

PROGETTO DI COOPERAZIONE NEL SETTORE ANTIFRODE

COOPERATION PROJECT IN THE ANTI-FRAUD SECTOR





Il Progetto da seguito alla principale iniziativa portata nel recente semestre di Presidenza italiana del Gruppo Anti-Frode (GAF) del Consiglio dell'Unione europea la quale è stata volta a stimolare la Commissione a formulare proposte normative che rendano possibile la “mutua assistenza amministrativa” tra gli Stati membri nel settore, attualmente “scoperto”, dei fondi strutturali.

The Project develops the main initiative recently brought about during Italy's six-month Presidency of the Group Anti-Fraud (GAF) of the Council of the European Union, which focused on encouraging the Commission to issue legislative proposals that facilitate “mutual administrative assistance” between Member States in the currently “exposed” area of structural funds.

IL “PROGETTO DI COOPERAZIONE NEL SETTORE ANTIFRODE” è stato ideato e realizzato dal Comitato per la Lotta contro le frodi nei confronti dell’Unione europea (A.F.Co.S. Italiano) che opera presso il Dipartimento Politiche europee della Presidenza del Consiglio dei Ministri.

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- lo Staff del Presidente del Parlamento europeo, On. Antonio Tajani e del Vice-presidente, On. David Maria Sassoli;
- il Comando Generale della Guardia di Finanza - III Reparto Operazioni
- il Ministero dell’Economia e della Finanze - Dipartimento del Tesoro Direzione V - Prevenzione Utilizzo Sistema Finanziario per Fini Illegali
- la Banca d’Italia - Unità di informazione finanziaria (UIF)
- le Delegazioni di Bulgaria, Cipro, Croazia, Repubblica Ceca, Estonia, Francia, Grecia, Ungheria, Lettonia, Lussemburgo, Malta, Olanda, Polonia, Romania e Spagna

The “COOPERATION PROJECT IN THE ANTI-FRAUD SECTOR” was designed and implemented by the Committee for the Prevention of Fraud Against the EU (Italy’s AFCOS), which operates within the Presidency of the Council of Ministers’ Department for European Policies.

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- the Staff of the President of the European Parliament, Hon. Antonio Tajani and of the Vice-president, Hon. David Maria Sassoli
- the General Command of the Guardia di Finanza - III Operations Department
- the Ministry of Economy and Finance - Department of the Treasury Directorate V - Prevention of use of the financial system for illegal purposes
- the Bank of Italy - Financial intelligence unit (FIU)
- the Delegations of Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Greece, Hungary, Latvia, Luxembourg, Malta, the Netherlands, Poland, Romania and Spain



PROGETTO DI COOPERAZIONE NEL SETTORE ANTIFRODE



*COOPERATION PROJECT
IN THE ANTI-FRAUD SECTOR*

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Introduzione

On. Sandro Gozi

*Sottosegretario di Stato alla Presidenza del Consiglio dei Ministri,
con delega per le Politiche e gli Affari Europei*

Il «Progetto di cooperazione nel settore antifrode» è stato ideato dal Comitato nazionale Lotta Antifrode - COLAF per dare seguito alla principale iniziativa portata nel recente (2014) semestre di Presidenza italiana del Gruppo Anti Frode - GAF del Consiglio dell'Unione europea la quale è stata volta a stimolare la Commissione a formulare proposte normative che rendano possibile la “mutua assistenza amministrativa” tra gli Stati membri nel settore, attualmente “scoperto”, dei fondi strutturali.

In pratica, ad oggi, in tale settore non è possibile uno scambio diretto di dati e notizie tra le Amministrazioni di controllo dei diversi Stati membri a differenza di quanto avviene nel settore della Politica Agricola Comune (ove questo è possibile sulla base del Reg. 515/97 e della Convenzione “Napoli 2” del 18/12/1997).

Eppure questo rappresenta un evidente paradosso se sol si considera che i “Fondi strutturali” rappresentano la più consistente voce di spesa all'interno dei finanziamenti europei e risultano particolarmente a rischio di fenomeni di frode - spesso a carattere transnazionale.

