

DEFENDING THE EU'S FINANCIAL-BUDGETARY POSITIONS AT THE STATE LEVEL — A STRATEGIC PERSPECTIVE APPROACH FOR THE CASE OF ROMANIA

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Abstract:

Our paper considers that protecting the financial and budgetary positions of the European Union at the national level is a key strategic objective for Member States, having a direct impact on the integrity and efficiency of the use of European funds. In this context, we have highlighted that Romania has strengthened its regulatory and strategic framework by adopting specific policies for fraud prevention and combat, among which the National Anti-Fraud Strategy for the Protection of the Financial Interests of the European Union for the period 2023-2027 stands out, alongside a well-defined anti-fraud legislative framework. This article analyzes the structure and effectiveness of the mechanisms implemented at the national level, addressing key aspects such as fraud prevention, detection, and combat, administrative investigation, prosecution, fund recovery, and the application of sanctions. Based on a methodology that combines qualitative analysis of legislation and policies with quantitative analysis of recorded outcomes, the study aims to assess the impact of the adopted measures on the protection of the EU's financial interests in Romania. Additionally, concrete examples of recent results achieved through the implementation of these measures are presented. Through a comparative, qualitative, and quantitative analysis, the article explores the efficiency of the existing protection mechanisms. The conclusions highlight the need for more effective interinstitutional cooperation at both the national and European levels, emphasizing the importance of a continuous and adaptable monitoring mechanism to ensure responsible, transparent, and sustainable financial management.

Key words: EU budget; OLAF; DLAF; protection of the financial interests of EU; specific regulatory framework; anti-fraud policies/strategies.

JEL classification: H50, H61, H83, K14, M48.

1. INTRODUCTION

The fraud of public budgets, regardless of the level at which they are constituted—local, national, or at the EU level—is generally intolerable. Prominent researchers in this field, both Romanian and foreign, have identified over time the premises, causes, effects, and ways to prevent and combat this negative phenomenon (Resmeriță, 2023; Gottschalk, 2022; Singleton and Singleton, 2020; Achim and Borlea, 2020; Gyuricza and Lascu, 2017; Sokanović, 2015; Dinga, 2008). Furthermore, besides the existence of a relatively extensive body of scientific literature on this topic, we also have legislation that adequately meets the requirements, as well as an appropriate body of case law (Anghel-Tudor, 2021; Costea, 2020; Farkas et al., 2019; Șandor, 2018; Grădinaru, 2016). Given the considerable negative impact of EU fund fraud on the economic stability and financial integrity of the European Union, particularly concerning the Multiannual Financial Framework 2021-2027 and the resources allocated through the Recovery and Resilience Facility, the European Commission places particular emphasis on preventing this phenomenon. The main objective is to ensure the efficient and secure absorption of available funds. In this regard, Member States are required to implement adapted and effective anti-fraud policies designed to mitigate risks and ensure the transparent management of financial resources. According to Article 325 of the Treaty on the Functioning of the European Union (TFEU) (EU, 1957), Member States must combat fraud and any other illegal activities affecting the EU's financial interests by adopting appropriate measures that deter such practices and ensure the effective protection of European funds. Consequently, at the Member State level, the same measures applied to combat fraud affecting their own financial interests are adopted. Further detailing the regulatory framework, the European legal

