced coordination mechanisms, shared planning of investigative steps, and systematic use of common procedural tools would strengthen the effectiveness and transparency of this cooperative model. In further developing this approach, due consideration should be given to recent institutional assessments of the EU anti-fraud architecture, including Special Report 26/2025 of the European Court of Auditors on 'EU bodies fighting fraud' and the reflections set out in the European Commission White Paper COM(2025)546.

To improve operational cooperation between OLAF and the EPPO, it is further recommended that existing **protocols, working arrangements and information-sharing channels** be regularly reviewed to ensure their practical effectiveness. Joint task forces could be reinforced to enhance operational cooperation in complex, transnational fraud cases. Training programmes and staff exchanges may further foster mutual understanding of administrative and criminal investigative approaches and support the development of a common operational culture.

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Additionally, the European Commission's proposal to amend Regulation (EU) No 904/2010 on administrative cooperation and VAT fraud would enable OLAF and the EPPO to communicate more directly with the Eurofisc network and obtain centralised access to relevant VAT information. These changes are welcome, as they could significantly advance coordinated action against VAT fraud within the respective mandates of OLAF and the EPPO.

3. The design of the AFCOS model and clear attribution of competences (strengthening the network)

A critical issue concerns the role of AFCOSs within the new European anti-fraud framework, which has been reshaped by the establishment of the EPPO and the strengthening of OLAF's powers. The lack of clarity regarding the role AFCOSs should play in the new institutional configuration risks marginalising them. AFCOSs play a central role in key areas such as the recovery of funds, due to their specific insight into debtors located in their territories. Indeed, it is unclear whether they should be limited to logistical and informational support functions or whether they should also be key players in the investigative phase. This uncertainty results in inefficiencies, duplication of responsibilities among competent authorities, and gaps in action at the most critical stages of anti-fraud management. Adding to regulatory weakness and functional confusion is a chronic lack of resources and authority. In many Member States, AFCOSs do not have direct access to sensitive data or national databases, cannot request information independently, and, most importantly, are not authorised to conduct inspection or investigation activities.

The comparative analysis suggests that **Regulation (EU) 883/2013 should be improved to better clarify the mandate of the various AFCOSs (Art. ...). 12a)**, so as to provide guidance for the administrative and institutional models to be adopted internally in each Member State. One of the most pressing issues to be addressed is the **effectiveness of AFCOS's coordinating role as a sorting point within each national legal system, both in the descending phase of being operative in interactions with OLAF and in the ascending phase of having a voice in discussing European anti-fraud policy (in the AFCOS networks, COCOLAF, and GAF).** The **existence of an NAFS has the potentiality to support this effectiveness**, ideally in both directions. Nevertheless, it should be noted that the European Commission currently has its own anti-fraud strategy, which Member States should also develop. However, there is no single EU anti-fraud strategy.

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In conclusion, an important operative issue is whether the AFCOS **model should have investigative powers** similar to those of OLAF. In this **descending phase**, it is interesting that OLAF itself can serve as a model for the national AFCOSs, especially in countries that will join the EU in the coming years. On the **operative side**, then, an AFCOS should have a certain **level of independence** from politics and achieve a degree of autonomy among administrations due to its t**echnical expertise**.

The opposite side of the coin is its current and future possible role in the **ascendant phase**, in terms of being involved in **intergovernmental decision-making** and through the **community method** (GAF and COCOLAF).

4. Definition of competent authority under Regulation (EU) 883/2013

Considering these findings, Regulation 883/2013 should be amended to **introduce a functional and minimum definition of 'competent authority'**. Such a definition should not impose a uniform institutional model on Member States, nor interfere with their constitutional autonomy. Instead, it should articulate common functional criteria that every designated authority must fulfil.

A **competent authority** should be defined as a national body formally designated under national law, endowed with the legal capacity to provide effective assistance to OLAF in the performance of its investigative tasks, including access to relevant information and databases, the ability to ensure or coordinate enforcement support where necessary, and the responsibility to act as an accountable interlocutor vis-à-vis OLAF (ECA 26/23 EU Bodies fighting. Clear mandates but exchange of information and Commission oversight remain insufficient, pp. 16-28).

Moreover, the Regulation should **strengthen procedural guarantees in the field of assistance**. It should clarify the obligation to cooperate in a timely and effective manner, encourage Member States to adopt internal coordination protocols, and provide for greater transparency regarding the designation of competent authorities. The establishment of a **publicly accessible and regularly updated register of designated competent authorities, including contact points and descriptions of their competences, would enhance legal certainty and facilitate cooperation not only with OLAF but also with EPPO and other Union actors involved in protecting the EU budget**.

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The reform should not aim at centralising administrative structures or imposing a uniform institutional template. Rather, it should introduce a **set of minimum functional criteria that define competence in substantive and operational term**s. A competent authority should be formally designated under national law and endowed with the legal capacity to provide effective assistance to OLAF in exercising its investigative tasks. Such assistance must not be understood as a merely symbolic or coordinative activity, but as a concrete operational responsibility capable of ensuring the effectiveness of inspections, information gathering, and follow-up procedures (White Paper or the Anti-fraud Architecture Review, COM/2025/546 final).

Moreover, the reform should clarify the **internal distribution of responsibilities within Member States by encouraging the identification of a primary coordinating authority (such as the AFCOS)**, without excluding the participation of sectoral authorities. In complex administrative systems, multiple bodies may legitimately exercise competences relevant to protecting the Union's financial interests. However, without a clearly identified primary interlocutor responsible for coordination and accountability, communication with OLAF risks becoming fragmented and inefficient. A harmonised functional definition would therefore serve not only as a legal clarification, but also as an incentive for Member States to rationalise internal coordination mechanisms.

The substantive definition proposed above constitutes a necessary but not sufficient condition for effective cooperation. Its normative impact depends on the parallel strengthening of the procedural and operational framework governing interactions between OLAF and the designated national authorities, as addressed in Recommendation 5.

5. Strengthening the operational and procedural framework of cooperation between OLAF and national competent authorities

Building on the substantive definition established in Recommendation 4, this Recommendation addresses the procedural and operational dimensions of the reform. Clarifying who qualifies as a competent authority is a necessary but not sufficient condition: without structured procedural obligations, minimum guarantees of effectiveness, and reinforced operational capacities, the definitional reform risks remaining declaratory rather than transformative. Recommendation 5 therefore sets out the concrete procedural requirements that must accompany the substantive reform.

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Regulation (EU, Euratom) No 883/2013 establishes that national competent authorities must provide OLAF with the assistance necessary to carry out its external investigations, including on-the-spot checks and inspections. However, the Regulation does not detail how such assistance should be organised at the national level, nor does it specify procedural safeguards ensuring timeliness, coordination, and accountability. In practice, cooperation often depends on informal arrangements, administrative practice, and the goodwill of individual institutions. This variability introduces uncertainty and may undermine the effectiveness of investigations, especially in urgent or complex cross-border cases.