In merito, infatti, le migliori esperienze investigative italiane, spesso derivanti da indagini svolte dalla Guardia di Finanza, evidenziano come sempre più di frequente i meccanismi di frode interessano due o più Persone giuridiche operanti in diversi Paesi che pongono in essere fraudolente operazioni economiche tra di loro.

Se si vuole scoprire efficacemente tali metodologie criminali e, soprattutto, prevenirle o, quanto meno, porvi rimedio in tempo utile, occorre che le Autorità amministrative dei vari Stati membri “parlino la stessa lingua” e che, quindi, un Organo investigativo, nei casi in cui occorra ad es. approfondire la reale consistenza di una fatturazione, possa rivolgersi al collaterale estero per ottenere alcune semplici - ma spesso fondamentali - informazioni (esistenza effettiva o meno dell'operatore

Introduction

Hon. Sandro Gozi

State Secretary at the Presidency of the Council of Ministers

The “Cooperation project in the anti-fraud sector” was created by the National Anti-Fraud Committee (COLAF) to follow up on the key initiative recently brought about during Italy’s 2014 six-month Presidency of the Anti-Fraud Group (AFG) of the Council of the European Union, which focused on encouraging the Commission to issue legislative proposals that facilitate “mutual administrative assistance” between Member States in the currently “exposed” area of structural funds.

In practice, in this sector it is not currently possible for the competent authorities of the various Member States to directly exchange information and news, which contrasts with the situation within the sphere of the Common Agricultural Policy (where this is possible under Reg. 515/97 and the “Naples 2” Convention of 18/12/1997).

Yet, this is a clear paradox if you consider that “structural funds” represent the largest item of expenditure within European funding and are particularly exposed to the risk of fraud, which is often transnational.

In this regard, in fact, Italian best investigational practices, which are often the product of investigations conducted by the Guardia di Finanza (Italian finance police), show the increasing frequency with which fraud techniques involve two or more legal entities operating in different countries which are engaged in fraudulent economic transactions.

Should we wish to effectively expose these criminal methods and, above all, prevent them, or at least remedy the situation in a timely way, the administrative authorities of the various Member States must “speak the same language”. Therefore, in cases that require an in-depth analysis of the true amount of an invoice, an investigative body must be able to turn to a foreign body to secure some simple - yet often crucial - information (for example, whether or not the economic operator actually exists, the effectiveness of the economic transaction behind the invoice, etc.).

economico, effettività della operazione economica sottostante alla fatturazione, ecc.).

Non a caso, anche il Parlamento europeo ha “ripreso” tale questione, per ben 2 volte, nelle proprie Risoluzioni sulla Tutela degli interessi finanziari dell’UE - Lotta contro la frode - anni 2013¹ e 2014², chiedendo espressamente alla Commissione europea di attivarsi al fine di prevenire e contrastare tali fenomeni di frode transnazionale attraverso validi strumenti di scambio di informazioni.

Da ultimo, anche l’Ufficio europeo Lotta Antifrode - OLAF ha evidenziato nell’ultimo Rapporto annuale - anno 2015 il deciso incremento dei casi rilevati di c.d. “frode transnazionale”, cui occorre necessariamente far fronte con meccanismi di più stretta cooperazione e quindi, auspicabilmente, attraverso un rinnovato quadro legislativo che aumenti la capacità di risposta dell’OLAF stesso e di tutti gli Organismi investigativi degli Stati membri.

Pertanto, il Comitato nazionale antifrode ha deciso di supportare ulteriormente la Commissione europea nel proprio processo decisionale attraverso l’ideazione della progettualità oggetto della presente pubblicazione, con cui si è voluto coinvolgere ancora una volta, nel dialogo e nei dovuti approfondimenti sulla tematica “cooperazione investigativa”, tutti i Partner degli altri Paesi interessati.

In merito, è bene evidenziare che hanno risposto all’“appello” ben 15 Stati Membri, i quali hanno inteso aderire alla richiesta di partenariato progettuale, ovvero: Bulgaria, Croazia, Repubblica Ceca, Cipro, Estonia, Francia, Grecia, Ungheria, Lettonia, Lussemburgo, Malta, Olanda, Polonia, Romania, Spagna.