framework is supplemented by regulations such as the one on investigations carried out by the European Anti-Fraud Office (OLAF), the regulation on the protection of the financial interests of the European Communities, and another regulation concerning on-the-spot checks and inspections conducted by the Commission as part of anti-fraud activities and actions against other irregularities (EP&CE, 2013; EC, 1995, 1996). In 2017, a regulation was adopted to implement a form of enhanced cooperation, specifically regarding the establishment of the European Public Prosecutor's Office (EPPO), in conjunction with a directive issued the same year aimed at combating fraud against the EU's financial interests through criminal law (EC, 2017; EP&CE, 2017). Subsequently, the financial rules applicable to the EU's general budget were adopted as a regulation (EP&CE, 2018), the EU's own resources system was revised (EC, 2020), and various sectoral legal acts containing relevant provisions have also been enacted. Additionally, in 2021, the European Parliament and the Council established the Recovery and Resilience Facility through a regulation (EP&CE, 2021). Without violating other treaty provisions, Member States coordinate their actions to safeguard the EU's financial interests. According to Article 12 of the regulation on OLAF investigations (EP&CE, 2013), "each Member State shall designate an anti-fraud coordination service to facilitate effective cooperation and the exchange of information, including operational information, with OLAF." Regarding the necessity for Member States to develop official strategic documents targeting the fight against fraud, this requirement arises from their primary obligation to protect the EU's financial interests within their territories (EU, 1957). The European Commission's strategy "is based on a comprehensive risk assessment, which has identified key areas for improvement, including fraud data collection and analysis, interdepartmental cooperation within the Commission, and corporate oversight of fraud-related matters within the Commission" (EC, 2019b). Moreover, the importance of a national-level anti-fraud public policy has been consistently emphasized by European institutions, either through official statements or public documents (EP, 2020ab, 2021, 2022; EC, 2021). Notably, Member States that adopt their own anti-fraud strategies can benefit from multiple advantages aligned with the objectives outlined above. These strategies contribute to the effective and equivalent protection of the EU's financial interests while also facilitating cooperation between budgetary expenditures and revenues. Furthermore, they enhance the prevention, detection, and combat of irregularities and fraud, thereby ensuring a higher recovery rate of misused EU funds. In addition, such a strategic framework provides institutions responsible for managing and controlling European funds with a more effective tool, enabling them to clearly define their roles and responsibilities (RG, 2023a). At the same time, the adoption of such strategies supports the development of a set of recommendations and actions aimed at improving administrative capacity, thus addressing the need for transparency in the process of protecting the EU's financial interests. These strategies create the foundation for strengthening the national legal framework, updating and renewing cooperation agreements and procedures, thereby facilitating better coordination of legislative, administrative, and operational activities among the institutions involved. Finally, they reinforce collaboration with OLAF and other competent EU institutions, contributing to a more efficient and well-coordinated anti-fraud system (RG, 2023a). Currently, authorities responsible for managing and controlling European funds are implementing multiple sectoral measures to prevent and combat fraud. It is important to note that advancements in data analytics and the continuous refinement of IT tools significantly contribute to improving access to and processing of relevant information by OLAF. The increasing volume of available data, combined with increasingly sophisticated analytical methods, allows for more detailed collection and interpretation of fraud-related information, thereby strengthening the ability to detect and prevent fraud. This technological progress plays an important role in the established mechanism for monitoring and analyzing fraudulent activities (Figure 1), which are important for investigations.