A first essential element of reform should therefore be the **explicit obligation for Member States to ensure that their designated competent authorities are provided with adequate legal powers, institutional positioning, and technical resources to fulfil their tasks.** In several national systems, coordination services such as AFCOSs operate without direct investigative powers, limited access to national databases, and no authority to compel cooperation from other domestic administrations. In such cases, the effectiveness of OLAF inspections may depend on multiple sequential requests to different bodies, leading to delays and fragmentation. **The Regulation should clarify that Member States must ensure that, irrespective of internal administrative structures, assistance to OLAF can be delivered promptly, coherently, and effectively.**

A second dimension concerns **procedural structuring**. The p**rinciple of sincere cooperation** under Article 4(3) TEU requires Member States to facilitate the achievement of Union objectives. In the field of anti-fraud investigations, this principle should be translated into clear procedural mechanisms. Member States should be required to adopt **internal coordination protocols defining responsibilities, communication channels, and indicative deadlines for responding to OLAF requests**. These protocols should specify how information is to be transmitted, which authority is responsible for providing enforcement support when coercive measures are necessary, and how conflicts of competence are to be resolved internally. By formalising these procedures, the Union would reduce reliance on ad hoc practices and enhance predictability.

Timeliness is particularly important in cases involving the risk of dissipation of funds, destruction of evidence, or complex digital operations. OLAF's capacity to conduct digital forensic operations or to secure documentary evidence often depends on rapid, coordinated national intervention. **Delays caused by unclear internal coordination structures may**

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irreversibly weaken investigations. The Regulation should therefore encourage the establishment of fast-track cooperation mechanisms, particularly for urgent cases involving substantial risks to the Union budget.

Transparency and accountability further require that the Commission maintain the centralised register of designated competent authorities already envisaged in Recommendation 4, supplementing it with structured reporting obligations on the quality and timeliness of cooperation. Such reporting would enable benchmarking and peer learning among Member States, fostering gradual convergence of practices without imposing formal harmonisation.

Furthermore, the operational framework must reflect the evolving digital and institutional landscape. Anti-fraud governance increasingly relies on **interoperable databases, digital evidence, and coordination with EPPO**. Effective cooperation presupposes that competent authorities are equipped with secure communication channels, interoperable IT systems, and adequate training. The Regulation should therefore emphasise the obligation of Member States to ensure the technological and professional readiness of designated authorities. Capacity-building measures, joint training programmes, and structured exchanges between OLAF and national officials would further enhance mutual understanding and operational efficiency.

Strengthening the operational and procedural framework is not a secondary or merely technical issue. It directly affects the effectiveness of inspections, the recovery of funds unduly spent, and the credibility of the Union's anti-fraud policy. In a governance environment characterised by shared management, decentralised implementation of EU funds, and increasingly sophisticated fraud schemes, procedural weaknesses at the national level can undermine the entire protective architecture.

By **reinforcing the operational and procedural conditions of cooperation**, the Union would ensure that the functional definition of 'competent authority' translates into real investigative capacity and structured accountability. This reform would contribute to building a more resilient, coherent, and performance-oriented anti-fraud system, capable of responding effectively to the challenges of the next Multiannual Financial Framework and the continued integration of the EU's financial governance.

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Taken together, Recommendations 4 and 5 constitute an integrated reform package: the former establishes who bears responsibility for cooperation with OLAF; the latter determines how that responsibility must be discharged. Neither is sufficient without the other.

Section II.

Management of EU funds: performance, costs, and effectiveness

The ongoing reform of the EU's anti-fraud governance cannot be assessed in isolation from the broader transformation of the Union's budgetary architecture. The unprecedented expansion of the multiannual financial framework, the operational lessons drawn from the Recovery and Resilience Facility, and the forthcoming redesign of the MFF 2028–2034 collectively define the institutional and financial context within which anti-fraud instruments must operate. This Section examines how the shift towards performance-based funding models, the increasing complexity of shared management arrangements, and the emergence of new categories of irregularities interact with the existing anti-fraud framework. It then sets out recommendations to ensure that the protection of the Union's financial interests keeps pace with the evolving structure of EU public expenditure.

The MFF package and the new budget architecture

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The current context has highlighted the need for a radical rethink of anti-fraud governance and budgetary architecture. The expansion of the 2021–2027 Multiannual Financial Framework to €1,200.6 billion and the implementation of Next Generation EU, with a budget of €750 billion, have significantly increased exposure to the risk of fraud. Added to this are increasingly sophisticated threats, including transnational fraud, organised crime, and the use of advanced technologies such as artificial intelligence, cryptocurrencies, and encrypted communications, which have made detection and enforcement more complex. Against this backdrop, the European Commission has launched a strategic review process with the White Paper on the review of the anti-fraud architecture (COM(2025) 546), which aims to integrate this reform into the next multiannual financial framework.

This framework is part of the reform of the Union's budget architecture for the 2028–2034 period, outlined by the European Commission in the MFF (Multiannual Financial Framework) package. It is not limited to an accounting revision; it also introduces a regulatory and organisational structure consistent with the principles of transparency, efficiency, and protection of financial interests enshrined in Articles 310 and 325 TFEU. The proposal, which provides for an overall allocation of approximately €1.98 trillion (equal to 1.26% of EU GNI), is characterised by the simplification of programs, greater flexibility in reallocating resources, and the integration of extraordinary crisis instruments, in implementation of the principle of proportionality and the need to ensure the Union's financial resilience.

From the legal perspective, the new architecture introduces national and regional partnership plans, which consolidate fourteen funds totalling €865 billion, with the aim of strengthening coherence between the Union's priorities and those of the Member States. This mechanism is based on strict conditionality obligations, particularly regarding compliance with the rule of law under Regulation (EU, Euratom) 2020/2092, and adherence to anti-fraud and anti-corruption rules. Breach of these obligations entails the suspension of payments and the activation of exclusion procedures from funding, in line with the EDES (Early Detection and Exclusion System), as enhanced by the 2024 Financial Regulation.

An innovative element is the adoption of a single performance framework, which reduces the number of indicators from 5,000 to 900 and introduces an integrated annual report on budget management and performance, in line with the principle of accountability. This framework is directly linked to anti-fraud governance, imposing harmonised reporting obligations on authorising officers and Member States, and requiring the use of interoperable digital tools, such as the Arachne+ platform, which will become mandatory from 2028. Furthermore, the

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centralised database of EU fund beneficiaries, envisaged by the new Financial Regulation, constitutes an essential legal safeguard to ensure transparency and prevent conflicts of interest.

