

# The Early Detection and Exclusion System

## 10 years of a successful mechanism

The Early Detection and Exclusion System (EDES), established in 2016 and anchored in the Financial Regulation<sup>1</sup>, represents a cornerstone of the European Union's framework for protecting its financial interests. Conceived as a response to the need for stronger safeguards, greater legal certainty and full respect for fundamental rights, EDES presents itself as a unique administrative mechanism that has no equivalent at national level. Ten years on, EDES has evolved from an innovative and complex legal novelty into a mature, fully operational and trusted system.

EDES is built on a structured dialogue between the authorising officers responsible for implementing the EU budget and an inter-institutional Panel, led by an independent Chair and Vice-Chair. This architecture enables the European Union to act against serious misconduct — such as fraud, corruption, conflicts of interest and grave professional misconduct — even in the absence of a final national judgment, while ensuring due process, proportionality and legal certainty. Its preventive and administrative nature complements, without replacing, national criminal and administrative sanctions, as well as contractual measures.

The development of EDES required time and consolidation. While addressing complex cases, the system progressively established consistent legal interpretations and built trust with authorising officers across institutions, agencies and bodies. This learning phase was essential to ensure both, effectiveness and legal robustness.

After ten years, EDES has reached full maturity. The Panel has adopted more than one hundred recommendations, all of which have been followed up by referring authorising officers, reflecting strong institutional ownership. Judicial scrutiny by the Court of Justice of the European Union has confirmed the soundness of the system, with a very low annulment rate, demonstrating that EDES achieves a careful balance between protecting the EU budget and safeguarding fundamental rights.

Looking ahead, EDES is ready for its next phase. Legislative developments, including a proportionate and targeted extension of EDES to shared management and further procedural refinements, build on a proven framework. EDES today stands as a credible, resilient and forward-looking tool at the heart of the EU's efforts to protect its financial interests.

## 1 What EDES is about

EDES is the system established by the Commission to reinforce the protection of the Union's financial interests and to ensure sound financial management. The system provides for a set of strong administrative measures to ensure **prevention, detection** and **deterrence** in cases of **fraud, corruption, and other misconduct**. More specifically, administrative measures under EDES include:

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<sup>1</sup> Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast) (OJ L, 2024/2509, 26.9.2024, ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>).

- the **early detection** of persons and entities presenting a risk to the EU's financial interests (no legal consequence for the concerned entity, but a warning for all authorising officers given the risks represented by such entity);
- following an adversarial process with the entity,
  - the **exclusion** of persons and entities from participating in award procedures or from being selected to implement EU funds;
  - the imposition of a **financial penalty**, on top of an exclusion, or on its own, including where the exclusion would be disproportionate;
  - the **publication** on the [Commission's website](#) of information related to the exclusion and, where applicable, the financial penalty, in order to reinforce their deterrent effect, in the most severe cases.

EDES is not a punitive system. It is a preventive, administrative tool designed to safeguard the Union's financial interests while fully respecting fundamental rights. Its purpose is not to sanction past behaviour as such, but to assess reliability and to prevent future risks to the EU budget.

At the heart of EDES lies a centralised and independent assessment carried out by an inter-institutional Panel, presided over by a high-level, independent, Chair and Vice-Chair. The Panel is also composed by two high-standing members representing the Commission and the authorising officer responsible for implementing the EU budget concerned. Upon request from an authorising officer, the Panel examines whether established facts fall within a given ground of exclusion, carries out a preliminary legal classification considering available evidence, ensures respect for the right to be heard, and assesses proportionality and, where relevant, the remedial measures adopted by the entity. The Panel issues a recommendation, while the final decision remains with the authorising officer.

EDES applies across EU institutions, agencies, offices and bodies and currently covers both, direct and indirect management. It addresses a broad range of serious misconduct, including fraud, corruption, conflicts of interest and grave professional misconduct, and can be triggered even in the absence of a final national judgment, provided that the facts are sufficiently established.

## 2 What makes EDES unique

### 2.1 No need for a final judgment: the key role of the Panel

Unlike traditional exclusion mechanisms that depend on final judgments or final administrative decisions at national level, EDES measures can be triggered on the basis of sufficiently established facts. More specifically, where a person or entity is in an exclusion situation that has not been established by a final judgment or final administrative decision, authorising officers who have become aware of the exclusion situation are to exclude that person or entity on the basis of **a preliminary classification in law of the conduct**, but must first request a recommendation from the Panel to determine whether an

exclusion situation exists, and, if so, what the proportionate administrative measures to adopt, if any, would be<sup>2</sup>.

The Panel has no investigative powers. Therefore, when autonomously assessing the facts and findings established against the person or entity, the Panel relies on facts established, i.a., through:

- i. audits or investigations carried out by the European Public Prosecutor Office (EPPO), the European Anti-fraud Office (OLAF), the European Court of Auditors, and any other internal check or audit performed under the responsibility of the authorising officer;
- ii. facts referred to in decisions of persons and entities implementing EU funds under indirect management<sup>3</sup>;
- iii. non-final administrative decisions, decisions of the Commission or a national competent authority related to the infringement of EU or national competition law;
- iv. information sent by entities implementing EU funds under shared management with Member States.

The central assessment of the Panel allows a timely protection of the EU budget, while embedding strong procedural safeguards, including the right to be heard and the assessment of remedial measures.

In the delicate task of issuing high-quality recommendations, the Panel is supported by various observers that ensure first-hand comments on facts and findings gathered by the authorising officer. In particular, the Panel is assisted by the Commission's Legal Service, as a permanent observer in the Panel's meetings, and where relevant, by OLAF or the EPPO's representatives. Representatives of another authorising officer, who may have an interest in the case, can also participate in the Panel's meetings.

This fruitful interaction with different actors allows the Panel to better identify (i) the estimated financial impact of the misconduct as well as its impact on the image of the European Union; and (ii) actions taken by the national authorities, if any.