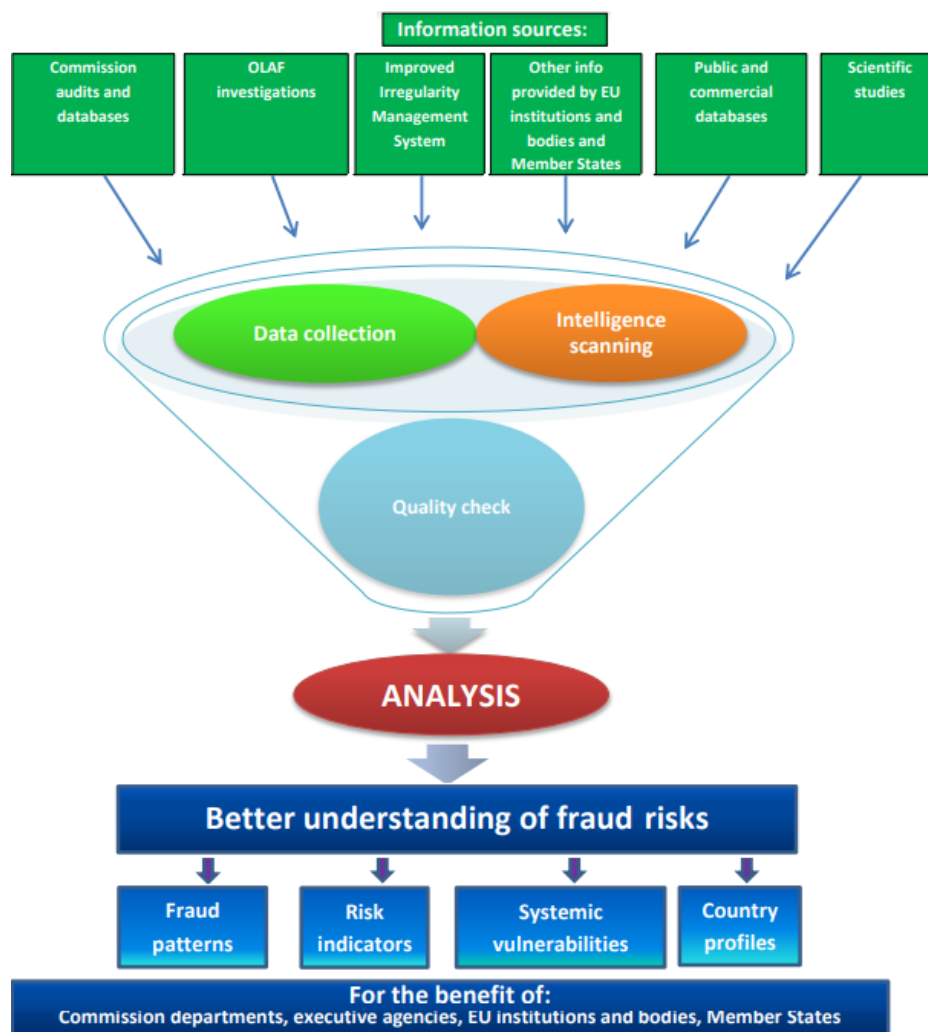


Figure 1. The collection and analysis of fraud-related data

Source: EC, 2019

These developments can contribute to launching a greater number of investigations, as well as to a more precise direction of these investigations in the medium and long term. In Romania, the responsibility for implementing and coordinating anti-fraud measures falls to the Department for the Fight Against Fraud (DLAF), which plays a central role in developing and promoting coherent public policies in this field. DLAF serves as the main national coordinating body for anti-fraud activities and is the official point of contact with the OLAF. Through this position, the department supports and coordinates the actions necessary for Romania to fulfill its obligations regarding the protection of the EU's financial interests (EU, 1957). In the context of our subject, we emphasize that DLAF has developed and continues to coordinate the implementation of the National Anti-Fraud Strategy (RG, 2011). In this paper, we will address the strategic and regulatory framework aimed at protecting the financial interests of the Union against fraud, placing particular emphasis on institutional concerns at the Romanian state level, as reflected in a series of commitments made in the previous period, while also providing an analysis of recent results in this field.

In order to treat the subject in the best possible way, we have structured the paper as follows: (1) Introduction; (2) Establishing the national strategic and regulatory framework regarding the protection of the EU's financial interests (2.1. National Anti-Fraud Strategy for the Protection of the European Union's Financial Interests in Romania 2023-2027; 2.2. National Anti-Fraud Legal Framework); (3) Examples of recent results in defending the EU's financial interests; and (5) Conclusion.

We emphasize that the research is based on both primary and secondary sources, including official documents from national and European institutions, relevant legislation, activity reports from control and audit authorities, as well as studies and analyses from specialized literature.

2. ESTABLISHMENT OF THE NATIONAL STRATEGIC AND REGULATORY FRAMEWORK FOR THE PROTECTION OF THE EU'S FINANCIAL INTERESTS

2.1. NATIONAL ANTI-FRAUD STRATEGY FOR THE PROTECTION OF THE EUROPEAN UNION'S FINANCIAL INTERESTS IN ROMANIA 2023-2027 (SNLAF)

In general, the prevention and combating of the phenomenon of fraud involving public financial resources require rigor, organization, strict and meticulous tools and methods, highly professional staff, etc., with the final results being conditioned by the adopted strategies/policies and, obviously, by an appropriate legislative system (Munteanu, 2020; Bostan, 2010ab; Buneci et al., 2008; Florea et al., 2007). In this context, we note that the National Anti-Corruption Strategy (SNA) 2021-2025 includes the development of the National Anti-Fraud Strategy (SNLAF). This Strategy (SNLAF) directly aligns with the third general objective set out in the SNA, which aims to strengthen institutional management and enhance administrative capacity for the prevention and combatting of corruption. Specifically, it contributes to optimizing mechanisms for early identification of risks and institutional vulnerabilities through more effective correlation of tools for managing administrative deficiencies (RG, 2021), and its development required coordination from DLAF. The European Commission has recommended high-level political commitment to such a strategy (national anti-fraud), covering the Government's vision for the medium term. A specific element of the SNLAF is the inclusion of specific measures aimed at efficiently managing European funds, whether these are administered jointly or allocated to Romania through the Recovery and Resilience Mechanism. Furthermore, the strategy integrates actions intended to protect the revenue of the EU budget, thus complementing efforts dedicated to monitoring spending from this budget. Through this comprehensive approach, the SNLAF fully complies with the requirements established by the Treaty on the Functioning of the European Union (TFEU) (EU, 1957). In order to identify strategic intervention directions, DLAF conducted an anti-fraud SWOT analysis; among the identified weaknesses that diminish the effectiveness of national actions to protect the financial interests of the EU in Romania are the low level of transparency in anti-fraud activities, poor communication (social media), an interpretive legal framework (e.g., terms: signs, indicators), insufficient or non-existent professional training programs, and lack of interinstitutional coordination networks, etc. (RG, 2023ab). The objectives of the SNLAF follow the stages of an anti-fraud cycle defined by OLAF (Figure 2) and aim to involve as many anti-fraud partners as possible to raise awareness and support the promoted policy, as well as to implement the associated measures, in accordance with the Action Plan.