¹ Al **paragrafo 46** “...invita la Commissione a creare un meccanismo per lo scambio di informazioni tra le autorità nazionali competenti, al fine di consentire un confronto incrociato dei documenti contabili relativi alle operazioni tra due o più Stati membri, onde contribuire a rilevare eventuali frodi transnazionali nel contesto del nuovo QFP 2014-2020, per quanto riguarda la macro-categoria dei Fondi strutturali e di investimento europei (Fondo sociale europeo - FSE, Fondo europeo di sviluppo regionale - FESR, Fondo di coesione - FC, Fondo europeo agricolo per lo sviluppo rurale - FEASR; Fondo europeo per gli affari marittimi e la pesca - FEAMP), al fine di garantire un approccio orizzontale alla tutela degli interessi finanziari dell’Unione europea”.

² Al **paragrafo 42** “Reitera il suo invito alla Commissione a elaborare un sistema di scambio d’informazione tra le autorità competenti per permettere un controllo incrociato delle registrazioni contabili concernenti le transazioni tra due o più Stati Membri al fine di evitare frodi transnazionali nell’ambito dei Fondi strutturali e di investimento, assicurando in tal modo un approccio orizzontale alla protezione degli interessi finanziari dell’Unione Europea”.

It is no coincidence that even the European Parliament has “resumed” this issue, on two occasions, in its Resolutions on the Protection of EU financial interests - fight against fraud - in 2013¹ and 2014², expressly requesting that the European Commission take action to prevent and combat these transnational fraudulent activities using effective instruments for exchanging information.

In the latest 2015 annual report, the European Anti-Fraud Office (OLAF) also recently highlighted the significant increase in the number of detected cases of so-called “transnational fraud”, which must be dealt with using closer cooperation mechanisms and hopefully, therefore, through an updated legislative framework that increases the responsiveness of both OLAF itself and all Member States’ investigative bodies.

Therefore, the National Anti-Fraud Committee decided to provide further support to the European Commission in its decision-making process by creating the projects covered by this publication, which were intended to get all partners from other interested countries back involved in the dialogue and due deliberations on the issue of “investigative cooperation”.

On this topic, it should be stressed that 15 Member States have responded to the “appeal” and intend to accept the project partnership request, namely: Bulgaria, Croatia, Czech Republic, Cyprus, Estonia, France, Greece, Hungary, Latvia, Luxembourg, Malta, the Netherlands, Poland, Romania, Spain.

As a first step, project activities have seen the plenary meeting conducted in Rome on 19 and 20 May 2016, which was rewarded by the wider success of

¹ In **paragraph 46** “...invites the Commission to create a mechanism for the exchange of information between the national competent authorities, in order to allow a crossed comparison of the accounting records concerning the transactions among two or more Member States with a view to helping to detect any transnational fraud in the context of the new MFF 2014-2020, with regard to the macro-category of European Structural and Investments Funds (European Social Fund - ESF; European Regional Development Fund - ERDF; Cohesion Fund - CF; European Agricultural Fund for Rural Development - EAFRD; European Fund for Maritime Affairs and Fisheries - EMFF), in order to ensure a horizontal approach to protecting the financial interests of the European Union.”

² In **paragraph 42** “Repeats its call on the Commission to develop a system for the exchange of information among the competent authorities so as to enable the cross checking of accounting entries between two or more Member States in order to prevent transnational fraud in respect of the Structural and Investment Funds, hence ensuring a cross-cutting approach to the protection of the EU’s financial interests”.

Le attività progettuali hanno visto - quale prima tappa - la Conferenza plenaria svolta a Roma nei giorni 19 e 20 del mese di maggio 2016, la quale è stata coronata dal più ampio successo avendo tutti i Partner esteri convenuto, all'esito della discussione, sulla bontà dell'iniziativa italiana.

In quella sede, tutti gli Esperti antifrode degli altri Paesi hanno concordato sul fatto che molti dei problemi in materia di prevenzione e contrasto alle frodi transnazionali hanno quale "comune denominatore" l'assenza di norme che possano rendere possibile una concreta ed efficace assistenza amministrativa nel settore - attualmente "scoperto" - dei Fondi Strutturali.