Finally, pursuant to Article 93 of the Financial Regulation, the Panel is also responsible for assessing cases of financial irregularities involving EU civil servants and agents.

## 2.2 The dialogue with the authorising officers

Another defining feature of the system is **the institutionalised dialogue between authorising officers and the EDES Panel**. On the one hand, the authorising officers have the obligation to launch the administrative procedure, when they become aware of an entity posing a risk. The reason lies in the fact that the authorising officers are best placed to identify potential exclusion situations. They have direct knowledge of the contracts and grants signed, an overview of the relevant ongoing procedures, and the right to adopt immediate contractual measures to safeguard the Union's financial interests. On the other hand, as outlined above, it is the role of the Panel to perform a preliminary classification in law of the facts and findings of the case.

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<sup>2</sup> Authorising officers must also request a recommendation from the Panel in cases where a final judgment or final administrative decision has established the existence of an exclusion situation but has not determined the exclusion period.

<sup>3</sup> For example, by the European Central Bank, the European Investment Bank, the European Investment Fund, international organisations, non-EU countries, or the bodies designated by non-EU countries and Member States.

This dialogue allows the Commission to act consistently and proportionately in complex cases of serious misconduct, while preserving clear accountability. EDES cases rarely concern simple breaches of contractual obligations. They often involve complex forms of misconduct, such as fraud, corruption, conflicts of interest or grave professional misconduct, frequently in the absence of a final national judgment, sometimes with several entities involved. Assessing such cases requires careful legal analysis, factual substantiation and procedural safeguards, as decisions may have significant economic and reputational consequences for the persons or entities concerned.

By structuring this dialogue, EDES significantly reduces the burden on authorising officers that would otherwise derive from handling such cases individually and mitigates the risk of divergent approaches across services.

## 2.3 Interaction with national judicial proceedings

Another important dimension of EDES concerns its interaction with national judicial and administrative proceedings. The system has been designed to operate in a complementary manner with national enforcement mechanisms while preserving the preventive objective of EU budget protection.

While it allows the Commission to adopt protective measures on the basis of sufficiently established facts, even where national proceedings are still ongoing, EDES is not intended to replace or anticipate the final determination of liability by national courts. The system therefore incorporates the need **to align with national judicial outcomes**. Where an exclusion decision is based on established facts and findings - for example first-instance convictions - the situation is subsequently reviewed if and when a competent national authority issues a final judgment or an administrative decision becomes final. In this way, EDES maintains a continuous dialogue with national judicial authorities while ensuring that the measures adopted to protect the EU budget remain proportionate and legally sound.

The forthcoming extension of EDES to shared management will further reinforce this dimension. As more cases originate from national investigations, judicial decisions and cooperation with bodies such as OLAF and the EPPO, as well as the interaction between EDES procedures and national courts will become increasingly important.

## 2.4 The central database

Finally, the system comes with **its own central database** where the information on the adopted EDES measures must be registered and stored. Access to the database is granted to all persons or entities involved in EU budget implementation, that must check the database in the framework of ongoing awards procedures for procurement, grants, prizes, selection of experts or implementation of financial instruments.

The database contains all the exclusions and financial penalties active at a given point in time. Its [public version](#), accessible to everyone, contains only the most serious cases where the publication has been decided to reinforce the deterrent effect.

# 3 Legal robustness of the system

Another key element of EDES' uniqueness lies in its legal robustness. From the outset, the system was designed to withstand judicial scrutiny. As a system capable of producing significant economic and

reputational effects for persons and entities, it required a high level of procedural safeguards and legal certainty. The past ten years demonstrate that this objective has been achieved.

The Court of Justice of the European Union has confirmed the validity of the EDES framework and its core features. In particular, the General Court has confirmed the lawfulness of the system's architecture, including the central role of the Panel, the structured interaction with authorising officers, and the preventive nature of exclusion measures adopted under the Financial Regulation. The case law has recognised that EDES is not punitive, but aims at protecting the EU's financial interests, and that it operates in compliance with fundamental rights, including the right to be heard, proportionality and legal certainty.

The Court of Justice has also clarified key aspects of the system, including the conditions under which exclusion measures may be adopted in the absence of a final national judgment, the evidentiary standards applicable to established facts, and the respective responsibilities of the Panel and the authorising officer. These clarifications have strengthened the predictability and coherence of EDES over time.

Early judgments such as *Indico*<sup>4</sup> and *Elevation*<sup>5</sup> have clarified key aspects of EDES, notably the possibility to adopt exclusion measures in the absence of a final national judgment, provided that the facts are sufficiently established and that procedural guarantees are respected. The Court has also confirmed the respective roles and responsibilities of the Panel and the authorising officer, thereby reinforcing the system's coherence and accountability.

In *RH v Commission*<sup>6</sup>, the Court's judgment annulled the exclusion decision and confirmed the conditions under which facts and findings established in the context of investigations may be relied upon in exclusion proceedings, emphasising the need for sufficiently substantiated evidence and recalling the conditions which must be met to determine whether grave professional misconduct has occurred.

More recent case law has further contributed to refining the application of EDES. In *LA International Cooperation Srl v Commission*<sup>7</sup> the Court confirmed the legality of an exclusion decision adopted following findings of corruption in the context of EU-funded activities. The judgment reaffirmed the preventive objective of EDES and confirmed that exclusion measures may legitimately rely on factual findings emerging from investigations and administrative procedures, even in complex situations involving multiple actors and overlapping national proceedings. The Court also confirmed that the Commission enjoys a margin of appreciation when assessing the reliability of operators and the proportionality of exclusion measures, provided that the procedural guarantees laid down in the Financial Regulation are respected.

