

Analysis on the Financial Impact Due to Non-compliance to Rules of the European Union Funding Programmes for Research

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The analysis is targeted on the financial impact of non-compliance to rules for European Union (EU) funding in the field of research in quantitative terms, by examining statistical documents prepared by the European Commission which are available for the public and relate to the period 2008-2016. It is to be noted that these statistical documents use the terminology of irregularity instead of error and it is seen as any breach of rules that may lead to a financial impact and to damage on the budget of the European Union. Details related to error and irregularity terms are included in this paper. In the research on the impact of irregularities for EU research funding, several tasks were accomplished, such as highlighting the evolution of irregularities during the period under study, a comparison between reported irregularities in the research field and other EU policy areas for one year where the financial impact is the highest and an analysis of the types of irregularities identified by the statistical evaluation documents on irregularities.

Keywords: audit, ineligible, framework programme, research, irregularities

Introduction

The analysis will be focused on the European Union (EU) Programmes for research within the period 2008-2016, for which there is available information, including parts of two framework programmes for research, that are the 7th Framework Programme (2007-2013) and the current Framework Programme called Horizon 2020 carried out between 2014-2020.

Methodology, Terminology and Objectives of the Analysis

In order to be able to assess the financial impact of errors for EU funding in the field of research in quantitative terms, it is useful to examine the statistical documents prepared by the European Commission. These documents are published under the title of statistical evaluation of irregularities reported for a particular year (usually for the year before the year of publication). The statistical documents relating to the years 2007-2012 comprise two parts. The first part is devoted to the analysis of reported irregularities in the field of traditional own resources (income). The second part concerns the expenditure side of the budget and consists of

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three sections devoted to the three types of management: shared management (with Member States), decentralized management, and centralized management. The section on shared management covers natural resources (agriculture, rural development, and fisheries) and cohesion policy. Decentralized management refers to the delegation of budget implementation to third countries and one example could be within the pre-accession policy, The centralized management mainly deals with internal and external policies for which the European Commission directly manages their implementation. Centralized and decentralized management terms no longer appear in the statistical documents starting with 2013, as at that time the newly adopted Financial Regulation No. 966/2012 (Financial Regulation, 2012, Art. 58.1, p. 84) used the terms of direct management and indirect management but no longer uses the terms of centralized and decentralized management. The direct management is performed by the European Commission through its own services or through its executive agencies. The shared management is done with the EU member states, while the indirect management is carried out through third countries, organisations, institutions, bodies, or persons.

It is noteworthy that the statistical documents on irregularities use a terminology that does not include the term of error that was defined and accepted in the audit activity and can be found in the literature, as in Young (2002, p. 4), but also in the Audit Process Manual for 7th Framework Program (FP 7 Audit Process, p. 41)¹. The presentation of “Most common errors and irregularities in European Research Projects, need for sophisticated software” (Gjoka, 2014, pp. 6-15) referred to the terms of error and irregularity in the view of European Commission statistics on irregularities. Thus, it is stated that errors are administrative mistakes that have no financial impact or have been corrected before having a financial impact. Errors are recorded, corrected, but not reported. The document also defines the detection and correction of an error by the managing authority or the certification authority prior to any payment to the beneficiary (i.e., an ex-ante control). These management and certification authorities are acting in the shared management with the Member States that is specific to certain areas of EU policies, namely natural resources policies (agriculture, rural development, and fisheries), as well as cohesion policies. In the case of direct (centralized) management, the place of these two authorities is even held by the European Commission.

Therefore, in this research on the financial impact, we will use the terminology of the European Commission’s statistical documents where the term of irregularity is used for any action that damages or may damage the EU budget. The definition of irregularity can be found in the Annex II to the Grant Agreement for the FP 7 (2007-2013) (FP 7 MGA, Art. II.1.10)².

In fact, the definition of irregularity in the FP 7 Grant Agreement originates in Article 166.2 of Regulation (EC) No. 1268/2012 of 29 October 2012 laying down detailed rules for the implementation of Council Regulation (EU, Euratom) No. 966/2012 of the European Parliament and of the Council on the Financial Regulation applicable to the general budget of the European Union. Regulations No. 966/2012 and No. 1268/2012 are both included in the Financial Regulation and replace the old Regulations No. 1605/2002 and No. 2342/2002. It is important that the definition focusses on the loss or potential loss on the EU Budget.

It is useful to focus on identifying the types of errors and the frequency of their occurrence in the audits carried out. The audit reports should include the description and explanations of each type of error as being relevant, even for those with low occurrence, because any error can become recurrent unless it is prevented,

¹ <http://www.asktheeu.org/fr/request/1206/response/4619/attach/2/Annex%202.pdf>.