La principale soluzione individuata per prevenire ed arginare il fenomeno delle frodi ai danni del bilancio UE, potrebbe consistere proprio nel migliorare, facilitare ed accelerare il flusso informativo tra gli Stati Membri ed il canale naturalmente individuabile potrebbe essere quello degli *Anti Fraud Coordination Services* (A.F.CO.S.), ormai già istituiti in tutti gli Stati membri ai sensi dell'art. 3 - par. 4 - del Reg. UE 883/2013.

Le medesime questioni e le medesime proposte sono altresì state confermate nel corso degli ulteriori incontri di approfondimento (*round tables*) che sono stati successivamente svolti dai Delegati del Comitato nazionale antifrode presso alcune delle sedi degli AFCOS che hanno preso parte al progetto, ovvero: Madrid, Rotterdam, Lussemburgo, La Valletta, Zagabria, Parigi, Bucarest.

Tali incontri sono risultati, altresì, preziosissimi proprio nell'ottica di cementare i rapporti di conoscenza reciproca tra gli AFCOS, con ciò approfondendo tutti quegli aspetti di comune interesse riferiti sia agli AFCOS stessi (le rispettive strutture organiche, le prerogative, i poteri, le capacità di coordinamento effettivo, ecc) sia alle questioni più prettamente operative (modalità di svolgimento delle indagini, *best practices*, ecc).

Si è giunti, quindi, il 9 novembre 2016, alla tappa finale del progetto che ha visto impegnato il Comitato nazionale antifrode nella presentazione dei risultati in quella che può essere considerata, a pieno titolo, la casa di tutti i cittadini dei Paesi membri, ovvero il Parlamento europeo.

In quella sede, si è ritenuto opportuno cogliere l'occasione rappresentata dalla imminente "*mid term review*" sull'efficacia del già citato Reg. 883/13 il quale, è bene ricordare, contiene al suo interno proprio la norma istitutiva degli AFCOS nazionali (articolo 3 - paragrafo 4).

all foreign partners agreeing on the merits of the Italian initiative upon the discussion's outcome.

During this meeting, all anti-fraud experts from other countries agreed on the fact that the “common denominator” of many of the problems relating to the prevention and combatting of transnational fraud is the absence of legislation that facilitates concrete and effective administrative assistance within the currently “exposed” area of Structural Funds.

The main solution identified for preventing and controlling the phenomenon of fraud against the EU budget could actually involve improving, facilitating and speeding up the flow of information between Member States, and the clearly identifiable channel for this could be the Anti-Fraud Coordination Services (AFCOS), now already established in all the Member States under Article 3, Par. 4 of EU Reg. 883/2013.

The same issues and proposals have also been confirmed during further round table meetings that were subsequently held by the delegates of the National Anti-Fraud Committee at some of the AFCOS offices that took part in the project, specifically: Madrid, Rotterdam, Luxembourg, Valletta, Zagreb, Paris and Bucharest.

These meetings also turned out to be extremely valuable in terms of cementing relationships based on mutual understanding between AFCOSs, thereby deepening all aspects of mutual interest relating both to AFCOSs themselves (their respective organic structures, prerogatives, powers, effective coordination capacities, etc.) and to more purely operational issues (methods of conducting investigations, best practices, etc.)

As such, on 9 November 2016 this led to the final stage of the project, which saw the National Anti-Fraud Committee get involved in presenting the results in what may rightfully be considered the home of all citizens of Member States, namely the European Parliament.

In this context, it was deemed appropriate to take advantage of the opportunity of the imminent “mid-term review” of the effectiveness of the aforementioned Reg. 883/13 which, it should be noted, contains within it the actual law establishing the national AFCOSs (article 3 - paragraph 4).

This review, which will be started by the Commission during this year in order to then be completed during 2017, is aimed at assessing whether, at the state level, the key conditions for the implementation of the objectives of this Regulation have been achieved.