The experience of EDES has also included cases where judicial scrutiny led to the annulment of exclusion decisions, which have provided valuable guidance for a further refinement of the administrative practice. In *TP v Commission*<sup>8</sup>, the General Court annulled an exclusion decision based on serious deficiencies in

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<sup>4</sup> Judgment of the General Court of 9 February 2022, *Companhia de Seguros Índico SA v European Commission*, Case T-672/19.

<sup>5</sup> Judgment of the General Court of 9 February 2022, *Elevation - Engenharia, SA v European Commission*, Case T-652/19.

<sup>6</sup> Judgment of the General Court of 15 February 2023, *RH v European Commission*, Case T-175/21.

<sup>7</sup> Judgment of the General Court of 29 June 2022, *LA International Cooperation Srl v European Commission*, Case T-609/20.

<sup>8</sup> Judgment of the General Court of 18 December 2024, *TP v European Commission*, Case T-776/22.

the performance of contractual obligations financed by the EU budget. The Court held that, for this specific exclusion ground, the existence of a final judicial or arbitral decision does not automatically suffice. Instead, the Panel and the authorising officer must carry out a specific and individual assessment of the conduct of the entity concerned. While the judgment is under appeal, it usefully clarifies the level of individualised assessment required for certain exclusion grounds and contributes to further strengthening the legal precision of EDES practice.

Judicial review has therefore played a constructive role in the consolidation of EDES: the case law has contributed to refining its application and guiding its practice. The very low overall annulment rate of EDES-related decisions reflects the robustness of the system's design and the quality of the legal assessment carried out by the Panel, as well as the careful implementation of recommendations by authorising officers. Rather than weakening EDES, judicial scrutiny has contributed to maintaining its effectiveness.

## 4 Future challenges

After ten years of consolidation, EDES is entering a new phase of development. While the system has proven effective in protecting the EU budget under direct and indirect management<sup>9</sup>, an important structural challenge remains: the vast majority of EU funds are implemented under shared management.

Today, EDES applies directly and mandatorily to funds implemented under direct and indirect management. However, approximately **75% of the EU budget is implemented under shared management**, where Member States play a central role in the selection and control of beneficiaries. At the same time, the Commission remains ultimately responsible for the implementation of the EU budget under Article 317 TFEU, including in areas managed jointly with Member States.

To address this structural gap, the revision of the Financial Regulation adopted in 2024 provides for a significant evolution of the system. **As of 2028, EDES will apply also to shared management and to funds disbursed in direct management with Member States**<sup>10</sup>. This development represents a major step in strengthening the protection of the EU's financial interests across all modes of budget implementation.

### 4.1 Extension of EDES to shared management

The extension of EDES has been carefully designed to strike a balance between strengthening the protection of the Union's financial interests and avoiding unnecessary administrative burden. For this reason, the new rules will apply **only to a limited and exhaustive list of the most serious forms of misconduct**, namely: fraud, corruption, criminal organisations, money laundering, terrorism, child labour, human trafficking, and conflict of interests.

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<sup>9</sup> While EDES formally applies to indirect management, experience has shown that its use varies depending on the implementation context. In particular, in indirect management with pillar-assessed entities, which have their own internal exclusion systems, the number of notifications transmitted to the Commission has remained limited. By contrast, EDES has been more actively used in indirect management involving third countries.

<sup>10</sup> This would include future performance-based financing in Commission proposals for the 2028-2034 Multiannual Financial Framework (MFF).

The objective of the extension is to ensure that persons or entities in an exclusion situation cannot access EU funds across all modes of budget implementation. In particular, the extension addresses the risk that an entity excluded, e.g. in direct management, could otherwise continue to receive funding under shared management.

Under the new framework, **three main situations** may lead to an exclusion decision:

- v. Exclusion based on a final judgment or final administrative decision specifying the duration of exclusion:
  - Expedited Panel proceeding aimed to extend the national exclusion at EU level;
- vi. Exclusion based on a final judgment or final administrative decision without specified duration:
  - Expedited Panel proceeding aimed to set the duration of the exclusion at EU level;
- vii. Exclusion based on findings at EU level (e.g. OLAF reports, EPPO investigations, EU audit findings)
  - Fully-fledged Panel proceeding aimed to (a) establish the facts, (b) make a preliminary classification in law of such facts, and (c) recommend a proportionate duration of an exclusion and/or a financial penalty.

Under the extended framework, both the Commission and Member States will have **clearly defined responsibilities**.

Member States will play a key role in **reporting and enforcement**. First, they will have to notify relevant judgments and information to the Commission through the Irregularity Management System (IMS) or other official channels. Second, they will also be required to **systematically consult the EDES database** prior to awarding EU funds or selecting participants and beneficiaries. Where an entity is listed as excluded, Member States must take this information into account and refrain from selecting that entity for the duration of the exclusion.

The Commission will remain responsible for **adopting exclusion decisions** and ensuring the coherence of the system across the Union. The EDES Panel will continue to play a central role in guaranteeing procedural safeguards, including the contradictory procedure with the person or entity concerned and the consultation with the Member State where appropriate.

Importantly, the extension of EDES does not alter the fundamental responsibilities of Member States under Article 63 of the Financial Regulation, including the obligation to prevent, detect and correct irregularities, recover unduly paid funds and impose effective, proportionate and dissuasive penalties under national law.

In addition, the new rules introduce an additional safeguard to reinforce the effectiveness of the extension. **Payment claims submitted by Member States** under shared management and linked to persons or entities that are excluded and registered in the EDES database, **will not be reimbursed**.

## 4.2 How the Commission will ensure effective implementation and support to Member States

The effectiveness of the extension of EDES's scope will depend on its practical implementation and on the ability of the Commission and Member States to ensure a consistent and operational use of the system across the Union.

In this context, the Commission is committed to supporting Member States in the implementation of the new framework while ensuring that the administrative burden remains proportionate.

First, the Commission will continue to improve the **EDES database and its usability**, including enhanced search functionalities and accessibility of the system, and will pursue **the interoperability between EDES and relevant national systems** to facilitate real-time checks of exclusion situations. This will help ensure that exclusion decisions can be taken into account rapidly in national procedures for awarding EU funds.

