

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU, Euratom) 2016/2365

of 19 December 2016

establishing forms for reporting on fraud and irregularities affecting entitlements to traditional own resources and on inspections relating to traditional own resources pursuant to Council Regulation (EU, Euratom) No 608/2014

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014 laying down implementing measures for the system of the own resources of the European Union ⁽¹⁾, and in particular Articles 5(2) and 6(2) thereof,

After consulting the Advisory Committee on Own Resources,

Whereas:

- (1) Commission Decision 97/245/EC, Euratom ⁽²⁾ lays down the arrangements for the transmission of information to the Commission by the Member States under the system of own resources.
- (2) Decision 97/245/EC, Euratom has one legal basis, Council Regulation (EC, Euratom) No 1150/2000 ⁽³⁾. Following the entry into force of Council Decision 2014/335/EU ⁽⁴⁾ the transmission of information to the Commission by the Member States is governed by two Council Regulations: Regulation (EU, Euratom) No 608/2014 and Regulation (EU, Euratom) No 609/2014 ⁽⁵⁾. It is therefore appropriate to adopt a separate Commission Implementing Decision for each of those Regulations. Provisions on models for statements of accounts for the entitlements to own resources and a form for reports on irrecoverable amounts corresponding to the entitlements to own resources set out in Decision 97/245/EC, Euratom have been included in Commission Implementing Decision (EU, Euratom) 2016/2366 ⁽⁶⁾. Provisions on forms and a model for reporting on fraud and irregularities affecting entitlements to traditional own resources and on inspections relating to traditional own resources set out in Decision 97/245/EC, Euratom should be included in this Decision.
- (3) Cases of fraud and irregularities should be reported in a structured manner.
- (4) Decision 97/245/EC, Euratom requires Member States to provide information to the Commission on departments and agencies responsible for the reporting. It is necessary to provide that Member States also inform the Commission of any changes to that information.

⁽¹⁾ OJ L 168, 7.6.2014, p. 29.

⁽²⁾ Commission Decision 97/245/EC, Euratom of 20 March 1997 laying down the arrangements for the transmission of information to the Commission by the Member States under the Communities' own resources system (OJ L 97, 12.4.1997, p. 12).

⁽³⁾ Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities own resources (OJ L 130, 31.5.2000, p. 1).

⁽⁴⁾ Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

⁽⁵⁾ Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ L 168, 7.6.2014, p. 39).

⁽⁶⁾ Commission Implementing Decision (EU, Euratom) 2016/2366 of 19 December 2016 establishing models for statements of accounts for entitlements to own resources and a form for reports on irrecoverable amounts corresponding to the entitlements to own resources pursuant to Council Regulation (EU, Euratom) No 609/2014 (see page 30 of this Official Journal).

- (5) In order to ensure that Member States use the forms as amended, in particular as regards the modified retention rate, as soon as possible, this Decision should enter into force and be applicable from the date of its publication.
- (6) For reasons of consistency this Decision and Implementing Decision (EU, Euratom) 2016/2366 should apply from the same date.

HAS ADOPTED THIS DECISION:

Article 1

Member States shall use the form set out in Annex I to this Decision to draw up the descriptions of cases of fraud and irregularities detected involving entitlements of over EUR 10 000 and the form set out in Annex II to this Decision to draw up details of the position concerning cases of fraud and irregularities already reported to the Commission where recovery, cancellation or non-recovery has not been indicated earlier, referred to in Article 5(1) of Regulation (EU, Euratom) No 608/2014.

Article 2

Member States shall use the form set out in Annex III to this Decision to draw up the report on inspections relating to traditional own resources referred to in Article 6(1) of Regulation (EU, Euratom) No 608/2014.

Article 3

Member States shall inform the Commission of the departments or agencies responsible for drawing up and sending descriptions and details referred to in Article 1 and reports referred to in Article 2. Member States shall also inform the Commission of any changes to the information on the departments or agencies.