Tale revisione, che sarà avviata dalla Commissione già nel corrente anno per essere successivamente conclusa nel 2017, è finalizzata a valutare se, allo stato, risultino raggiunti i presupposti chiave per l'implementazione degli obiettivi del Regolamento medesimo.

In particolare, occorrerà valutare, oltre alle performances dell'Ufficio europeo Lotta Antifrode - OLAF (in termini di risultati e d'utilizzo delle risorse umane e finanziarie), se gli strumenti di cooperazione offerti dal Reg 883/13 siano sufficienti, tenendo presente l'evoluzione del panorama antifrode.

Da quest'ultimo punto di vista, quindi, il Comitato nazionale antifrode ha auspicato che le proposte emerse dal "Progetto di cooperazione" possano trovare spazio già attraverso interventi emendativi del Reg. 883/2013 che consentano di porre le basi e, quindi, di avviare concretamente una più effettiva ed efficace cooperazione antifrode tra gli AFCOS anche e soprattutto nel settore della "politica di coesione".

In particular, an assessment will need to be completed of the performance of the European Anti-Fraud Office (OLAF) (in terms of results and the use of human and financial resources), as well as of the sufficiency of the cooperation tools provided by Reg. 883/13, taking into account the evolution of the anti-fraud landscape.

From the latter perspective, therefore, the National Anti-Fraud Committee has called for the proposals that emerged from the “Cooperation Project” to be implemented through amendments to Reg. 883/2013 that make it possible to lay the foundations for and, therefore, to concretely implement more effective and efficient anti-fraud cooperation between the AFCOSs, also and especially in the area of “cohesion policy”.

**CONFERENZA INTERNAZIONALE
PRESIDENZA DEL CONSIGLIO DEI MINISTRI**

Roma 19-20 maggio 2016

***INTERNATIONAL CONFERENCE
PRESIDENCY OF THE COUNCIL OF MINISTERS***

Rome 19-20 May 2016



Presidenza del Consiglio dei Ministri
Dipartimento Politiche Europee



*Two-days
International Conference*

«COOPERATION PROJECT
IN THE ANTI-FRAUD SECTOR»

ROME, 19TH – 20TH MAY 2016



WORKING SESSIONS WILL BE CONDUCTED IN ITALIAN

(INTERPRETATION FROM/TO ITALIAN >> ENGLISH WILL BE AVAILABLE)

19th May 2016

"SALA MONUMENTALE", PRESIDENCY OF COUNCIL OF MINISTERS - LARGO CHIGI 19 - ROME

- 9:00/9:30 Arrival & registration
- 9:30/10 Welcome Addresses
On. Sandro Gozi, Undersecretary of State at the Presidency of the Council of Ministers for Policies and European Affairs
Cons. Diana Agosti, Head of the Department for European Affairs of the Presidency of the Council of Ministers
- 10/10:30 Strategies, methodologies, tools and techniques for the protection of the UE's financial interests
Major General **Francesco ATTARDI**, Italian AFCOS - Presidency of Council of Ministers, Department of European Policies
- 10:30 /11 Experiences on the operative activities and methods for the protection of the Union's financial interests
Mr **Andrea BORDONI**, European Anti-Fraud Office (OLAF) - Fraud Prevention, Analysis and Reporting
- 11/11:30 Italian Presidency of the Group Anti-Fraud (GAF) of the EU Council and developments related to the project "Cooperation in the anti-fraud sector"
Colonel **Massimiliano MORA**, Italian Expert of Guardia di Finanza—Permanent Representation of Italy to the EU
- 11 30/12 **DISCUSSION & COFFEE BREAK**
- 12 /12:30 Best strategies and practices to prevent and fight irregularities and frauds in the EU's Structural aid Investment Funds (ESIF), mainly with reference to cases of transnational fraud
Lieutenant Colonel **Gennaro PINO**, General Command of Guardia di Finanza
- 12:30/12:45 Greetings and brief notes on preventing of the use of the financial system for illegal purposes
Mr **Giuseppe MARESCA**, Ministry of Economy and Finance
- 12:45/13 Greetings and brief notes on international cooperation between FIUs: features, challenges, evolutionary trends
Mrs **Katia BUCAIONI**, Bank of Italy - Financial Intelligence Unit
- 13/13:30 **Q&A**
- 13:30/15:00 **WORKING LUNCH HOSTED BY ITALIAN AFCOS**
- 15/18 **Workshop Groups "A" & "B"**
Best practices to improve the cooperation among Member States as to fight against fraud to the EU budget.
- 18/20:30 **FREE TIME**
- 20:30/22:30 **WORKING DINNER HOSTED BY ITALIAN AFCOS**