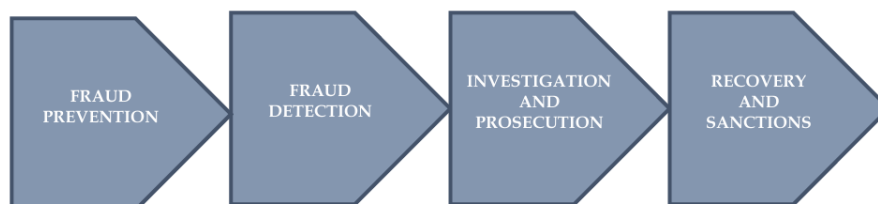


Figure 2. Anti-fraud cycle

Source: DLAF, 2023

The respective objectives are complementary to those of the SNA 2021-2025, which aligns with the European legislator's view that corruption "constitutes a particularly serious threat to the financial interests of the Union, and can often also be linked to fraudulent behavior" (EP&CE, 2017). Regarding the stages of the mentioned cycle, the European vision (RG, 2023b) emphasizes that fraud prevention is a key objective of the strategy, aiming to reduce associated risks and facilitate closer cooperation among all parties involved, while ensuring better coordination of

actions. Fraud detection is a critical stage, requiring a proactive approach from all actors involved to manage it effectively. Administrative investigation and criminal prosecution are interdependent processes, whose efficiency depends on the existence of well-trained staff, the full cooperation of the authorities responsible for management and control, as well as close cooperation between the competent institutions. Additionally, partnerships with other relevant entities, both at the national level and within the EU, play a fundamental role in the success of these efforts. The recovery of improperly used funds and the application of sanctions must be efficient processes, rigorously monitored by the competent administrative authorities, to ensure compliance with the rules and protect financial interests.

2.2. NATIONAL ANTI-FRAUD LEGAL FRAMEWORK

In Romania, following its accession to the EU, a regulatory framework was established to protect the financial interests of the EU. Among these, we mention the Government Emergency Ordinance (OUG) no. 66/2011 "on the prevention, detection, and sanctioning of irregularities related to obtaining and using European and/or national public funds." This is complemented by Government Decision (HG) no. 875/2011 "approving the methodological norms for applying the provisions of OUG no. 66/2011 on the prevention, detection, and sanctioning of irregularities related to obtaining and using European and/or national public funds, as well as some sectoral orders for approving the applicant's guide." Of great importance is also OUG no. 70/2022 "on the prevention, verification, and detection of irregularities/dual financing, serious irregularities in obtaining and using non-reimbursable/reimbursable external funds allocated to Romania through the Recovery and Resilience Facility and/or related national public funds, and the recovery of resulting claims." (RG, 2011ab, 2022). In the criminal field, the anti-fraud legal framework consists of "all the norms that transpose the PIF Directive", namely Law no. 78/2000 "for the prevention, detection, and sanctioning of corruption offenses", the Penal Code, and other special laws. Furthermore, the SNLAF aims to "strengthen the legal framework by updating the relevant normative acts or adopting new ones, enhancing institutional capacity through professional training, inter-institutional communication, and constant exchange of information." (RP, 2000, 2009).