Focus 2.1. The new Economic Governance

The recent revisions to the Stability and Growth Pact (SGP, Regulation (EU) 2024/1263) are part of a broader reform process that is changing the role of European economic governance. The expansion of the Union budget under Regulation (EU) 2021/241 has necessitated enhanced economic policy surveillance and coordination across the European Union. In this regard, as early as 2020, well before the new iteration of the Stability and Growth Pact, the European legislator introduced conditionality-based enforcement mechanisms in the event of a breach of the values of the European Union set out in Article 2 TEU, arising from the 'mismanagement' of European fiscal resources. This refers, in particular, to the rule of law conditionality mechanism (Regulation (EU) 2020/2092), which aims to protect the Union's budget by ensuring that access to and management of European resources is subject to compliance with shared standards. This paradigm shift marks the transition to a new concept of European economic governance, based on the need to ensure that Member States use resources appropriately to pursue objectives – such as the obligation to avoid excessive government deficits (Article 126 (1) TFEU), or measures to strengthen coordination and surveillance of domestic budgetary rules for euro area Member States (Article 136 TFEU) – which only appear to have budgetary significance. The 2021 Recovery and Resilience Facility (RRF) represents an intermediate version of the reform of European economic governance, which ultimately led to the new iteration of the SGP. The RRF introduces a planning model based on procedures negotiated between the European Commission and Member States for defining reforms and investment areas in the National Recovery and Resilience Plans (NRRPs). This negotiated approach, based on ex-ante control and ex-post surveillance centralised within the European Commission, was confirmed and strengthened by the SGP of 2024. Article 13 of the new SGP clearly identifies the policy areas in which Member States must demonstrate that they are planning investments and reforms, such as a fair, green, and digital transition, social and economic resilience, energy security, and building up defence capabilities. These areas of public intervention are not merely policy guidelines but are requirements of national medium-term fiscal-structural plans. This leads to an evident conflict

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between economic growth and fiscal (or debt) sustainability, and the allocation of resources under the ratio umbrellas of 3% of deficit/GDP and 60% of debt/GDP. Under these terms, the transition of European economic governance takes the form of integration through spending, characterised by expenditure management that is no longer bottom-up (in the pre-2024 SGP, the initiative came from Member States, which submitted their expenditure programmes to the Commission, which responded with country-specific recommendations) but top-down (the Commission now transmits a reference trajectory based on a risk-based debt sustainability analysis, with the aim of providing Member States with parameters to refer to when submitting aligned medium-term plans).

Consequently, the new 'preventive arm' will no longer pursue cross-border spending coordination but will focus on centralised public expenditure surveillance, resulting in a sort of 'probation' for Member States. In essence, the State retains the authority to determine the allocation and manner of investment and reform. However, the precise quantum is determined in advance by the European Commission. The European legislator has undertaken this radical, pivotal shift for two reasons: a) the European Union's limited spending capacity due to its restricted budget (the RRF is currently only an exception, and it remains to be seen whether it will be replicated in the negotiations for the approval of the Multiannual Financial Framework 2028–2034); b) ensuring the financing of European public goods such as common defence, security of energy supply and storage, digital interoperability, and the creation of cross-border infrastructure networks.

Box 2.1 – A definition dilemma: what is 'suspected' fraud? What is a 'suspicious' operation?

It must be taken into consideration that 'prevention' also falls within the definition of 'whether', and 'what' should be reported to the competent authorities. This is especially true today with the RRF (see Art. 22, Regulation (EU) 241/2021).

Irregularities must be reported to the Commission in accordance with Annex XII of Regulation 2021/1060. Those of the first kind are those that have been the subject of an initial written assessment by a competent authority – either administrative or judicial – which has concluded based on specific facts that an irregularity has been committed, regardless of the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure. Irregularities of the second type give rise to administrative or judicial proceedings at the national level to establish the existence of fraud or other criminal offences. In the context of Regulation 2021/1060, is there any guidance regarding the

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'content' of 'suspected fraud' as a set of alert elements in a preventive phase? Specifically, which symptomatic indicators trigger reporting to the competent authorities? Previous BETKONEX analysis indicates that the concrete scenarios are so numerous and diverse that a legal definition of 'irregularity' that could reliably be considered 'suspected fraud' would be almost impossible to formulate. Nevertheless, certain sectoral frameworks provide examples of how the term is 'operationalised' at the national level; for instance: in the anti-money laundering sector, through the reporting of 'suspicious transactions'; in the context of conflict-of-interest regulation, through the identification of 'severe irregularities'; and in the fight against organised crime, through the detection of 'attempts at mafia infiltration' (as in the Italian context).

Focus 2.2. RRF and NRRPs effect: performance-based

With regard to the RRF, the Commission must ensure that Member States' National Recovery and Resilience Plans effectively address a significant subset of country-specific recommendations and other challenges identified in relevant documents officially adopted by the Commission through the European Semester procedure. Country-specific recommendations and other challenges may lead to the establishment of NRRP milestones and targets for reforms or investments to address rule-of-law issues in a Member State (milestones related to the rule of law). In addition, when evaluating national RRPs, the Commission must assess whether Member States have adequate measures to prevent, detect, and rectify instances of fraud, corruption, and conflicts of interest in the use of RRF funds. As with all other EU funds, RRF funds must also be used in accordance with the Conditionality Regulation.

To put it differently, the RRF is a performance-based programme.

Given the considerable resources allocated, the European provisions relating to the RRF leave a certain margin of discretion to the Member States in designing the management system of this sui generis fund.

Unlike the ESI funds, for which an indirect model is envisaged, the RRF's management model is based on direct management. Essentially, regarding the type of management, we argue that recovery plans should be classified as a sui generis 'direct' fund management programme. Indeed, while the implementer is the Member State itself, the specific nature of the implementer and/or beneficiary raises several critical issues. The State interacts directly with the European Commission within the framework set up for managing a specific fund. The

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commitments made when the plan was drawn up, and especially the operational arrangements, are meticulously listed, and Regulation (EU) 2021/241 is very detailed regarding this 'high' management phase. On the contrary, at a 'lower' level, the integration process is implemented 'in depth' in the State apparatus. Indeed, the implementation of investments in the NRRP, as in the case of shared management for indirect funds, involves the entire national administration. However, since the nation-state is one of the most complex legal entities, the fund cannot be managed without a comprehensive nationwide implementation and control system involving several public actors with characteristics very similar to those of the indirect management model.

The fact that the RRF Regulation identifies performance and results as the priority parameters for assessing the correct use of European funds by the Member States emphasises the importance of management-type controls. However, the ultimate aim of these controls should not only be to ensure that these funds are spent, but above all to ensure that they are spent 'well', i.e., that they are administered fairly ('fair financial management', art. 310 TFEU).

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Section II – Recommendations

6. Towards performance-based programmes but with cost effectiveness

The assessment of the effectiveness and impact of the Union's financial resources is not based on indicators of the criminal dimension of resource management. It is important to note that any deviation from targets and milestones (such as those in the NRRPs) constitutes an inefficiency beyond the EPPO's control, as it is not a criminal offence. However, such failure to achieve spending targets falls within the remit of OLAF, whose activities are based on measuring cost-effectiveness and compliance with results. Following clarification of the 'what', the next step is to specify **'how' to carry out cost-effectiveness checks**. This will ensure that Member States fulfil the spending commitments made in their medium-term fiscal-structural plans. We should take the opportunity **to integrate the proposed 'General Performance Framework'** (COM(2025) 545), while also **identifying competences and certifying OLAF's enforcement-oriented administrative role as an investigating authority in the event of poor performance**. This would ensure that there is no overlap in functions with the European Court of Auditors, whose mandate – grounded in Articles 285 to 287 TFEU – is distinct in both nature and scope from that of OLAF.