Second, the Commission will provide **comprehensive and operational guidance** to support Member States' authorities in the practical application of EDES in shared management. This guidance will go beyond general explanations and will include:

- a **step-by-step description of the reporting process**, including when and how information should be transmitted through IMS or other channels;
- clear criteria on **what constitutes relevant information** for EDES purposes, in particular in relation to final judgments and final administrative decisions;
- practical instructions on how to **consult and interpret information in the EDES database**, including the implications of exclusion decisions for award procedures.

This guidance will be complemented by **targeted training and capacity-building activities** for national authorities.

Finally, the Commission is exploring possible required improvements of IMS to report new types of information.

Through these combined actions, the Commission aims to ensure that the extension of EDES translates into an effective, user-friendly and proportionate system across all Member States.

### 4.3 Further improvements to the EDES framework

In addition to the extension to shared management, the revised Financial Regulation introduces several targeted improvements to further strengthen EDES.

These include the **addition of new grounds for exclusion**, such as incitement to discrimination, hatred or violence, and the **extension of the framework to new subjects**, including beneficial owners, affiliates, and natural persons. In the past, companies controlled by the same parent or having the same beneficial ownership could apply for EU funding instead of the excluded entity. This has proved to be an area of growing risk, insofar as the “alter-ego” of the excluded entity could continue to participate in procurement and award procedures, thereby circumventing the effects of the EDES measure. The new framework enables the authorising officers to react and, where necessary, to adopt measures also vis-à-vis subsidiaries, affiliates, parent companies, but also the managers deemed responsible for the misconduct of the entity. The revision also introduced **procedural improvements** aimed at increasing efficiency while preserving strong procedural safeguards, including the introduction of expedited procedures for certain cases. Over the years, the Panel has increasingly dealt with situations where the factual and legal framework is already well established, for example where an exclusion follows directly from (i) a final judgment or a final administrative decision by a Member State's authority; or (ii) a final judgment or a final administrative decision by a third country; or (iii) a sanction equivalent to an exclusion

imposed by an international organisation. In such cases, the Panel will treat the case with priority by focusing on the essential elements required to reach a recommendation on exclusion. The Rules of Procedure of the Panel were also revised in order to make the expedited procedure fully operational<sup>11</sup>. Another improvement brought by these rules concerns the possibility for the Panel to adopt **abridged recommendations** in appropriate cases<sup>12</sup>. This procedural option is designed for urgent public procurement situations, where strict deadlines apply and the award procedure may only be suspended for a limited period. In such cases, when the Panel considers that no administrative measures should be adopted — for example where exclusion or financial penalties are not warranted — it may issue an abridged recommendation.

These improvements were also coupled by targeted changes to the Internal Rules of the Commission. As the system expands and matures, continued cooperation within the Commission's services to assess potential risks to the Union's financial interests remains essential. For this reason, authorising officers across the Commission and executive agencies are now required to consult DG BUDG and to obtain the agreement of the Commission's Legal Service before adopting a non-exclusion decision<sup>13</sup>. In such cases, authorising officers should also inform the Panel. In practice, this centralised assessment helps to ensure transparency and consistency in the application of the EDES framework.

## 5 Conclusions: ten years of EDES and the road ahead

Over the past decade, EDES has gradually reached maturity. The structured dialogue between authorising officers and the high-level Panel has become an integral part of the EU's financial governance. Case law has confirmed the legal soundness of the system and clarified important aspects of its application. At the same time, practical experience has allowed the system to evolve, adapt and strengthen its procedures.

Looking ahead, the extension of EDES to shared management represents a major step forward. By bringing a much larger share of EU spending within the scope of the system, the extension will contribute to a more coherent and comprehensive framework for protecting the EU budget. At the same time, the targeted improvements introduced by the revised Financial Regulation will allow EDES to protect the EU budget more efficiently.

The experience of EDES also illustrates a broader lesson. Complex administrative mechanisms that combine centralised legal assessment with decentralised implementation require time to embed themselves and gain institutional trust. After ten years of practice, EDES has demonstrated that such systems can become both, operational and effective.

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<sup>11</sup> See Article 15 of Commission Decision (EU) 2025/2024 of 9 October 2025 on the rules of procedure of the panel referred to in Article 145 of Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council (Panel's Rules of Procedure), OJ L, 2025/2024, 10.10.2025.

<sup>12</sup> *Ibidem*, Article 18. The Panel must, in principle, deliver its recommendations to referring authorising officers within a reasonable period after the opening of proceedings. However, in order to reduce the duration of the EDES proceedings in exceptional public procurement cases where strict deadlines apply and procedures may only be suspended for a limited time, the Panel may adopt an abridged recommendation setting out only a succinct reasoning, without the need of addressing all the issues raised during the adversarial procedure.

<sup>13</sup> This stems from the results of the European Court of Auditors (ECA) audit in Special Report 11/2022 – Protecting the EU budget – Better use of blacklisting need. The Court recommended strengthening corporate oversight of EDES.

## Annex I: EDES through concrete examples

### a. EDES case 2019/02

#### **Ground for exclusion:**

Grave professional misconduct (breach of EU values)

#### **Background:**

The case concerned a grant agreement with the objective of combating racism, xenophobia, homophobia and other forms of intolerance, of which the entity X was a co-beneficiary. In 2019, the Commission became aware of a video containing antisemitic messages published by the entity X, a reference of which also appeared on the entity's website and bore the entity's logo. Consequently, the Commission pursued the termination of the participation of the entity X in the Grant Agreement, as the entity's conduct was considered incompatible with EU values and with the very objective of the programme. The entity X had not sought to distance itself from the statements nor had it deleted the video.

In its recommendation, the Panel noted that the Commission's reputation had been heavily affected by the negative publicity associating EU funding with an organisation calling for intolerance and violence.