3. SOME EXAMPLES OF RECENT RESULTS IN DEFENDING THE FINANCIAL INTERESTS OF THE EU

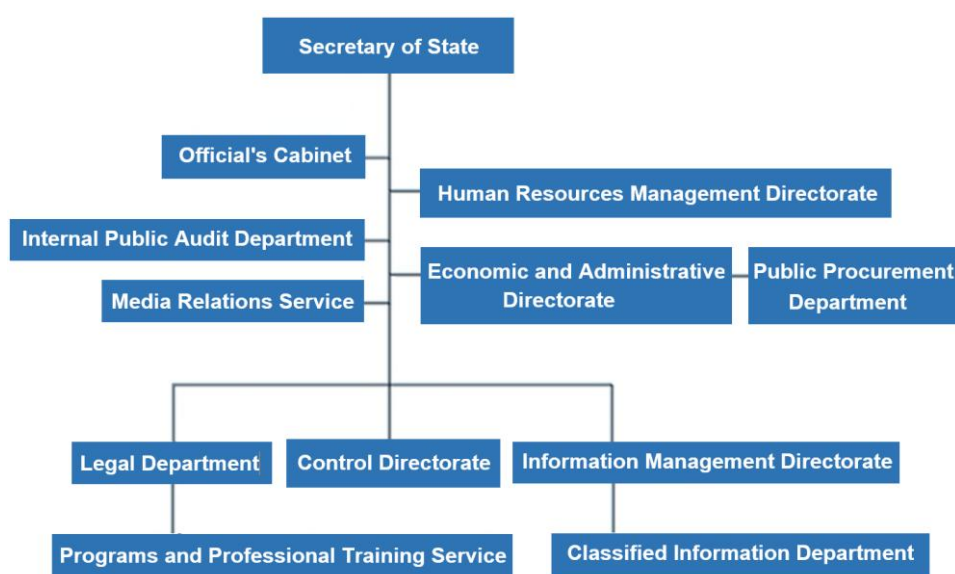
Fraud targeting the EU budget can lead to the improper allocation of EU funds, preventing them from achieving their legitimate objectives and undermining the effectiveness of measures adopted at the community level. When such practices succeed, they compromise the credibility of Union initiatives and erode public trust in European policies. To prevent these risks, the European Commission manages the EU budget in accordance with the principles of responsible financial management, implementing a rigorous internal control system. This mechanism aims to prevent, identify, correct, and monitor cases of fraud and other irregularities. The Commission works closely with the Member States, which are responsible for collecting and using approximately 80% of the Union's budgetary resources. Annually, the Report on the Protection of the Financial Interests of the EU (PIF Report) provides a detailed analysis of the impact of fraud and irregularities on the community budget. Although the scale of the phenomenon varies from year to year, the collected data indicates the need for continuous and firm measures at the European level to combat this issue (EC, 2019). The number of fraudulent irregularities reported to the Commission by national authorities through the IMS (Irregularity Management System) remained relatively stable, reaching 1,030 in 2023 (down by 9.5% compared to 2022). "The financial amounts linked to these cases varied, due to a limited number of individual cases with high financial impact, and increased in 2023 to EUR 585.8 million (+103% compared to 2022)" (EC, 2023). Table 1 shows the irregularities reported as fraudulent in 2023.