The distinction between the two mandates is both constitutional and functional. Under Articles 285 to 287 TFEU, the European Court of Auditors is the Union's external auditor, entrusted with examining whether EU revenue has been received and expenditure incurred in a lawful and regular manner, and whether financial management has been sound. Its function is retrospective and institutional: it provides independent assessments addressed primarily to the budgetary authority and the political institutions of the Union. OLAF, by contrast, derives its mandate from Article 325 TFEU, which imposes on the Union and the Member States a positive obligation to counter fraud and other illegal activities that affect the Union's financial interests through effective and dissuasive measures. OLAF's function is therefore investigative and corrective, directed at specific conduct and aimed at generating actionable outcomes – recommendations, recovery measures, and referrals – rather than at systemic institutional assessments. In the context of the proposed General Performance Framework (COM(2025) 545), this distinction acquires renewed relevance: while the Court of Auditors may assess the overall soundness and effectiveness of the performance architecture

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at an institutional level, OLAF is best placed to act as the operational authority for addressing specific instances of mismanagement, systemic waste, and non-compliance with performance commitments that fall below the criminal threshold but nonetheless affect the integrity of EU expenditure. Framing OLAF as the Union's primary 'performance watchdog' for such cases does not encroach upon the Court of Auditors' constitutional role; it rather fills a functional gap that external audit, by its nature, cannot address.

The complementarity between the Court of Auditors and OLAF within the performance framework should therefore be formally acknowledged in the relevant legislative instruments, including the amendment of Regulation (EU, Euratom) No 883/2013 and the forthcoming revision of the Financial Regulation, so as to provide a clear and stable institutional foundation for their respective roles.

In this regard, a data ecosystem based on the interoperability framework of Regulation (EU) 2024/903 should be implemented, integrating data from Eurostat, the European Commission, and national authorities to **avoid compartmentalised assessments**. This is not, therefore, a traditional control of the legitimacy of public action to spend those resources, but a performance control that takes on regulatory force.

To ensure the effective allocation of financial resources, it is recommended that **performance-based spending and funding programmes for Member States be established with measurable benchmarks**, in accordance with a **clear and transparent cost-effectiveness procedure**. This is particularly pressing given that the aforementioned 'General Performance Framework', as noted by the ECA (Op. 10/2026), currently fails to identify the benchmarks for determining the *ex-ante* controls that consider cost-effectiveness and performance, as required by the latest version of the Financial Regulation (Regulation (EU) 2024/2509). It is therefore essential that controls on resource management be supplemented by e**conomic analyses focusing on the relationship between reforms and investments** (such as those indicated in the new iteration of the Stability and Growth Pact) and the realisation of objectives previously agreed with the European Commission, thus justifying the cost incurred in terms of expenditure. In this regard, OLAF should be framed as the primary Union's 'performance watchdog', acting as the lead authority for addressing systemic mismanagement and the resulting waste of public funds.

7. A new set of irregularities linked to low performance?

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While performance-based programmes aim to enhance efficiency and cost-effectiveness, they also expose a broader set of structural integrity risks that are not necessarily captured by traditional anti-fraud mechanisms. In particular, a category of serious irregularities that do not meet the threshold of criminal liability has emerged, capable of affecting allocation processes and overall performance without triggering criminal enforcement. These include undeclared or poorly managed conflicts of interest, serious procedural violations, the provision of misleading or incomplete information, opaque governance arrangements, artificial subcontracting chains, and structural underperformance linked to weak accountability frameworks. Although such situations may not qualify as fraud, they can significantly distort funding decisions and undermine the fairness, credibility, and effectiveness of EU-funded actions.

Addressing these risks requires a **structured and coherent response articulated along three complementary fronts: harmonisation, prevention, and correction**.

First, greater harmonisation is needed in the **operational understanding and administrative treatment of serious irregularities that do not reach the criminal threshold**, particularly regarding conflicts of interest, governance failures, serious procedural distortions, and misleading information affecting access to or the management of funds. A clearer and more consistent framework across Member States would increase legal certainty, reduce fragmentation, and ensure that such situations are neither minimised as minor administrative defects nor inappropriately escalated into criminal categories.

Second, prevention should be reinforced by **complementing existing performance monitoring mechanisms with integrity and governance-based risk indicators**. Alongside output measurement and expenditure tracking, monitoring frameworks should incorporate safeguards to detect structural risk patterns, weaknesses in decision-making processes, lack of transparency, and recurring governance anomalies that may compromise the fairness of allocations and programme effectiveness (see the following section).

Third, where preventive mechanisms prove insufficient, **corrective administrative instruments must be clearly structured and effectively applied**. These may include the suspension of payments, conditional disbursement, enhanced supervision, recovery measures, or temporary exclusion, even in the absence of criminal proceedings, where systemic integrity concerns are identified (see the following section).

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Embedding integrity safeguards within performance-based governance ensures that the pursuit of efficiency and simplification does not inadvertently create space for grey-zone practices to consolidate over time.

8. Developing a clearer typology of risk indicators and operational scenarios capable of guiding early-warning reporting practices

As an **operational development** of the prevention pillar outlined in the previous recommendation, it is now appropriate to focus on translating **integrity- and governance-based safeguards** into concrete early-warning reporting practices. While the previous section emphasised the need to complement performance monitoring with **risk-based integrity indicators**, the present focus is on developing a **clearer operational typology** to guide reporting behaviours across Member States.

As noted, a structural challenge in protecting EU financial interests lies in the **fragmented interpretation of alert categories** such as suspected fraud, suspicious transactions, or serious non-criminal irregularities, which are currently filtered through heterogeneous national administrative and investigative thresholds. Rather than pursuing immediate legal harmonisation, a more pragmatic approach would consist of progressively identifying **recurrent risk indicators and operational scenarios** capable of signalling governance anomalies at an early stage.

Such indicators could capture patterns associated with **conflicts of interest, opaque subcontracting chains, misleading information, procedural distortions, or structural underperformance** that affect the allocation and implementation of EU funds. In this perspective, the emerging EU performance framework could be complemented by **interoperable digital monitoring tools** capable of integrating financial, procedural and governance data in order to identify anomalous patterns and facilitate preventive reporting, **in line with the broader digital and data-driven monitoring architecture envisaged by the European Commission in the proposed General Performance Framework** (COM(2025) 545).

The gradual deployment of data analytics systems and AI-supported anomaly detection tools, increasingly envisaged within the evolving EU budget governance architecture, may significantly **enhance the comparability, timeliness, and quality of early-warning signals across Member States**, while preserving the flexibility of national administrative systems. A shared operational vocabulary supported by such digital tools would therefore strengthen

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preventive oversight and improve the consistency of information flows to EU institutions without imposing premature substantive uniformity.

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Section III.

Instruments and procedures in the different phases of the fight against irregularities and fraud affecting the financial interests of the European Union.