² http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html#fp7.

detected, or corrected by ex-ante controls. The statistical sources of the European Commission allow examining the financial impact of errors/irregularities at the level of the Framework Programme within the EU research policy, and we could compare this financial impact to the irregularities in the research area with the financial implications provided by other EU-specific programs and policies in other policy areas.

In the research on the impact of irregularities for EU research funding, the following tasks will be accomplished:

- Highlighting the evolution of irregularities that were not reported as fraud during the 2008-2016 period;
- A comparison between reported irregularities in the research field and other EU policy areas for one year where the financial impact is the highest;
- An analysis of the types of irregularities identified by the statistical evaluation documents on irregularities.

Analysis on the Financial Impact Due to Non-compliance to Rules of the European Union Funding Programmes for Research

With regard to the first task above, it is worth mentioning that the data available during the first years of the Seventh Framework Programme, which was carried on between 2007-2013, may also come from the Sixth Framework Programme (FP 6), due to the rule that makes it possible to launch an audit in a period of five years after the completion of the project for FP 6 (2002-2006), in accordance with Article II.29.1 of the FP 6 Annex II General Conditions (FP 6, Art.II.29.1)³. Also, by including the 2014-2016 years in the study, the audits or the ex-ante controls could have led to reported irregularities for the ongoing Horizon 2020 programme (2014-2020).

In accomplishing the first task, it was noticed that for the research field in 2007 year, the data are missing for reported irregularities (Statistical Evaluation of Irregularities, 2007, p. 115), therefore the 2007 data could not be included in the generated graph shown below. The explanation on the missing data appears to be related to a European Commission's computer system called ABAC (Accrual Based Accounting), which only started operating in 2008. Also, in the statistical document on irregularities for 2007, data are said to have been collected by submitting questionnaires and the data should be viewed with caution (Statistical Evaluation of Irregularities, 2007, p. 111).

Figure 1 shows an increasing trend in the number of cases of irregularities reported over the years, with an exception for 2016, which may have been due to the fact that audit procedures and operational services or ex-ante controls were better prepared from 2008 onwards, proving effectiveness in detecting, recording, and reporting irregularities. In 2016, we notice a decrease in the number of cases, although the amounts to be recovered are slightly increased compared to 2015. This decrease in the number of cases could be explained by the fact that in the recent years, the European Commission performed dissemination campaigns allowing the beneficiaries to learn from the errors encountered during financial audits and ex-ante controls.

For 2012, there is a high value for the amount of irregularities that is 3.1 times higher than in the previous year, although the number of cases has increased only 1.4 times. We analysed the percentages of irregularities in payments for the research field for the years 2008-2016 and we have drawn up in Table 1.

³ http://www.enen.eu/data/document/enenii_annex-ii-general-conditions_en.pdf.