Table 1. Irregularities reported as fraudulent in 2023

Member States	Agriculture		Internal policies		Cohesion policy and Fisheries		Pre accession & Neighbourhood ²¹		TOTAL EXPENDITURE		REVENUE	
	N	EUR	N	EUR	N	EUR	N	EUR	N	EUR	N	EUR
Belgique/België					1	28,444			1	28,444	38	9,970,067
Bulgaria	4	545,239			4	201,798			8	747,037	16	922,416
Ceská republika	1	11,618	14	22,822	59	21,573,274			74	21,607,714		
Danmark	11	478,050							11	478,050		
Deutschland	13	1,034,276			18	3,168,721			31	4,202,997	18	1,898,013
Eesti	34	3,527,724			6	1,097,903			40	4,625,627	9	279,506
Éire/Ireland												
Ellada	6	1,147,540			11	753,237			17	1,900,777	13	5,186,997
España	11	1,816,048			10	6,580,429			21	8,396,477	33	4,506,533
France	24	1,456,295			3	33,135			27	1,489,430	68	2,663,082
Hrvatska	2	473,154			5	594,966			7	1,068,120	6	557,220
Italia	21	1,601,227			6	870,176			27	2,471,403	57	16,759,783
Kypros											4	225,747
Latvija	4	1,570,998	3	15,808	15	5,747,174			22	7,333,980	1	16,839
Lietuva	26	661,716			2	64,055			28	725,771	29	6,078,879
Luxembourg												
Magyarország					26	6,582,611			26	6,582,611	1	10,040
Malta	1	109,601			1	214,695			2	324,296		
Nederland	3	18,576							3	18,576		
Österreich					3	2,413,919			3	2,413,919	5	215,150
Polska	15	760,253			15	10,692,593			30	11,452,846	23	2,348,219
Portugal	4	542,039			29	7,792,753			33	8,334,792	1	332,031
Romania	159	6,022,099			30	413,285,999	4	105,548	193	419,413,646	8	145,823
Slovenija					8	2,185,970			8	2,185,970	4	694,523
Slovensko	13	2,751,754			18	2,809,357			31	5,561,111	2	12,442
Suomi/Finland	5	61,082							5	61,082	4	101,359
Sverige												
TOTAL EU27	357	24,589,289	17	38,630	270	486,691,209	4	105,548	648	511,424,676	340	52,924,670

Source: EC, 2023

Referring to the Romanian context, we note that DLAF is a special institution within the Executive of Romania, with approximately 100 employees. Specifically, there are 131 positions (RG, 2011c), but only 101 are funded, of which 96 are occupied. For example, within the Control Directorate of this governmental institution's organizational structure (Figure 3), there are 40 positions, and within the Information Management Directorate, there are 23 positions (OLAF, 2024).

**Figure 3. The organizational chart of DLAF**

Source: RG, 2015

The Control Directorate within DLAF is responsible for verifying compliance with specific regulations, conducting administrative investigations, on-site inspections, analyses, and document checks. It also coordinates various control actions aimed at identifying irregularities, fraud, and

other illegal practices associated with the management, access, and use of EU funds, including co-financed funds or other financial resources that fall under the scope of the EU's interests. This area of competence also includes the monitoring of loans and guarantees provided by the European Investment Bank (RP, 2011). Additionally, DLAF investigates and coordinates actions to detect irregularities and fraud affecting the financial interests of the EU in Romania, especially in cases of illegal reduction of the EU's own resources. As an investigative body, in accordance with Article 61 of the Criminal Procedure Code (RP, 2010), DLAF has duties in identifying criminal activities that harm the EU's finances. At the request of the prosecutor, the institution can carry out checks to assess compliance with the legislation on protecting the financial interests of the EU, thereby strengthening the mechanisms for preventing and combating fraud. According to these competences, the Control Directorate carries out public service processes, such as coordinating the anti-fraud fight, cooperating with the OLAF, and ensuring the protection of the EU's financial interests through direct means of preventing, detecting, and investigating fraud (RP, 2011). In 2023, DLAF conducted specific checks in 316 control actions, 173 of which were completed; the number of ongoing control actions throughout 2023 increased by 5.34% compared to the previous year (OLAF, 2024). For the 316 control actions carried out in 2023 (distributed according to the programming period in Figure 4), the sources of notification were as follows: Managing Authorities: 132; National Anticorruption Directorate: 76; Individuals and legal entities: 65; EPPO: 21; Audit Authority under the Court of Accounts: 9; Self-notified: 3; OLAF: 2; Others: 8.