20th May 2016

"SALA MONUMENTALE", PRESIDENCY OF COUNCIL OF MINISTERS - LARGO CHIGI 19 - ROME

9:00/9:30	<i>Adoption of the agenda</i> Presidency of Council of Ministers, Department of European Policies
9:30/10:30	Conclusions of Workshop Groups "A" & "B" <i>Panel Chairs</i> Mr KOSTOV, Mr LIBERATORE (Group "A") Mr VINŠČAK, Mr MORA (Group "B")
10:30/11	COFFEE BREAK
11/12	General conclusions Major General Francesco ATTARDI , Italian AFCOS - Presidency of Council of Ministers, Department of European Policies Mr Andrea BORDONI , European Anti-Fraud Office (OLAF) - Fraud Prevention, Analysis and Reporting
12/12:30	Any other business & closing of Conference Government Authority (tbd)
12:30 /14:30	WORKING LUNCH HOSTED BY ITALIAN AFCOS
following	DEPARTURE TIME OF PARTICIPANTS TO FIUMICINO AIRPORT

Informative Note

Workshop Group "A"	<i>Panel Chairs: Mr Kostov, Mr Liberatore</i> Representatives: BULGARIA, NETHERLANDS, ROMANIA, HUNGARY, CZECH REPUBLIC, POLAND, ESTONIA, LATVIA
Workshop Group "B"	<i>Panel Chairs: Mr Vinščak, Mr Mora</i> Representatives: CROATIA, FRANCE GREECE, SPAIN, LUXEMBOURG, MALTA, CYPRUS

Lunch	GALLERIA RESTAURANT IN ROME, VIA DEI SABINI N° 15, +39 06 853 55 431
Dinner	RESTAURANT AT HOTEL CICERONE, VIA CICERONE N° 55, +39 06 06 3576

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This communication reflects the view only of the author, and the European Commission cannot be held responsible for any use which may be made of information contained therein.

On. Sandro GOZI

Sottosegretario di Stato alla Presidenza del Consiglio dei Ministri, con delega per le Politiche e gli Affari Europei

Gentili Ospiti, buongiorno e benvenuti a Roma !!

A nome mio e dell'Autorità di Governo intendo esprimere a tutte le Delegazioni estere il più caloroso saluto ed un sentito ringraziamento per aver aderito con entusiasmo e pieno spirito collaborativo all'iniziativa progettuale odierna, nella nostra splendida cornice di Roma.

Quando si parla di lotta antifrode, ora più che mai l'Unione europea e gli Stati membri sono chiamati a combattere insieme contro tutte le attività illegali che ledono gli interessi finanziari dell'Unione stessa mediante misure dissuasive ed efficaci.

D'altro canto è lo stesso TFUE (Trattato sul funzionamento dell'Unione Europea) che, all'art. 325, individua una precisa area di responsabilità condivisa tra l'Unione europea e tutti gli Stati membri, sancendo:

- il c.d. “principio di assimilazione”, che impone agli Stati Membri di adottare, per la lotta contro le frodi che ledono gli interessi finanziari dell'Unione europea, le stesse misure di cui normalmente si avvalgono per combattere le frodi che ledono i propri interessi finanziari nazionali;
- il coordinamento dell'azione antifrode tra l'Unione europea e le Autorità nazionali;
- la necessità che il Parlamento europeo e il Consiglio assumano ogni pertinente iniziativa in quest'area vitale per l'Unione

Hon. Sandro GOZI

State Secretary at the Presidency of the Council of Ministers

Dear guests, hello and welcome to Rome!