Article 4

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 19 December 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

FRAUD FORM

Information form to be sent to the Commission (DG BUDG) giving a description of cases of fraud and irregularities already detected, involving entitlements in excess of EUR 10 000

IDENTIFICATION OF BASIC FORM

- 0. Member State:
- 0.0. Serial number of the case ⁽¹⁾:
- 0.1. Quarter reference period:
- 0.2. Date of transmission:
- 0.3. Department or agency which made the establishment:

DESCRIPTION OF CASE

- 1. Goods involved:
 - 1.0. Commercial description:
 - 1.1. Tariff heading ⁽²⁾:
 - 1.1.1. declared:
 - 1.1.2. established:
 - 1.1.3. presumed:
 - 1.2. Origin:
 - 1.2.1. declared:
 - 1.2.2. established:
 - 1.2.3. presumed:
 - 1.3. Coming from:
 - 1.3.1. declared:
 - 1.3.2. established:
 - 1.3.3. presumed:
 - 1.4. Quantity:
 - 1.4.1. declared:
 - 1.4.2. established:
 - 1.4.3. presumed:
 - 1.5. Value:
 - 1.5.1. declared:
 - 1.5.2. established:
 - 1.5.3. presumed:

⁽¹⁾ Cases are numbered by Member States in an annual sequence in accordance with the following format: OR/MS/99/999999/0. For Member States which do not produce a single annual sequence but sequences for regional departments, the first two of the six digits identify the regional department concerned.

⁽²⁾ In accordance with the combined nomenclature provided for by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

2. Type of fraud and/or irregularity:
 - 2.1. Designation:
 - 2.2. Customs procedure or treatment concerned:
3. Concise description of fraud mechanism:
4. Presumed order of magnitude of own resources evaded or exact amount:
 - 4.1. estimated:
 - 4.2. established:
 - 4.3. recovered:
5. Type of check that led to discovery:
 - 5.1. method:
 - 5.2. remarks:
6. Stage reached in procedure and, where appropriate, details of establishment:
 - date of establishment:
 - administrative code:
 - financial code:
7. Case already notified under mutual assistance arrangements (Council Regulation (EC) No 515/97 ⁽¹⁾):
MA reference:
8. Measures taken or planned to prevent the recurrence of cases of fraud and irregularities already detected:
9.
 - 9.1 Member States involved:
 - 9.2 Operators concerned (optional):
- 10 Other information:
 - 10.1. Free:
 - 10.2. OLAF File reference:
 - 10.3. Reserved:

⁽¹⁾ Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

FORM UPDATING BASIC FORM ⁽¹⁾

11 ⁽²⁾	12	13	14	15	16	17	18	19	20	21	22	Remarks
Basic form reference	Change in estimate	Date of establishment	Date of entry in 'B' account	Entitlements established: Balance previous quarter	Correction to base (±)	Written off	Amounts to be recovered (15 ± 16 – 17)	Amounts recovered	Entitlements established: end-of-quarter balance (18 – 19)	Administrative or judicial code	Financial code	

⁽¹⁾ Fields 11 to 22 of the updating form update fields 4 and 6 of the basic form

⁽²⁾ The updating form is given the same serial number as the basic form to which it relates; where there is more than one updating form, the numbering should be 1 to x in the following format: OR/MS/99/999999/1 to x.

ANNEX III

ANNUAL REPORT ⁽¹⁾

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Member State:

1. Inspection by Member States

Inspection activities	Number
Customs declarations accepted (customs arrangements or customs use concerned)	
Customs declarations checked after clearance, customs arrangements or customs use concerned (post-clearance inspections)	
Total number of staff in customs departments at national level ⁽¹⁾	
Total number of staff assigned to postclearance checks at national level	

⁽¹⁾ Total number of customs staff (expressed in persons per year in Full-Time Equivalents).

2. Questions of principle

List of the most important points relating to the establishment, entry in the accounts and making available of the entitlements which have been encountered in the application of Council Regulation (EU, Euratom) No 608/2014 and Council Regulation (EU, Euratom) No 609/2014, as well as of Council Regulation (EC, Euratom) No 1150/2000, including those raised in matters in dispute.

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(where necessary, continue in an annex, referring to this item.)

⁽¹⁾ Referred to in Article 6(1) of Regulation (EU, Euratom) No 608/2014.