#### **Decision:**

Having regard to the Panel's recommendation, the authorising officer considered that the entity had been involved in antisemitic activities or activities inciting violence and that such involvement constituted a wrongful conduct which had an impact on the integrity and professional credibility of the entity and represented a breach of the generally accepted professional ethical standards. Consequently, the entity was excluded for one year and six months from participating in award procedures and from receiving EU funds.

### b. EDES cases 2019/12 and 2021/17

#### **Ground for exclusion:**

Corruption; grave professional misconduct.

#### **Background:**

The case concerned two contracts signed by the Ministry of Finance of a third country in 2013 and 2015, with the entity X, for a total contribution of EUR 982 631.65 and EUR 771 620.20, respectively.

In 2018, an OLAF investigation uncovered that the entity in question had paid bribes to high-level officials within the public administration of a third country in exchange for the award of the two abovementioned contracts. On the basis of the OLAF findings, the AOR of the Commission referred the case to the EDES Panel with a view to exclude the entity from participating in award procedures or from being selected for implementing EU funds.

In its recommendation, the Panel concluded that the act of promising and paying sums to high-level officials of a third country in order to secure EU-funding constituted corruption, while the submission of a CV containing false information in the tender amounted to grave professional misconduct. The Panel

further identified the seriousness of the misconduct, its duration, the intentional nature, and the high financial amount involved as aggravating circumstances.

### **1st Decision (case 2019/12):**

Having regard to the Panel's recommendation, the AOR decided to exclude the entity X for a period of 4 years and to publish the exclusion on the Commission website.

In August 2021, the entity informed the AOR of a final judgment delivered by the national competent court, which found that the entity's conduct in the context of the same EU-funded procedures constituted corruption within the meaning of the relevant provisions of the national criminal law. As the judgment did not impose, *inter alia*, an exclusion from access to EU funding as a criminal penalty, but only an administrative fine, the entity requested the AOR to lift the exclusion, remove its name from the EDES database and publish a corresponding notice on the Commission website.

Following a preliminary assessment of the judgment, the AOR referred the case to the EDES Panel for a recommendation on whether the existing exclusion decision should be revised.

In its recommendation, the Panel took into account the mitigating circumstances identified by the national court, which had led to a reduction of the penalties, in particular the payment of compensation for non-material damage to the third country and to the Union. The Panel, nevertheless, considered that this payment could only marginally affect the overall assessment of the proportionality of the measure set at EU level. This was on the grounds that: (i) the payment was not intended to compensate damage to the Union's financial interests, but rather formed part of an agreement with the national prosecutor to secure a reduced penalty; (ii) the non-material damage had not been taken into account by the Panel when determining the duration of the exclusion; and (iii) such damage is, by its nature, difficult to quantify with precision.

### **2<sup>nd</sup> Decision (case 2021/17):**

Having regard to the Panel's second recommendation, which took into consideration (i) the legal qualification of the facts made by the national court – upholding the preliminary classification in law made by the Panel in its 1<sup>st</sup> recommendation, and (ii) the elements identified by the national court in the application of the criminal penalty, the AOR decided to maintain the exclusion and to reduce its overall duration by 3 months.

## **c. EDES case 2022/06**

### **Ground for exclusion:**

Grave professional misconduct (conflict of interest)

### **Background:**

Entity X participated, as leader of a consortium, in a procurement procedure organised by the EU Delegation of country Y. The project beneficiaries were two public bodies of country Y.

After entity X submitted its tender, the Contracting Authority received an e-mail from a third party, who reported suspicions of conflict of interest on the part of entity X which affected the decision-making process of the evaluation committee of the tenders. More exactly, the situation related to a marital

relationship between one of the entity's collaborators and a high-ranking official of beneficiary Z, one of the two beneficiaries of the project.

The Contracting Authority rejected entity X from the procedure and eventually cancelled it for substantial errors in the procedure which prevented fair competition among the participants.

An OLAF investigation was also opened, which focused on the potential situation of conflict of interests between entity X and beneficiary Z. The OLAF Final Report concluded that entity X did not inform the Contracting Authority of the fact that one of its collaborators was married to a high-ranking official of beneficiary Z, in breach of the ethics clause in Section 13 of the Instructions to Tenderers ('Ethics Clause'). Moreover, according to the OLAF report, the high-ranking official tried to intervene in the decision-making process of the evaluation committee of the tenders, by trying to influence the date and the composition of the committee.

In its recommendation, the Panel concluded that in accordance with the Ethics Clause, the tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. The marital relationship in question was found to be indeed an equivalent relation to that of a conflict of interest and therefore entity X should have disclosed it to the Contracting Authority. Consequently, the Panel recommended an exclusion of 9 months for entity X. In determining the exclusion's duration, the Panel found several mitigating circumstances, including the time lapsed since the misconduct occurred and the lack of impact on the financial interests and image of the Union.

#### **Decision:**

Having regard to the Panel's recommendation, the authorising officer decided to exclude entity X for 9 months. The authorising officer concluded that entity X committed grave professional misconduct by not informing the Contracting Authority, in breach of the Ethics Clause, that one of its collaborators was married to a high-ranking official of one of the Project's collaborators, circumstance which put entity X in a position where it could potentially benefit from the relationship to promote its own business interests.

This decision is currently being challenged before the General Court with an action for annulment (T-540/24).

### **d. EDES case 2024/03**

**Grounds for exclusion:** Active corruption and grave professional misconduct

**Background:** The case concerns framework contracts for services signed between the AOR and the entity X in the sector of engineering services in the areas of space and security.

In December 2023, the AOR received the OLAF Final Report concerning the conduct of the entity X in the EU procurement procedures and implementation of two framework contracts.

First, the entity X concluded a consultancy contract with a national official which allowed it to obtain insight on ongoing activities, progress, directions and decisions of the contracting authorities. In that context, the entity X received confidential/internal EU restricted information that would give it undue advantage for current and future tenders.