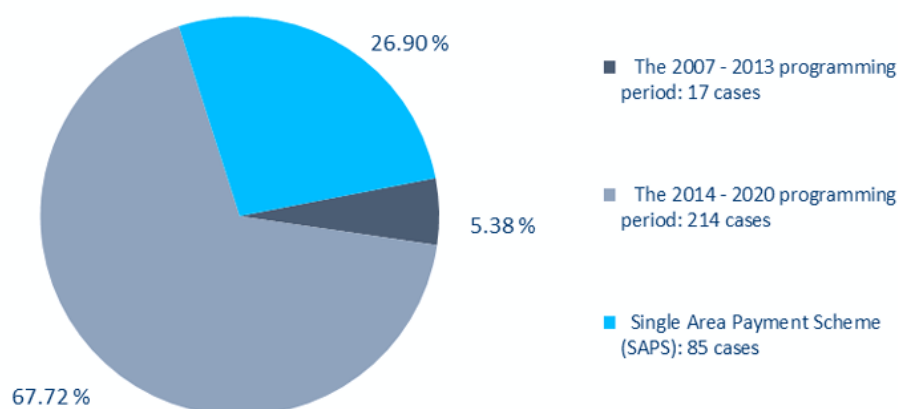


Figure 4. Distribution of cases ongoing in 2023 depending on programming period

Source: OLAF, 2024

Depending on the type of program, the 214 ongoing control actions in 2023, which are part of the 2014-2020 programming period, are distributed as follows (OLAF, 2024): Operational Program Human Capital: 94; National Rural Development Program: 35; Regional Operational Program: 27; Operational Program for Fisheries and Maritime Affairs: 14; Competitiveness Operational Program: 10; Erasmus+: 9; Cross-border Cooperation: 7; Large Infrastructure Operational Program: 6; Administrative Capacity Operational Program: 3; Operational Program for the Assistance of Disadvantaged Persons: 3; Others: 6. Referring only to the 173 control actions completed in 2023 (OLAF, 2024), 49 indicated signs of fraud affecting the financial interests of the EU, 106 found no evidence supporting the reported facts, 5 identified irregularities in implementation, and in 13 cases, "no further checks were required, and they were closed, as during the checks DLAF, the prosecuting authority made a decision on the criminal case" (EPPO: 8, DNA: 5). The eligible value of the projects that were subject to DLAF's control actions, completed in 2023 (173 projects), was approximately 2,037,238,905 RON, and the estimated financial impact in cases of suspected fraud was approximately 66,000,000 RON (3.24% of the value of the controlled projects) (OLAF, 2024). DLAF's activity was judicially valued "through the transmission to EPPO or national prosecutors of a number of 126 control reports, 49 minutes of referral to the prosecuting authorities, and 27 information letters." (OLAF, 2024).

4. CONCLUSION

The protection of the financial interests of EU at the national level is a fundamental element of efficient and responsible governance, directly impacting the management of European funds and public trust in institutions. The study has highlighted the progress made by Romania in this area, particularly through the implementation of the SNLAF (2023-2027) and the strengthening of the anti-fraud regulatory framework. The main objective of this strategy is, in fact, to align and streamline fraud prevention measures through close collaboration among all national actors involved. The goal is not only to maximize the absorption of European funds in a sustainable and fair manner, including resources obtained through the Recovery and Resilience Facility, but also to ensure Romania's full and compliant financial contribution to the EU budget. It has been relatively easy to observe that all the measures undertaken in the area studied have contributed to the development of more efficient mechanisms for preventing, detecting, and combating fraud, as well as strengthening interinstitutional cooperation at both the national and European levels. The recent results analyzed in this article reflect an increase in the efficiency of control, investigation, and recovery activities related to misused funds. However, challenges still remain regarding the consistent implementation of strategies and their alignment with European standards. In this regard, better coordination among the involved institutions, strengthening administrative capacity, and continuous updating of the regulatory framework are important aspects for improving Romania's performance in protecting the EU's financial interests. Additionally, the importance of close collaboration with OLAF and other European bodies has been emphasized, to achieve more effective harmonization of anti-fraud measures and to increase transparency in the management of European funds. In our view, in the future, adopting best practices from other member states and utilizing advanced technologies in monitoring and data analysis may represent viable directions for strengthening the national system for protecting the financial interests of the EU.

Finally, we also point out that, although we have observed that Romania has made significant progress in combating fraud and protecting European funds, the long-term success of these initiatives will depend on the continued commitment of the authorities, the improvement of control mechanisms, and the development of an adaptable legislative framework capable of responding to emerging challenges in this field.

Limitations of the Research

The study is based on data available from official and public sources, which may involve certain restrictions regarding access to sensitive information. Additionally, the analysis of recent results may be influenced by ongoing legislative and institutional changes.

Future Research Directions

Future research should focus on optimizing national mechanisms for fraud prevention and combating, considering both legislative developments and the new risks associated with the management of European funds. We believe an important direction would be to analyze the effect of digitalization and the use of artificial intelligence in monitoring, detecting, and investigating financial irregularities, considering global trends in the implementation of advanced technologies in the public sector. Furthermore, we believe a comparative analysis between EU member states would be relevant to evaluate the effectiveness of national anti-fraud strategies and identify best practices that could be applied in Romania.

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