Protecting the European Union's financial interests is a primary obligation under Article 325 TFEU, which requires both the Union and the Member States to counter fraud and any other illegal activities affecting the EU budget through effective and dissuasive measures equivalent to those adopted to protect their own financial interests. Over the past decade, the investigative and prosecutorial framework has been significantly strengthened through the actions of OLAF and the establishment of the EPPO, which are competent to investigate and prosecute criminal offences affecting the Union's financial interests pursuant to Directive (EU) 2017/1371 (the PIF Directive).

FROM COMPLAINTS TO SANCTIONS, RECOVERY AND REPRESSIVE PROCEDURES

This section and its recommendations cover the different phases of the process of combating fraud against the EU's financial interests: from the reporting of suspicious operations (by other institutions and/or citizens), through detection (and the available remedies), to the role of controls and institutional collaboration at each stage. For example, while the case studies presented in different BETKONEXT Working Papers highlighted the role of investigations initiated by competent authorities acting *ex officio* (Section I), in many other cases, the reporting obligations of other administrations and individuals are equally essential to triggering investigative activity. Indeed, 'prevention' must also be understood to encompass the definition of 'what' should be reported to the competent authorities, and by 'whom' – a consideration that has become all the more pressing in the context of the RRF (Section II).

Focus 3.1: Early detection of cases of fraud and corruption. The Whistleblowing Directive

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The detection of fraud and corruption is often complex, as unlawful conduct may appear lawful on the surface and be deliberately concealed. For this reason, it is essential that individuals who become aware of wrongdoing can report it safely. However, such cases frequently arise within the workplace, where whistleblowers face significant risk of professional and personal retaliation. Effective reporting channels and strong protection mechanisms are therefore crucial to uncover misconduct that might otherwise remain hidden.

In this regard, the European Commission White Paper for the Anti-fraud Architecture Review (COM(2025) 546 final) states that whistleblower protection is a powerful tool in the fight against fraud and corruption that can play a pivotal role in supporting the transparency and accountability of government and corporate conduct, and bring to light fraudulent activities that are otherwise difficult to detect.

The protection of whistleblowers, or reporting persons, is regulated by Directive (EU) 2019/1937. Although Member States have transposed the Directive, the European Commission, in its 2024 report (COM(2024) 269 final), identified substantial delays and shortcomings. Around half of the Member States transposed Article 2, which concerns breaches affecting the Union's financial interests, incorrectly due to the absence of clear references to relevant EU rules.

While the Directive provides for sanctions against retaliation, their transposition and practical enforcement have often been inadequate. In some countries, sanctions have been rarely applied, and in any event, a purely punitive approach is insufficient, as reputational, psychological, or financial harm to whistleblowers may already have occurred and can be difficult to reverse.

A stronger preventive approach is therefore needed. Organisations should not only ensure compliant reporting channels (Article 9) but also implement effective internal mechanisms to prevent retaliation, including physical, psychological, and economic harm. Preventive protection should also extend to anonymous reporters if their identity becomes known. In addition, protection authorities could be granted prior authorisation powers over measures that may constitute retaliation, such as dismissals, to limit their immediate economic impact.

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Article 7.2 of Directive 2019/1937 establishes that 'Member States shall encourage reporting through internal reporting channels before reporting through external reporting channels, where the breach can be effectively addressed internally and where the reporting person considers that there is no risk of retaliation'. However, this assertion cannot remain a mere statement of intent but must instead be reflected in specific provisions that foster a preference for the internal channel. As noted in the recitals of the Directive, multiple studies confirm that employees overwhelmingly prefer to report internally rather than externally. Moreover, they also largely state that their main motivation for reporting wrongdoing is the belief that their report will lead to changes in the improper practices they have become aware of and consider unacceptable.

In summary, it must be ensured that internal reporting channels operate effectively and that internal investigations lead to significant impacts within organisations, bringing about organisational changes that, at the very least, entail the cessation of the identified breaches and the adoption of preventive measures for the future.

Focus 3.2: Sanctions

The PIF Directive grants EU Member States considerable discretion regarding sanctions for both natural and legal persons. As the research conducted has shown, this does not facilitate the harmonisation of Member States' legislation to protect the European Union's financial interests. Significant differences exist among the legal systems of Member States regarding sanctions, leading to divergent practices in protecting the EU's financial interests.

However, the focus on criminal sanctions alone risks obscuring the broader range of measures available under EU law to protect the Union's financial interests. A more complete picture requires distinguishing among the following categories of measures: criminal sanctions *stricto sensu*, administrative sanctions, and financial recovery measures. These categories are legally and functionally distinct, and conflating them produces both analytical and practical difficulties. In particular, the Court of Justice of the European Union has recently clarified, in European Commission v PB (Third Chamber, 4 October 2024, Case C-721/22 P), that the recovery of financing unduly granted does not constitute even an administrative sanction. This distinction has significant implications for the legal framework applicable to recovery measures and the procedural guarantees that must be respected in each case.

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Furthermore, the 2024 Financial Regulation (Regulation (EU, Euratom) 2024/2509) has introduced and consolidated a range of administrative tools – including the Early Detection and Exclusion System (EDES), precautionary measures, and recovery orders – that operate independently of criminal proceedings and are directly applicable by EU institutions and bodies managing the budget. Any analysis of the sanctioning framework must therefore consider not only the PIF Directive and its impact on Member States, but also the administrative and financial measures available at EU level under the Financial Regulation.

The Directive does not require Member States to establish sanctions in the form of imprisonment for offences that are not considered serious where, under national law, intent is presumed. Such guidance on sanctions means that in some legal systems, intentional offences against the EU's financial interests are not punishable by imprisonment (for example, certain offences under Polish law). However, the absence of the threat of imprisonment in most cases does not deter perpetrators. It should also be noted that the threshold for 'serious offences' in the Directive is set relatively high; therefore, offences that fall below this threshold are not necessarily of minor gravity. The absence of the threat of imprisonment does not discourage perpetrators, particularly those who may be described as white-collar offenders, since a conviction resulting in a penalty other than imprisonment often does not entail further criminal-law consequences. Naturally, when introducing stricter regulations in this area, the guarantees arising from the Charter of Fundamental Rights of the European Union must be considered.

The PIF Directive requires the criminalisation of only one stage of the offence attempt. However, it appears that the possibility of holding perpetrators criminally liable at earlier stages for the most serious offences would significantly strengthen the protection of the EU's financial interests.

Regarding the liability of legal persons, the PIF Directive does not determine which type of liability Member States should adopt. It was considered that this issue was too controversial to determine whether such liability should be criminal, civil, or administrative at the EU level. The research conducted has shown, however, that such regulation results in some models of liability of legal persons for offences against the financial interests of the European Union functioning poorly in practice, with such liability becoming merely abstract and illusory. Regardless of the liability regime permitted under the PIF Directive, rules governing the

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liability of legal persons must be effective. There is no doubt that collective entities are very often involved in offences affecting the EU's financial interests, frequently being controlled by organised criminal groups, while the provisions regulating their liability in some Member States do not function effectively in practice.