Second, during the tendering phase and implementation of the framework contracts, the entity X handled EU confidential information in breach of security requirements.

In its recommendation, having examined the objections raised, the Panel recommended to exclude the entity X for four and a half years based on two sets of misconduct (active corruption and grave professional misconduct), to impose a financial penalty of EUR 1 965 000 and to publish the information regarding the exclusion and financial penalty on the Commission's public website. In addition, the Panel recommended to transmit the information regarding three individuals involved in the misconduct to the EDES database.

**Decision:** Having regard to the Panel's recommendation, the authorising officer decided to exclude entity X for four and a half years based on two sets of misconduct (active corruption and grave professional misconduct), to impose a financial penalty of EUR 1 965 000 and to publish the information regarding the exclusion and financial penalty on the Commission's public website. It also decided to register the names of the three individuals in the EDES database.

This decision is currently being challenged before the General Court with two actions for annulment (one introduced by the entity X T-281/25 and the other by one of the individuals T-280/25).

### e. EDES case 2024/05

**Ground for exclusion:** Fraud

**Background:** The case concerns a Grant Agreement signed in 2018 between the AOR and the entity X to promote European wines in Canada, Russia and Japan.

Under the Grant Agreement, the EU agreed to finance 80% of the total project cost of EUR 5 763 398.86, on the conditions that, first, the beneficiary would bear the remaining 20% of the costs itself ('co-financing principle') and, second, that it would not obtain any profit ('no-profit rule'). In addition, according to the Grant Agreement, the beneficiary had to avoid any conflict of interests with subcontractors and implementing bodies.

In June 2021, the European Delegated Prosecutor ('EDP') opened a criminal investigation concerning alleged aggravated fraud against the EU budget committed, between 2018 and 2020, by the beneficiary and four natural persons. In March 2023, the EDP transmitted the investigation report to the competent national criminal Court.

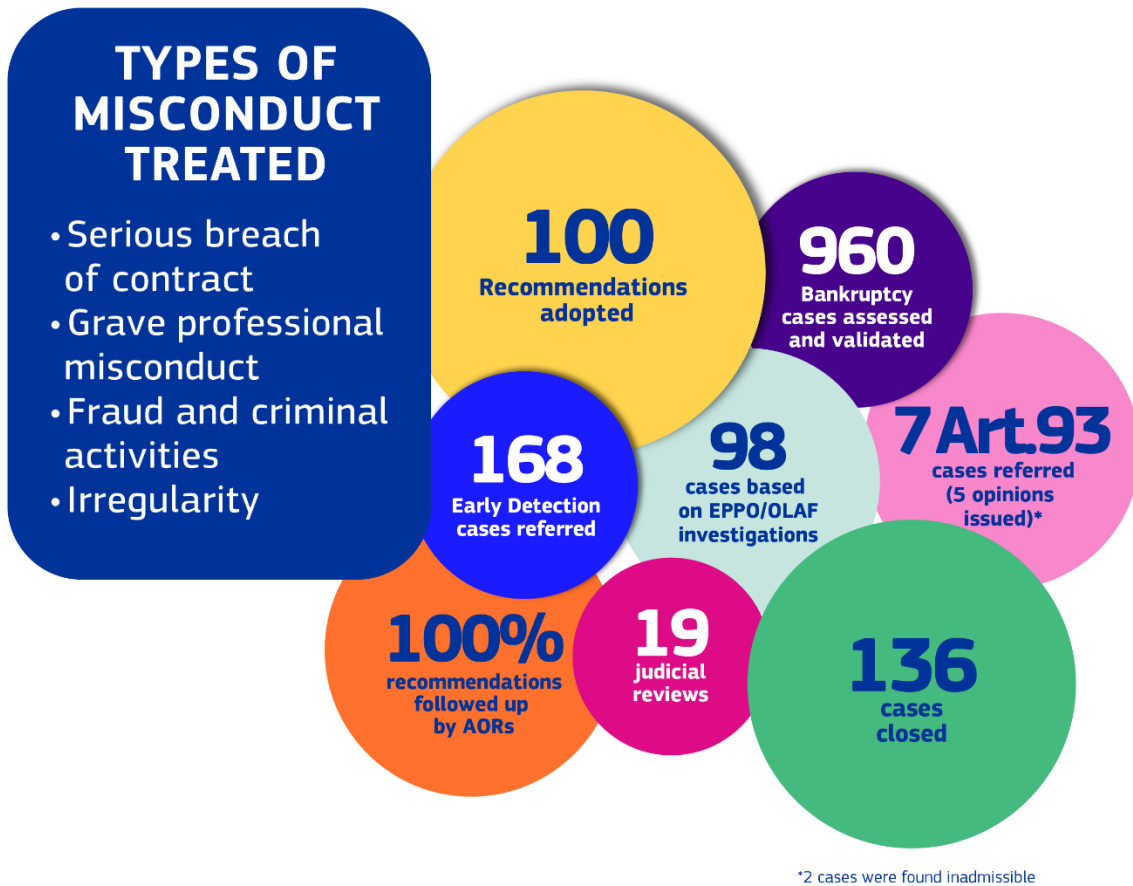
In November 2023, the national criminal Court adopted a final judgment convicting the beneficiary for facts qualified as aggravated fraud to the detriment of the EU financial interests by means of a fraudulent scheme in violation of the no-profit rule.

In its recommendation, having examined the objections raised by the entity in its observations, the Panel recommended to exclude the entity X for four and a half years based on the fraudulent misappropriation of EU funds, to publish the exclusion and to register in the EDES database the natural persons involved considering the seriousness of the conduct and the deterrent effect of such measures.