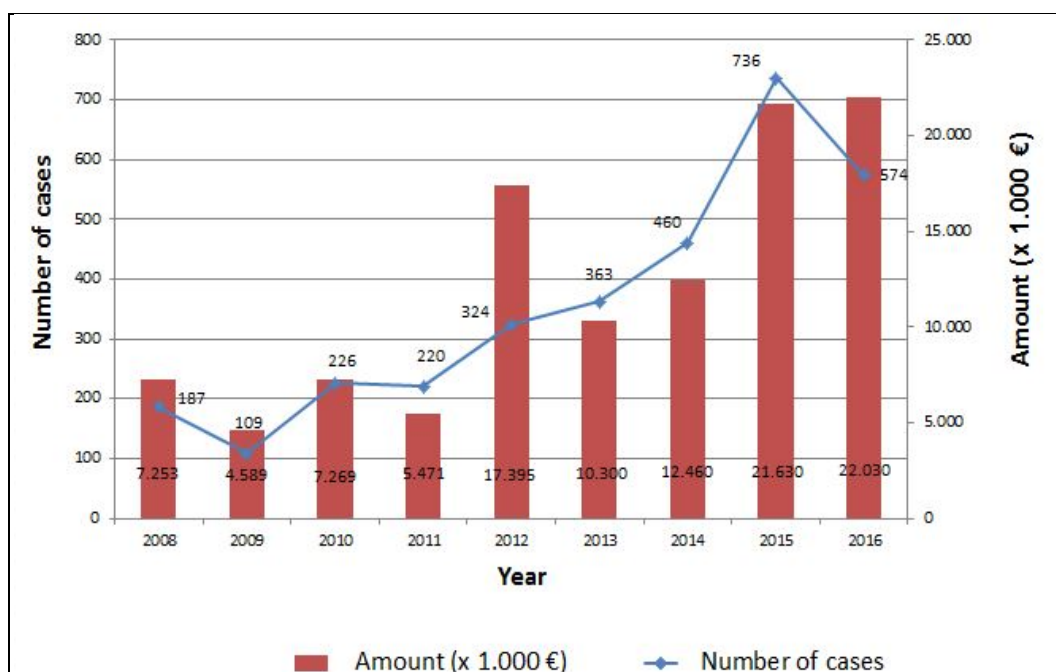


Figure 1. Evolution of number of cases and amounts related to irregularities reported as non-fraudulent, between 2008-2016 for the EU research field. Source: Documents related to “Statistical evaluations for irregularities” for the years 2008-2016—please see the bibliography and graphic model from Gjoka (2014, p. 21), completed by the author with data for 2013-2016).

Table 1

Amounts of Irregularities and Payments for the Research Area in 2008-2016

Year	Number of cases	Amount of irregularities (× 1,000 €)	Payments (× 1,000 €)	Irregularities/payments (%)
2008	187	7,253	213,120	3.40
2009	109	4,589	903,686	0.51
2010	226	7,269	2,479,649	0.29
2011	220	5,471	2,224,088	0.25
2012	324	17,395	4,959,000	0.35
2013	363	10,300	4,626,000	0.22
2014	460	12,460	3,127,000	0.40
2015	736	21,630	4,594,000	0.47
2016	574	22,030	4,375,000	0.50

Source: Author’s contribution using data from the Statistical Evaluation of Irregularities for the years 2008-2016, indicated in the References.

As it can be seen from Table 1, the payments made in 2012 experienced a significant increase of approximately 2.2 times compared to 2011. At the same time, the ratio of irregularity amounts to the amounts of payments made, have followed the proportion of the number of cases in 2012 compared to 2011. Between 2011 and 2012 there is an increase from 220 to 324 cases of irregularities, i.e., 1.47 times and a similar increase of 1.4 times (from 0.25% to 0.35%) for the percentage ratio of reported irregularities to payments. In 2013, we notice the lowest ratio of irregularities to payments, however this ratio continues to increase until it reaches a maximum in 2016.

As mentioned above, the second task will compare the reported irregularities in the research field with other EU policy areas for the year where the financial impact is the highest. From Table 1 and Figure 1, it can be noticed that the year with the highest financial impact is 2016. Therefore, we have made some rankings according to the following parameters: the number of reported cases, the amount of the irregularities (the sums recovered by the European Commission), and the percentages of irregularity figures relative to the payment values for each EU thematic policy area. Based on the available information and using the number of reported cases as a ranking criterion, Table 2 is presented.

Table 2

Irregularities Reported by the Services Responsible for European Policies in the Year 2016—Classification by Number of Reported Cases

No.	Policy area	Payments	Irregularities not reported as fraud		Irregularities reported as fraud	
		€million	€million	No. of cases	€million	No. of cases
1	Research and innovation	4,375	22.03	574	0.85	7
2	Education and culture	1,224	5.73	288	0.06	1
3	Communications networks, content, and technology	2,029	8.24	206	4.97	29
4	International cooperation and development	1,840	6.54	152	0.20	2
5	Foreign policy instruments	251	6.26	130	0.08	9
6	Internal market, industry, entrepreneurship, and SMEs	395	4.27	116	0.00	0
7	Neighbourhood and enlargement negotiations	1,893	7.34	78	0.00	0
8	Mobility and transport	1,851	8.45	55	0.09	1
9	Humanitarian aid and civil protection	795	0.85	52	0.00	0
10	Environment	286	3.26	42	0.00	0
11	Health and food safety	290	1.57	37	0.00	0
12	Employment, social affairs, and inclusion	135	0.92	27	0.00	0
13	Migration and home affairs	709	0.77	26	0.00	0
14	Taxation and customs union	102	0.05	24	0.00	0
15	Energy	761	0.95	22	0.00	0
16	Justice and consumers	105	0.52	22	0.00	0
17	Communication	71	0.11	5	0.00	0
18	Direct research	86	0.12	4	0.00	0
19	Maritime affairs and fisheries	188	0.00	1	0.00	0
20	Economic and financial affairs	1,089	0.00	0	0.00	0
Total		18,475	77.98	1,861	6.25	49

Source: DM4 table in the Statistical Evaluation of Irregularities (2016, Part 2/2 p. 85) containing data for EU policy areas managed directly by the European Commission (DM being an acronym for “direct management”); compared to the original table, the data in the column “Irregularities not reported as fraud / number of cases” is shown in decreasing order.