The Directive also leaves Member States the choice of whether sanctions should be criminal in nature or of another type; they are only required to be effective, proportionate, and dissuasive. The Directive does not require Member States to introduce additional measures, such as a ban on conducting business activities, exclusion from participation in public procurement procedures, or similar measures. The lack of harmonisation in this area means that criminal groups using front companies to extract funds from the European Union may exploit regulatory divergences between Member States and establish companies in those jurisdictions where the potential consequences and measures applicable to legal persons are the most lenient.

Box 3.1: the weaknesses of the recovery phase

The data contained in the 2024 PIF Report (COM(2025) 426) confirm the need for revision: in the reference year, 13,589 irregularities amounting to €1.84 billion (+19.5% compared to 2023) were reported, of which 1,364 confirmed fraud cases accounted for €548.8 million (+138.7%). OLAF concluded 246 investigations, issuing 301 recommendations for a total of €871.5 million in recommended recoveries, while the EPPO initiated 1,504 investigations into estimated damage of €13.07 billion. These figures show that, although the current system is effective in terms of detection, it does not ensure timely recovery of resources nor adequate preventive capacity, resulting in a compromise of the effectiveness of the principle of protecting the Union's financial interests.

A structural gap persists between the investigative and prosecutorial phase and the effective recovery of misappropriated or unduly obtained EU funds. Asset recovery remains largely dependent on national enforcement mechanisms, which differ considerably in terms of procedural standards, operational capacity, prioritisation, and effectiveness.

Although Asset Recovery Offices (AROs) exist in all Member States in compliance with EU legislation, they operate within heterogeneous legal and administrative frameworks. They lack a dedicated European coordination platform specifically focusing on EU funds. This fragmentation undermines the principle of sincere cooperation under Article 4(3) TEU and weakens the effectiveness requirement embedded in Article 325 TFEU.

The absence of a structured EU-level mechanism for monitoring and coordinating recovery proceedings limits the follow-up of OLAF recommendations and reduces the systemic

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impact of EPPO prosecutions. As a result, the Union's capacity to ensure the full reintegration of unlawfully diverted resources into its budget remains incomplete.
From a legal perspective, Union action in this field may be grounded not only in Article 325 TFEU but also in Articles 82(1) and 83(1) TFEU, which lay down measures facilitating mutual recognition of judicial decisions and the approximation of criminal laws concerning particularly serious cross-border crime, including fraud affecting the EU's financial interests. Where necessary to attain Treaty objectives in the absence of a sufficiently specific legal basis, Article 352 of TFEU could serve as a complementary foundation.
In accordance with the principles of subsidiarity and proportionality (Article 5 TEU), EU-level intervention appears to be justified. Member States acting individually cannot ensure uniform and effective asset recovery in complex cross-border PIF cases. A European coordination mechanism would not replace national authorities but would enhance their capacity, ensure procedural coherence, improve the traceability of seized and confiscated assets, and strengthen the overall effectiveness of budgetary protection.
The establishment of a specialised European structure dedicated to the recovery of EU funds would therefore represent a coherent evolution of the Union's financial protection architecture, completing the investigative–prosecutorial–recovery cycle and ensuring a more effective restoration of EU budgetary resources.

Box 3.2: Countering cross-border fraud and criminal organisations: adapting the anti-mafia bans model

The research conducted within the framework of the project has highlighted that particularly effective tools in combating offences affecting the European Union's financial interests consist of administrative preventive measures designed to bar from public procurement and public funding markets those undertakings that are controlled by, or otherwise subject to infiltration or undue influence from, organised crime.
In this regard, the Italian legal system provides an advanced model through the so-called antimafia interdiction order (commonly referred to as an 'antimafia ban'). This is an administrative measure adopted by the territorially competent authority (Prefect), enabling the exclusion from public procurement procedures and public financial support of undertakings in respect of which specific disqualifying circumstances are established and/or where there are indicia of attempted mafia infiltration. Crucially, such a measure may be imposed independently of, and irrespective of the outcome of, criminal proceedings relating to the same underlying facts.
In certain instances, the grounds justifying the imposition of the interdiction order are expressly defined by the law (e.g. specific convictions for offences typically associated with organised crime contexts). However, the Prefect is also vested with discretionary powers to infer the existence of a risk of mafia infiltration based on factual assessments and evidentiary

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elements not exhaustively enumerated in the legislation. As a result, the preventive screening function of this mechanism is both extensive and anticipatory.
Within the broader European landscape, this instrument remains largely unparalleled. While other Member States – in line with Directive 2014/24/EU on public procurement – have mechanisms of exclusion from public procurement and public funding schemes, such measures are generally triggered by a final criminal conviction or operate as ancillary sanctions imposed within the context of criminal proceedings. On the other hand, the Italian model establishes an autonomous administrative measure with a preventive rationale, structurally independent from criminal adjudication.
These regulatory divergences risk fostering opportunistic forms of forum shopping, whereby undertakings may strategically select the jurisdiction in which to operate based on comparatively less stringent preventive screening mechanisms.
The absence of an overarching EU framework governing the mutual recognition of administrative decisions further exacerbates this phenomenon. Unlike the judicial sphere – where mutual recognition constitutes a foundational principle of the Area of Freedom, Security and Justice – administrative measures remain, as a rule, territorially confined to the issuing Member State.
Consequently, an undertaking subject to an antimafia interdiction order issued by an Italian Prefect will not be automatically excluded from public procurement or public funding schemes in other Member States and may, in principle, continue to access such markets elsewhere in the Union. This fragmentation may undermine the effective and uniform protection of the Union's financial interests.
There is therefore a need to reflect, from a reform-oriented perspective, on possible remedial mechanisms at EU level. At the same time, any initiative in this direction must carefully address the implications for fundamental rights posed by far-reaching administrative preventive measures of this kind, particularly considering the principles of proportionality, legal certainty, due process, and effective judicial protection.

Box 3.3 Sanctions: guidelines for reforming the PIF Directive

The effectiveness of the legal framework for the protection of the EU's financial interests depends not only on the quality of investigative and prosecutorial mechanisms, but also on the robustness of the sanctions and remedies that follow the detection of unlawful conduct. Directive (EU) 2017/1371 establishes a common baseline in this regard, yet the discretion it affords to Member States has produced divergent national approaches that undermine the equivalence and coherence of protection across the Union. The recommendations below identify targeted adjustments to this framework, structured around the position of natural

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persons, the liability of legal persons, and the coordination between criminal and administrative instruments.

A. Individuals

Consideration could be given to whether the PIF Directive should be further developed so as to encourage Member States to provide for custodial sanctions also in relation to intentional offences affecting the EU's financial interests, irrespective of whether they qualify as 'serious' under Article 7 of the Directive. The current threshold-based approach — which reserves imprisonment as a mandatory sanction only for serious offences — may generate a structural gap, insofar as offences below the threshold may not entail any custodial risk. This could, in certain cases, limit the overall deterrent effect of the criminal framework, particularly in the context of white-collar crime, where non-custodial sanctions may prove less dissuasive.