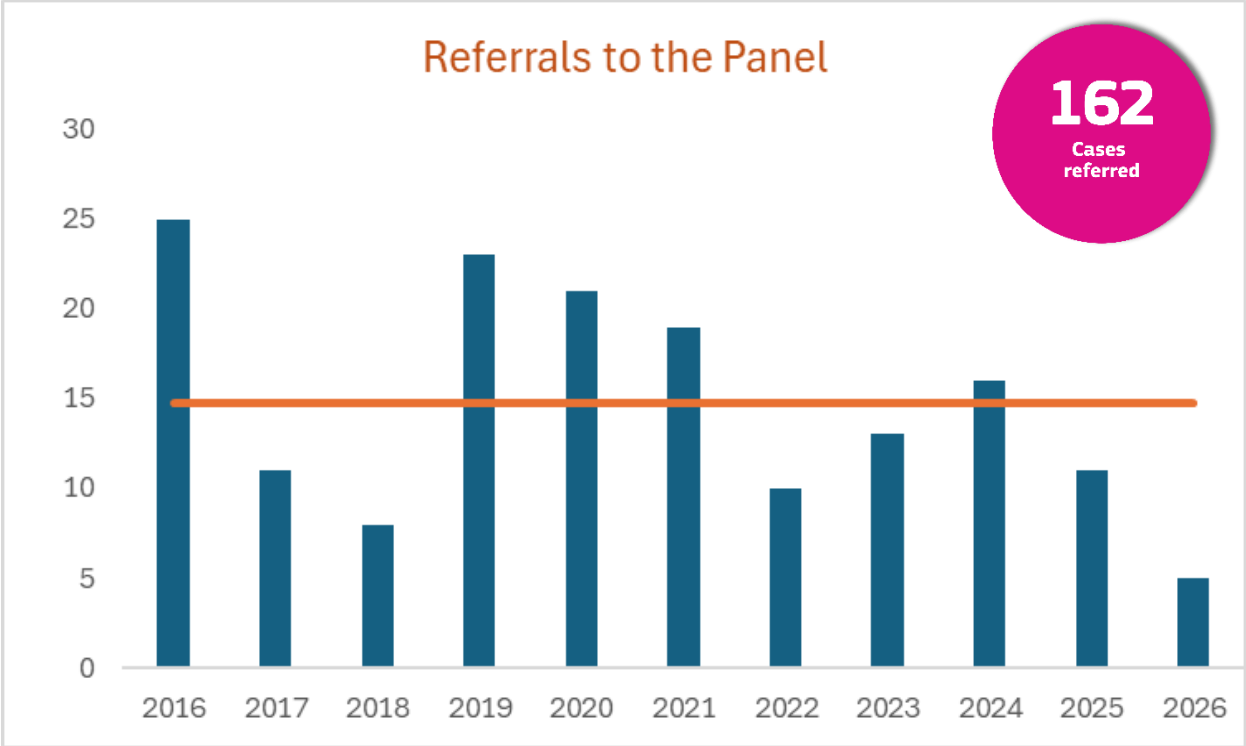
**Decision:**

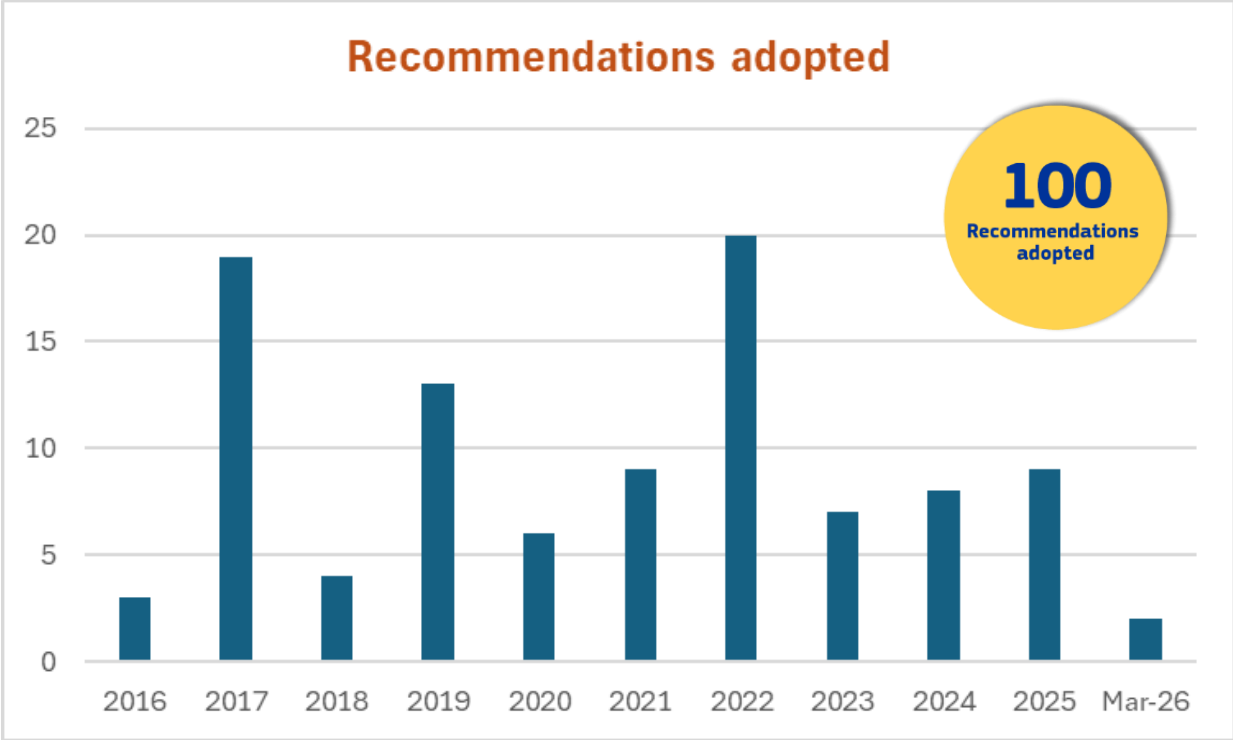
Having regard to the facts and findings presented above as resulting from the criminal Court final judgment as well as to the Panel recommendation, the authorising officer excluded the entity X for four and a half years. The authorising officer also decided to register in the EDES database the information regarding the natural persons involved, and to publish the exclusion situation on the European Commission public website.

