

Case study name	Family fraud in the tourism sector
Description	The tourism projects were aiming to enhance economic activities and improving job opportunities in different municipalities and creating possibilities for the population for alternative income. Under these projects, 3 individuals, a parent and her 2 children applied for funding, for 3 different hotels with the aim of developing tourism in the area.
ESI Fund(s) concerned	European Agricultural Fund for Rural Development (EAFRD)
Irregularity type	Possible internal fraud within the Managing Authority.
Reporting mechanism	The irregularity was reported by the Managing Authority after the findings of the first on-the-spot-check, which concluded that the 3 hotels are used as one.
IMS reporting	Yes
Red flag(s)	<p>The fraud indicators and signals that triggered the suspicion:</p> <ul style="list-style-type: none"> - Three almost identical project proposals were submitted for approval - The surnames of the applicants were the same - The applications were submitted on the same day to the Managing Authority - The applicants were revealed to be a parent and her two children - The three hotels used a single entrance
Description of fraud pattern	<p>The Managing Authority of a programme for rural development received 3 applications for funding. The following project were applied for:</p> <p>Applicant 1: "Construction of a family hotel for rural tourism" Applicant 2: "Construction of a building with private guest rooms for rural tourism" Applicant 3: "Construction of a boarding house with a restaurant for rural tourism"</p> <p>The projects were approved and funding was provided. The buildings were built. An on-the-spot check was scheduled by the MA as a part of exercising control over the projects and making interim and final payments. The on-the-spot check established that the 3 buildings were constructed very close together and that the buildings only used one entrance and one reception area, thus appearing to be working as one hotel, instead of 3 separate projects. The on-the-spot checks showed that the furniture was being used by all 3 establishments, and moreover, not in accordance with the project' aims. The applicants were revealed as a parent and her two children. The fraudsters attempted in this</p>

	<p>manner to obtain more than the maximum grant amount that could be awarded.</p>
<p>How the fraud was detected</p>	<p>The fraud was detected through on-the-spot-checks. The Managing Authority initiated a fraud response. As a result, of the inspections and the subsequent findings, the MA decided that the paid subsidies should be recovered and initiated a recovery procedure by sending letters for request for voluntarily recovery. The beneficiaries refused to pay the debt and a civil lawsuit was initiated.</p> <p>At the time of the pre-accession programmes and the first programming period 2007-2013, such cases were decided on by a judge in ordinary courts (not administrative ones). At the court of first instance (Regional court), the judge requested that the MA provides the on-the-spot-check protocols, which the MA failed to do (the reasons remain unknown). As a result, the judge did not accept the legal fact that the on-the-spot-checks occurred and ruled in favour of the beneficiaries.</p> <p>The MA was obliged to appeal the decision, in order to protect the financial interests of both EU and national budgets. The second instance court (District court) requested the same documentation from the MA, and the MA once again failed to provide it. As a result, the appeal was rejected.</p> <p>As the MA was obliged to again appeal the decision, the case went to the third and final instance (Supreme court). Just as in the previous two cases, the MA lost the case as they were still unable to provide the requested documentation. As a result, the beneficiary kept all the funds and the MA was left with the obligation to pay for the proceedings. The EU funds were reimbursed using the national budget (written off after a 2-year period in which the MA failed to repay the amounts).</p> <p>Several years later, an investigation was launched, however the period of limitation had already passed. It established that the goal of the beneficiaries was to circumvent the maximum grant allowance of 250 000 EUR, by applying for a total 750 000 EUR in three individual applications, in order to build one big hotel.</p>
<p>Difficulties encountered</p>	<p>One of the problems here was the duration of time needed to deal with the irregularities. From the date of the funding until the closure of the irregularity cases, almost 10 years had passed. From the opening of the irregularity case until their closure, 7 years and 6 months had passed. That means that when cases finally reach the</p>

	<p>investigation (after the civil court cases) all limitations periods will have passed</p> <p>A further difficulty was that the Managing Authority failed to present the on-the-spot checklist at the civil lawsuit of the case which concluded that an irregularity (and possible fraud) was committed. The court ruled in favour of the beneficiaries. In the follow-up, the case was closed on “No irregularity” grounds, based on the court decision. The interesting aspect of the investigation was the question as to why the MA failed to provide this documentation to the Court. The investigation suggested that either the MA had an extremely poor judicial performance OR most likely, the fraud was conducted in collaboration with someone from the MA itself.</p>
<p>Weakness identified</p>	<p>Many shortages allowed for this type of fraudulent behaviour to occur for instance:</p> <ul style="list-style-type: none"> • the lack of conflict of interest procedures: that 3 applicants with the same surname applied and were approved for the 3 similar projects • weaknesses in the system – under the pre-accession measures and the first programming period of 2007-2013, the civil-law court system was applicable, which generated varying practices and confusion. • integrity problems: This fraud scheme was likely to have been orchestrated with help from inside the MA <p>As a result, for the subsequent programming periods, many of the problems faced were identified and corrected including:</p> <ul style="list-style-type: none"> • New disciplinary measures • new internal rules on checks of applicants • new rules on dealing with conflict of interests • new rules on appealing irregularities and financial corrections are introduced with the Law on the ESI Funds , which stipulates that all court procedures develop before . administrative courts