In designing this reform, full compliance with Articles 47 to 50 of the Charter of Fundamental Rights of the European Union must be ensured, in particular the principles of legality and proportionality of criminal offences and penalties (Article 49 CFR), the right to an effective remedy and fair trial (Article 47 CFR), and the prohibition of double jeopardy (Article 50 CFR).

B. Legal persons

The current framework leaves Member States free to choose between criminal, civil, and administrative models of liability for legal persons (Article 6 PIF Directive). As documented in the comparative research conducted within the BETKONEXT project, this flexibility has resulted in models that are, in several Member States, abstract and non-effective in practice. Collective entities – which may, in some instances, be controlled by or instrumentalised for the benefit of organised criminal groups – may therefore, under the existing framework, face limited exposure to effective enforcement.

The Commission should conduct a systematic review of the practical functioning of legal-person liability models across all Member States, with particular attention to jurisdictions where enforcement data suggest structural underperformance. Where models are found to be non-effective, the Commission should take steps to ensure the introduction of genuine legislative reform.

Partial harmonisation should be introduced regarding ancillary sanctions applicable to legal persons convicted of offences affecting the EU's financial interests. At a minimum, Member States should be required to impose sanctions such as disqualification from participation in public procurement procedures and access to EU funding, prohibition from conducting certain business activities, judicial or administrative supervision. These measures must be designed in compliance with Article 16 CFR (freedom to conduct a business) and Article 17 CFR (right to property), ensuring that their application is subject to proportionality review and effective judicial protection under Article 47 CFR.

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Criminal groups exploiting regulatory divergences between Member States — by incorporating entities in jurisdictions with the most lenient sanctioning regimes — constitute a documented risk to the integrity of the EU's financial interests. Partial harmonisation of ancillary sanctions for legal persons would therefore directly address this forum-shopping dynamic, reinforcing the uniform protection required by Article 325 TFEU.

C. Coordination with administrative and financial measures

As clarified by the Court of Justice of the European Union in Case C-721/22 P (European Commission v PB, 4 October 2024), the recovery of unduly granted financing does not constitute a penalty. The sanctioning framework under the PIF Directive must therefore be read alongside — and not in substitution for — the administrative and financial measures available under the 2024 Financial Regulation, including the Early Detection and Exclusion System (EDES) and recovery orders. OLAF's role in supporting the enforcement of these measures, as outlined in Recommendation 1, is directly relevant in this context.

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Section III – Recommendations

9. Strengthening whistleblowing frameworks: towards greater harmonisation

A preventive logic to the fight against retaliation should be embedded in the legal framework governing whistle-blower protection. The following measures are proposed:

(a) that Directive (EU) 2019/1937 be amended to require public and private organisations not only to establish secure reporting channels, but also to implement appropriate measures to prevent and avoid retaliation against reporting persons;

(b) that Member States, in accordance with their domestic legal systems, introduce mechanisms to prevent any detrimental action from being taken by an employer against a reporting person, except where – following prior verification by the competent national protection authority, it is established that the proposed measure is based on just cause and does not constitute retaliation;

(c) that the Directive be amended to require specialised authorities to verify both the effective compliance of internal channels with applicable requirements and their quality in terms of proper functioning (particularly as regards confidentiality, security, and diligence in the handling of reports);

(d) that guidelines and interpretative criteria be developed to ensure that those managing internal channels are equipped to operate effectively and diligently; and

(e) that the effective handling of reports be understood to necessarily entail the early correction of any detected regulatory breaches, together with the adoption of preventive measures to avoid recurrence.

To ensure the full and correct transposition of Directive (EU) 2019/1937 as regards the protection of the EU's financial interests, the Commission should take appropriate action against Member States that have failed to transpose it correctly. Targeted recommendations and guidelines on specific amendments on proper transposition would support this process.

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The recommendations that follow concern the amendment of Directive (EU) 2017/1371 (the PIF Directive), read in conjunction with the 2024 Financial Regulation (Regulation (EU, Euratom) 2024/2509) and the Charter of Fundamental Rights of the European Union.

10. Sanctions: guidelines

The effectiveness of the legal framework for the protection of the EU's financial interests depends not only on the quality of investigative and prosecutorial mechanisms but also on the robustness of the normative responses that follow the detection of unlawful conduct. Directive (EU) 2017/1371 establishes a common baseline in this regard, yet the discretion it affords to Member States has produced a landscape of divergent national approaches that undermines the equivalence and coherence of protection across the Union. The recommendations below identify targeted adjustments to this framework, as further developed in the analytical framework set out in Box 3.3 above.

With regard to natural persons, consideration could be given to whether the PIF Directive should be further developed so as to encourage Member States to provide for custodial sanctions also in relation to intentional offences affecting the EU's financial interests that do not qualify as 'serious' under Article 7 of the Directive, ensuring compliance with Articles 47 to 50 of the Charter of Fundamental Rights, in particular the principles of legality, proportionality, and double jeopardy.

Regarding legal persons, the Commission should conduct a systematic review of the practical functioning of liability models across Member States and take steps to ensure genuine effectiveness. Partial harmonisation should be introduced for ancillary sanctions, requiring at least disqualification from public procurement and EU funding, prohibition from certain business activities, and judicial or administrative supervision, in compliance with Articles 16 and 17 CFR.

These measures must be read alongside — and not in substitution for — the instruments available under the 2024 Financial Regulation, including EDES and recovery orders. OLAF's enforcement role in this regard is addressed in Recommendation 1.

11. The recovery phase: a call for an EU agency

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The structural weaknesses of the recovery phase deserve specific attention and may be addressed through two principal reform options, each reflecting different institutional priorities.

The first option – developed in Section I – consists of strengthening OLAF by transforming it into an agency endowed with powers to adopt administrative and financial measures, including recovery decisions. This solution would have the advantage of building existing institutional expertise, avoiding the proliferation of EU bodies, and ensuring continuity within the established anti-fraud architecture.

The second option, developed here, would be preferable where considerations of functional separation between investigative activities and recovery functions prevail. Where it is considered necessary to maintain a clear institutional distinction between the investigation phase – entrusted to OLAF and EPPO – and the recovery phase, the creation of a dedicated European Agency for the Recovery of EU Funds (EARA) as a decentralised EU body endowed with legal personality and technical autonomy would represent a coherent and structurally autonomous response. EARA would be specifically tasked with coordinating and strengthening asset recovery actions in cases involving offences affecting the Union's financial interests.

The founding regulation should primarily rely on Article 325 TFEU, read in conjunction with Articles 82(1)(a) and (d) TFEU (mutual recognition and judicial cooperation in criminal matters) and Article 83(1) TFEU (minimum rules concerning serious cross-border crime, including fraud). Where required to ensure the full attainment of Treaty objectives, Article 352 TFEU may provide a subsidiary legal basis.