## Annex II: What EDES has delivered<sup>14</sup>

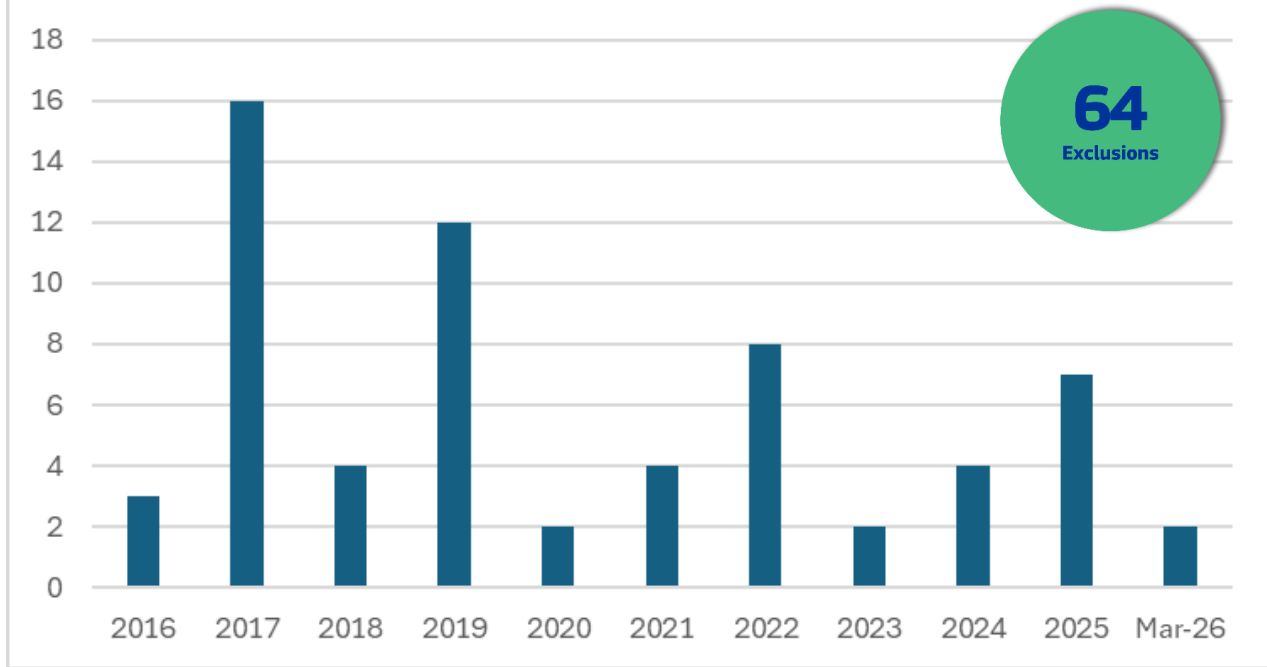


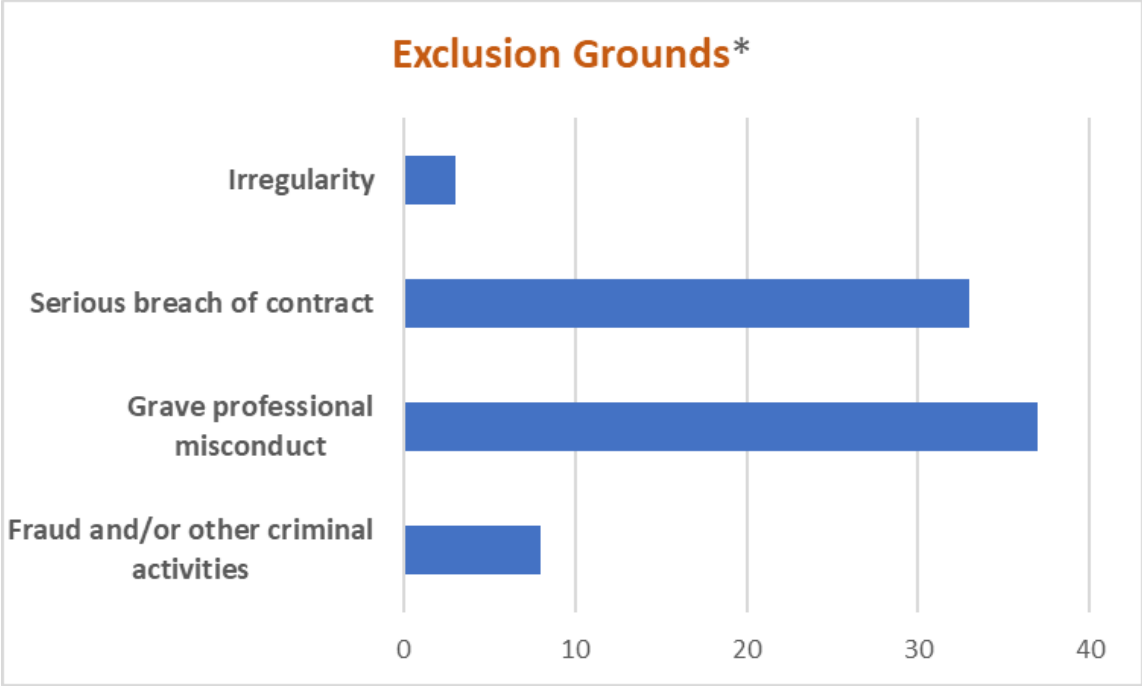
<sup>14</sup> Statistics until end of March 2026





## Exclusions





\* Each decision of exclusion can be based on more than one ground