It can be seen from the above table that most cases of irregularities not reported as fraud, namely 574 cases, are found in the field of research and innovation, which represents around 31% of the total of 1,861 cases for all 20 domains of the EU policies. Regarding irregularities reported as fraudulent, there were 49 cases within six areas of the direct management budget. The most numerous cases were in “communication, content, and technology networks”, “foreign policy instruments” and “research and innovation”.

It is to be noted that amounts reported as irregularities in the statistical documents of the European Commission refer to cases which are called recovery items. As regards the amounts relating to these

irregularities not reported as fraud, the “research and innovation” policy area ranks first with €2.03 million, followed by “mobility and transport” (€8.45 million) and “communications networks, content, and technology” (€8.24 million). Substantial irregular amounts have also been recovered in the areas of “neighbourhood and enlargement negotiations”, “international cooperation and development”, and “foreign policy instruments”. The amounts in these six areas represent 58.9% of the total irregular amounts not reported as fraud. The 49 recovery items reported as fraudulent for all 20 policy areas relate to amounts of €6.25 million.

Table 3

Percentage of Irregularities not Reported as Fraud in Payments for European Policies in the Year 2016

No.	Policy area	Irregularities not reported as fraud in payments (%)
1	Foreign policy instruments	2.49
2	Environment	1.14
3	Internal market, industry, entrepreneurship, and SMEs	1.08
4	Employment, social affairs, and inclusion	0.68
5	Health and food safety	0.54
6	Research and innovation	0.50
7	Justice and consumers	0.50
8	Education and culture	0.47
9	Mobility and transport	0.46
10	Communications networks, content, and technology	0.41
11	Neighbourhood and enlargement negotiations	0.39
12	International cooperation and development	0.36
13	Communication	0.15
14	Direct research	0.14
15	Energy	0.12
16	Migration and home affairs	0.11
17	Humanitarian aid and civil protection	0.11
18	Taxation and customs union	0.05
19	Economic and financial affairs	0.00
20	Maritime affairs and fisheries	0.00
Average		0.42

Source: The table was created by the author based on the DM4 table in the [Statistical Evaluation of Irregularities (2016) Part 2/2 p. 85]

From Table 3, it is observed that the field of research and innovation ranks 6th out of 20 in terms of the percentage of irregularities not reported as fraud compared to the amounts paid to beneficiaries, by 0.50%, while the average on all policies is 0.42%. The EU’s thematic policy areas have project specificities that differ in duration and in the size of funding allocated to projects, in different policy areas. The field of “research and innovation” is characterized by funding for a large number of projects, many of them with relatively low funding levels. Although the research field ranks first in the number of reported irregularities by 574 cases and in the amount of irregularities by €2.03 million, it ranks 6th as percentage of irregularities in total payments to beneficiaries (see Table 3). In contrast to the research area, the “mobility and transport” domain, which ranks second according to the amount of irregularities by €8.45 million, manages large-scale projects of higher amounts of funding and the reported irregularities, albeit much less numerous, i.e., about 10 times (55 cases in the “mobility and transport” field compared to 574 in the “research and innovation”)

financial impact in respect to the amounts paid to beneficiaries of funding for this field of policy.

Turning to the issue of types of errors (referred to as irregularities in the European Commission's statistical documents), it is worth noting that the statistical evaluation documents on irregularities include a sub-section called "types of irregularities" within the dedicated section for direct management by the European Commission services. We considered as relevant to note the types of irregularities identified in the most recent published statistical evaluation document, i.e., the 2016 document. The 2016 document also assesses the types of irregularities in previous years for the 2012-2016 period and for all policy areas (Statistical Evaluation of Irregularities, 2016, p. 85) and classifies the irregularities in the several categories, such as:

- Ineligible amount;
- Missing documents;
- Sub-performance/non-performance;
- Public procurement rules have not been met;
- Double funding.

The categories above are rather of a high degree of generality, in particular the category of "ineligible amount". These five types of irregularities are presented in descending order of the number of cases of irregularities not reported as fraudulent. On the first three categories, the descending order is also valid for the "irregularities reported as fraudulent" (Statistical Evaluation of Irregularities, 2016, p. 85, Table DM8⁴). A similar pattern was observed regarding the irregularity type frequency in the statistical document of 2015 where the period 2011-2015 was analysed. Sometimes, a single reported irregularity case may include several types of irregularities (Statistical Evaluation of Irregularities, 2015, p. 88). For the period 2012-2016, the relevant details and interpretations of the types of irregularities are presented below, including references to the provisions in the legal basis concerning the research programmes.

