

## **ANNEX II DMCS CONCERNING MALTESE CIRCUITS**

### **Description of the procedure to comply with the obligation to notify irregularities to the Commission**

Within two months following the end of each quarter, the National Authority and/or Control Contact Point reports to the Internal Audit and Investigations Department (AFCOS Malta) any irregularities which have been the subject of a primary administrative or judicial finding and which it has detected or of which it has been notified by any one of the various stakeholders involved in the management and implementation of the Programme. In this connection, AFCOS Malta distinguishes between those irregularity reports which are reportable from those which are not reportable to DG OLAF. Subsequently, AFCOS Malta uses the Irregularities Management System (IMS) to report the reportable cases to DG OLAF.

The IAID would immediately report an irregularity and/or cases of suspected fraud to DG OLAF according to set criteria and by the following deadlines: 28 February, 31 May, 31 August and 30 November of each year.

AFCOS Malta is obliged to report an irregularity and/or case of suspected fraud “that exceed EUR 10 000 in contribution from the Funds and shall keep it informed of significant progress in related administrative and legal proceedings”.

On the other hand, AFCOS Malta “shall not notify the Commission of irregularities in relation to the following:

- (a) Cases where the irregularity consists solely of the failure to execute, in whole or in part, an operation included in the co-financed operational programme owing to the bankruptcy of the beneficiary;
- (b) Cases brought to the attention of the managing authority or certifying authority by the beneficiary voluntarily and before detection by either authority, whether before or after the payment of the public contribution;
- (c) Cases which are detected and corrected by the managing authority or certifying authority before inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.

In all other cases, in particular those preceding a bankruptcy or in cases of suspected fraud, the detected irregularities and the associated preventive and corrective measures shall be reported to the Commission”.

The National Authority and/or Control Contact Point will report to the IAID, copying the Certifying Authority, on action taken on all irregularities of which the IAID has been previously notified, until all the issues relating to each irregularity have been settled and the case is closed. On this basis, within two months following the end of each quarter, the IAID will inform DG OLAF, with reference to previously reported irregularities, of the procedures instituted with respect to same irregularities and of important changes resulting from there.

Additionally, the IAID will report to DG OLAF administrative or judicial decisions, or the main points thereof, concerning the termination of the procedures regarding the irregularities and will state in particular whether or not the findings are such that fraud has been committed.

Where Malta considers that an amount cannot be recovered or is not expected to be recovered, the National Authority and/or Control Contact Point will inform the Managing Authority, in a special report, of the amount not recovered and of the facts relevant to the decision on apportionment of the loss.