On both my own behalf and that of the Government Authorities, I would like to extend the warmest greeting to all overseas Delegations and thank you sincerely for having brought so much enthusiasm and an entirely collaborative spirit to today's project initiative in this beautiful spot in Rome.

When it comes to the fight against fraud, the European Union and its Member States are called upon now more than ever to work together in combatting all illegal activity that damages the financial interests of the EU itself, by using effective deterrent measures. On the other hand, it is Article 325 of the TFEU (Treaty on the Functioning of the European Union) itself that identifies a specific area of responsibility shared between the European Union and all Member States, setting forth:

- the so-called “assimilation principle”, which, for the purpose of combatting fraud that damages the financial interests of the European Union, requires Member States to adopt the same measures that are normally used to combat fraud that damages their own national financial interests;
- the coordination between the EU and national authorities of anti-fraud actions;
- the need for the European Parliament

europea, per assicurare una protezione efficace ed equivalente in tutti gli Stati membri.

In questo scenario, l'elevato livello di tutela approntato dall'Italia, immediatamente e facilmente rilevabile dai dati statistici inseriti nei rapporti annuali della Commissione al Consiglio e al Parlamento europeo, dimostra come il nostro Paese abbia attuato con la massima lealtà e tempestività il citato "principio di assimilazione", disponendo, come noto, di Amministrazioni particolarmente preparate ed attrezzate sul fronte della lotta alle frodi. Da una lettura critica e ponderata dei dati emerge, infatti, come le alte performances dell'Italia siano certamente frutto - in primis - del proprio peculiare sistema normativo ed organizzativo di contrasto e, quindi, dell'alta capacità delle competenti Amministrazioni nazionali/locali di scoprire i fenomeni di indebita/illecita captazione di risorse pubbliche.

A conferma, vi sono i numerosi apprezzamenti ricevuti dall'Ufficio europeo per la lotta antifrode (OLAF) che ha più volte elogiato l'Italia quale modello di riferimento, in ambito europeo, nell'azione di contrasto alle frodi che ledono gli interessi finanziari dell'Unione e nelle ultime "Relazioni sulla tutela degli interessi finanziari UE" ha citato espressamente alcune peculiari e rilevanti azioni investigative nonché specifiche iniziative di prevenzione nazionali, quali veri e propri "*case-studies*".

In merito, l'esperienza dell'Afcos italiano ha dimostrato come sia fondamentale, nel contrasto alle frodi che ledono gli interessi finanziari dell'Unione europea, definire metodiche e strategie comuni tra tutte le competenti Autorità (siano esse nazionali o europee), in una parola, occorre cooperazione, a tutti i livelli.

and the Council to employ any relevant initiative in this key area for the European Union, in order to ensure effective and equivalent protection in all Member States.

In this scenario, the high level of protection prepared by Italy, which can be immediately and easily observed in the statistical data included in the annual reports of the Commission to the Council and to the European Parliament, demonstrates that our country has implemented the aforementioned "assimilation principle" with the utmost loyalty and timeliness, as it has particularly well prepared and equipped Administrations working to combat fraud, as we know.

A thoughtful and critical reading of the data actually reveals that Italy's strong performance is definitely and primarily the result of its particular legal and organisational anti-fraud system and, therefore, also a result of the competent national/local administrations' strong capacity to expose instances of improper/unlawful interception of public resources.

In confirmation of this, much appreciation has been received from the European Anti-Fraud Office (OLAF), which has repeatedly praised Italy as a reference model within Europe for combatting fraud that damages the financial interests of the EU. Indeed, in the latest "Reports on the protection of EU financial interests" it expressly mentioned some unique and relevant investigative actions, as well as specific national prevention initiatives, including real case studies.

In this regard, the experience of the Italian AFCOS has shown how important it is, in combatting fraud that damages the financial interests of the EU, to define strategies and procedures shared by all the competent

Questo perché in un mondo ormai globalizzato sotto ogni punto di vista, anche i fenomeni illeciti “viaggiano” in modo trans-nazionale e nessun Paese può dirsi immune dagli attacchi di una criminalità economica che non conosce più frontiere. E non a caso, infatti, il nuovo “Regolamento OLAF” n. 883/2013 ha reso obbligatoria l’istituzione in tutti gli Stati membri, proprio sulla base dell’esempio italiano, di Organismi simili al nostro COLAF ovvero di cc.dd. «servizi centrali di coordinamento antifrode» (cc.dd. *Anti-Fraud Coordination Services* - AFCOS) per agevolare la cooperazione e lo scambio di informazioni.