The type of "ineligible amount" irregularity occurs in the majority of cases of "irregularities not reported as fraudulent" and also in the majority of cases of "irregularities reported as fraudulent" (Statistical Evaluation of Irregularities, 2016, p. 85, Table DM8). Also, the amounts to be recovered for this type of error represent more than 50% of the total amounts to be recovered in both fraudulent and non-fraudulent cases. The eligibility of the amounts is assessed against eligibility criteria foreseen in the legal documents, such as (Financial regulation, 2012, Art. 126), rules for the participation under the Seventh Framework Programme (Regulation [EC] No. 1906/2006, 2006, Art. 31.3), Framework Programme 7 (FP 7) Model grant agreement (FP 7 MGA, Art. II.14), and H2020 Programme AGA—Annotated Model Grant Agreement (H2020 Programme, AGA, 2018, Art. 6).

The second type of irregularities which is "missing documents" may appear together with other types, such as ineligible amounts or "public procurement rules not respected". Some examples of missing documents could be: invoices and requests for quotations from suppliers in the procurement process. The need for supporting documents is foreseen in the (Financial Regulation, 2012, Art. 135 and Art. 207 of Rules of Application), Framework Programme 7 (FP 7) Model Grant Agreement (FP 7 MGA, Art. II.14.1.d), H2020 Programme—Annotated Model Grant Agreement (H2020 Programme, 2018, AGA, Art. 18).

The "sub-performance/non-performance" irregularity is also referred to in legal documents for the

⁴ The quoted DM8 table contains for each type of irregularity the percentages of the frequency of occurrence within the total number of cases and the percentages of the amounts to be recovered for each type of irregularity within the total amount to be recovered for all types of irregularities.

research area. In the Framework Programme 7 (FP 7) Model Grant Agreement (FP 7 MGA, Art. II.3 and Art. II.38.b) the relevant articles are “II.3 specific performance obligations...” and II.38.b “termination of the grant agreement or of the participation of the beneficiary...” which specifically address the “case of non-performance or poor performance of the work”, when termination of the grant agreement at the initiative of the European Commission may be considered. In the H2020 Programme AGA—Annotated Model Grant Agreement, the Art. 50 is dedicated to cases when termination of the grant agreement should be taken into account (H2020 Programme, 2018, AGA, Art. 50).

The fourth type of irregularities comprises “public procurement rules not respected”. Although this type of irregularity is reported in small number of cases, the amount to be recovered may be significant as usually the public procurement process is performed for contracts of high value. The assessment of this irregularity is based on the provisions of model grant agreements, i.e., on the FP 7 Programme, there is Art. II.7.2 of the grant agreement about best value for money in awarding subcontracting and Art. II.14.1.e) mentioning the consistency with the principles of the “3 e”: economy, efficiency, and effectiveness (FP 7 MGA, Art. II.7.2 and Art. II.14.1.e). On the Horizon 2020 Programme, there is Art. 10 of the grant agreement on “purchase of goods, works, or services” which makes reference to the compliance with procurement laws and procedures (H2020 Programme, 2018, AGA, Art. 10).

Concerning “double funding” type of irregularity, this is defined in the Financial Regulation No. 966/2012 on the EU budget under Art. 129 (Financial Regulation, 2012, p. 145) as well as the principle of non-cumulative allocation, which implies that a grant and beneficiary can be awarded a single grant (except where the basic acts provide otherwise), and the same costs cannot be funded twice from the EU budget. On the FP 7 Programme, the Art. II.14.3.f of the grant agreement states that costs which were already incurred, declared, or reimbursed for another EU or Euratom project are non-eligible costs if they are claimed on a FP 7 project (FP 7, MGA, II.14.3.f). On the Horizon 2020 Programme, the Art. 6.5 ineligible costs of the grant agreement includes the issue of double funding i.e., declared under another EU or Euratom grant and provides more clarifications on this topic including EU operating grants and grants co-funded by EU/Euratom together with EU member states or with international or national bodies.

Conclusions

In the current research on the impact of irregularities for EU research funding, the following tasks were accomplished:

- Highlighting the evolution of irregularities during the period 2008-2016 which was presented in Figure 1 above; the trend in this evolution is influenced by the increase in the quality of audits and ex-ante controls combined with the awareness raising campaigns to avoid irregularities in the EU funded projects for research;
- A comparison between reported irregularities in the research field and other EU policy areas for one year where the financial impact is the highest (2016) based on the figures from Tables 2 and 3;
- An analysis of the types of irregularities identified by the published statistical evaluation documents on irregularities including author’s contribution on details and references to the legal basis of the research programmes.

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