The Agency should:

- Coordinate national Asset Recovery Offices in cases involving EU funds;

- Provide operational, analytical, and technical support in complex cross-border financial investigations;

- Establish and manage a dedicated European information system for tracing, freezing, confiscating, and monitoring assets linked to PIF offences;

- Monitor the execution of recovery decisions and issue periodic reports to the Commission, the European Parliament and the Council;

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- Develop common operational guidelines and minimum standards to harmonise asset recovery practices across Member States;

- Facilitate training, capacity-building, and the exchange of best practices.

EARA should operate in close cooperation with OLAF for administrative follow-up and with EPPO for asset tracing and support for confiscation in criminal proceedings, while avoiding duplication of competences. The European Commission would retain strategic oversight and budgetary supervision in line with the common framework for decentralised agencies. The Agency would not exercise prosecutorial powers nor interfere with judicial independence at the national level. Its role would be coordination, facilitation, monitoring, and technical support, fully respecting the division of competences between the Union and the Member States. The proposed model would standardise recovery mechanisms, reduce enforcement delays, enhance transparency, and increase the rate of effective reintegration of funds into the EU budget. Uniform criteria for allocating recovered amounts between the Union and Member States could be established, potentially incorporating performance-based incentives to strengthen cooperation. The creation of EARA would thus close a critical enforcement gap in the EU's financial protection system and significantly reinforce the effective safeguarding of the Union's financial interests.

The present recommendation does not advocate for one option over the other. Both options — the strengthening of OLAF and the creation of EARA — would help address the structural enforcement gap in the EU's financial protection system and reinforce the effective safeguarding of the Union's financial interests.

The choice between them should be guided by a careful assessment of institutional feasibility, legal constraints, and the governance priorities of the upcoming reform process.

12. Organised crime: adapting the anti-mafia bans model

Considering the regulatory divergences identified above concerning exclusion mechanisms in public procurement and public funding, as well as the absence of EU-wide mutual recognition of administrative exclusion measures – particularly in the context of combating organised crime – EU legislative action should be considered along two complementary lines.

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First, the **Union should consider strengthening the harmonisation of exclusion grounds under Article 57 of Directive 2014/24/EU on public procurement**. The current framework, while providing for mandatory and discretionary grounds for exclusion, predominantly links exclusion to final criminal convictions or formally established misconduct. A targeted reform could clarify that, in particularly serious cases involving organised crime infiltration, exclusion may also be justified where there are sufficiently serious, specific, and substantiated indicia demonstrating that an undertaking is subject to criminal conditioning or control – even in the absence of a final criminal judgment. In designing any amendment, the EU legislator should ensure compliance with the principles of legal certainty, proportionality, and effective judicial protection, including clear statutory criteria, defined standards of proof, and access to prompt and effective remedies.

Second, the **Union should assess the feasibility of introducing a framework for the mutual recognition of national administrative decisions, excluding undertakings from public procurement and public funding on grounds of organised crime infiltration**. The absence of such a mechanism creates structural fragmentation and facilitates forum shopping, allowing undertakings excluded in one Member State to continue operating in others. A system of mutual recognition – potentially supported by an interoperable EU-wide registry of exclusion decisions – would enhance the uniform protection of the Union's financial interests and reinforce the integrity of the internal market. Any mutual recognition regime should, however, be conditional on minimum harmonised standards concerning procedural guarantees, evidentiary requirements, the duration of exclusion, and judicial review, to preserve mutual trust between Member States and ensure compliance with fundamental rights.

Any potential 'Europeanisation' of preventive exclusion mechanisms inspired by the Italian anti-mafia model must also address well-documented **fundamental rights concerns**. Preventive administrative bans based on broad and open-ended criteria – characterised by wide administrative discretion and relatively low thresholds of suspicion – raise significant issues relating to legal certainty, proportionality, the right to property, and the freedom to conduct a business. In practice, even marginal or indirect contacts with criminal environments may suffice to justify exclusion, producing severe economic consequences for the undertaking concerned. For this reason, EU harmonisation efforts should not merely replicate the most far-reaching features of existing national models. Rather, they should promote a calibrated

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and differentiated toolkit, reserving the most severe **exclusion measures for clearly defined and exceptionally serious cases**. Complementary or **alternative instruments could include**: enhanced public monitoring regimes for at-risk undertakings; temporary judicial or administrative supervision; structured compliance and integrity programs to restore internal legality and corporate governance standards; and conditional participation mechanisms linked to strict remedial obligations. Such instruments would allow the Union and the Member States to reconcile the objective of preventing criminal infiltration with robust procedural safeguards and a proportionate response, thereby strengthening both the effectiveness and the legitimacy of the regulatory framework.

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Concluding Remarks

The twelve recommendations set out in this Policy Brief are not a catalogue of isolated corrective measures. They form a coherent reform agenda, structured around the identification of strategic leverage points within the complex adaptive system governing the protection of the Union's financial interests.

At the institutional level, the proposals concerning OLAF, the AFCOS network, and the definition of the competent authority touch on the foundations of the system: who bears responsibility, under which legal framework, and within which coordination structure. These are not merely organisational refinements – they determine the conditions on which every subsequent phase of the anti-fraud cycle depends: detection, investigation, prosecution, and recovery.

At the level of financial governance, the recommendations on performance-based programmes, the typology of serious irregularities, and the development of early-warning indicators reflect the structural transformation introduced by the RRF and consolidated in the forthcoming MFF 2028–2034. In a funding environment where performance determines disbursement, integrity safeguards can no longer run on a parallel track: they must be built into the governance architecture itself.

At the level of instruments and procedures, the recommendations on whistleblowing, sanctions, asset recovery, and preventive administrative tools address the full cycle, from reporting to enforcement. The persistent gap between detection and effective recovery — documented in successive PIF Reports and confirmed by Special Report 26/2025 of the European Court of Auditors — remains the most significant structural weakness of the current system. Closing it requires not only stronger institutions and clearer procedures, but a sustained political commitment to treating the protection of the Union's financial interests for what it is: a constitutional obligation under Article 325 TFEU, not an administrative preference.

The current moment will not last indefinitely. The redesign of the budgetary architecture, the consolidation of the EPPO, the anti-fraud architecture review formally launched by COM(2025) 546, and the increasing digitalisation of financial controls, have opened a window for structural reform. The BETKONEXT Research Team presents these recommendations in the belief that targeted intervention at the right points in the system, informed by rigorous comparative and legal analysis, can make the governance of the Union's financial interests more resilient, more coherent, and firmly grounded in its constitutional foundations.

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- The Institutional 'Constellation' for the Protection of the EU's Financial Interests Past, Present and Future (2024)
- EU integration through the lens of financial interests: a comparative analysis from an Administrative and Criminal Law perspective (2025)
- Competent authorities and EU's financial interests: new challenges, case-studies, and examples of good practice (2025)

List of Publications

- A. Sandulli, A. Nato, and E. Tatì, *Introduction to the Special Section: The Shape-Shifting Definition of the EU's Financial Interest and its Protection in Contemporary Europe,* in European Papers, 2024, vol. 9, no. 3
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