PRINCIPALI AZIONI SVOLTE NEL BIENNIO 2014 / 2015

Pertanto, l’azione strategica antifrode posta, nell’ultimo biennio, dall’Autorità di Governo è stata rivolta, tra l’altro, a stimolare un sempre più effettivo ed efficace coordinamento di tutte le competenti Autorità nazionali ed a promuovere, con la necessaria azione di regia dell’OLAF - lo scambio di “esperienze” con tutti gli altri Stati membri. In tale contesto, la vera parola chiave su cui Noi per primi vogliamo confrontarci con tutti i Partner europei è: PREVENZIONE. Siamo infatti convinti che occorra intercettare ab origine, fin dalle prime fasi dei procedimenti, ogni indebita erogazione di fondi ed è proprio su queste linee direttrici dell’Autorità di Governo che si sta muovendo una nostra “best practice” ovvero il Comitato nazionale lotta antifrode, attraverso:

- la costante azione di analisi e divulgazione delle principali casistiche di irregolarità/frode e, quindi, delle “buone prassi” di controllo. Sono state, infatti, implementate, al massimo, le azioni di

Authorities, whether national or European. In short, we need cooperation at all levels. This is because in a world that is now globalised in every way, even illegal activities “travel” internationally, and no country is immune to criminal economic attacks that know no borders.

It is no coincidence, in fact, that on the basis of Italy’s example the new “OLAF Regulation” No. 883/2013 has made it mandatory that all Member States establish bodies similar to our COLAF, meaning Anti-Fraud Coordination Services (AFCOS), to facilitate cooperation and the exchange of information.

KEY ACTIONS TAKEN IN 2014/2015

Therefore, the anti-fraud strategic action established by the Government Authorities in the past two years has been focused, inter alia, on encouraging an increasingly effective and efficient coordination of all the competent national authorities, as well as on promoting the exchange of “experience” with all other Member States through the necessary leadership actions on the part of OLAF.

In this context, the real key word that we first want to discuss with all European partners is: PREVENTION.

In fact, we are convinced of the need to intercept from the outset, starting from the first stages of the procedure, any improper disbursements of funds, and it is based on these guidelines from the Government Authorities that our “best practice”, namely the National Anti-Fraud Committee, is advancing through:

- the constant analysis and disclosure of the primary cases of irregularities/fraud and, therefore, “good practices” when it comes to control. In fact, cooperation and partnership initiatives have been

cooperazione e partenariato con altri Stati europei interessati allo studio del peculiare *know how* italiano in materia di lotta antifrode.

In particolare, nell'ultimo biennio sono stati svolti incontri studio con i seguenti Paesi: Bulgaria, Polonia, Grecia, Lettonia, Danimarca, Serbia e Romania. Inoltre, da ultimo, lo scorso mese di aprile è stato avviato un innovativo progetto di partnership con tutti i Paesi dell'area balcanica che partecipano al programma di cooperazione transfrontaliera IPA-Adriatic. Molti di questi Paesi, infatti, hanno appena avviato le fasi di istituzione ed implementazione di cc.dd. Servizi centrali di coordinamento antifrode e guardano all'Italia quale vero e proprio modello e punto di riferimento per la celere ed efficace soluzione di ogni eventuale problematica in essere e, quindi, il più rapido avvicinamento agli elevati standard a tutela degli interessi finanziari dell'Unione, richiesti dalla Commissione europea;

- lo studio di nuovi strumenti anche informatici per la gestione del rischio.

In merito, si evidenzia che è stata da Noi presentata di recente (febbraio u.s.) la pubblicazione "Database Nazionale Antifrode" che raccoglie gli atti dell'omonima progettualità sviluppata dal COLAF e concernente lo studio di fattibilità di una piattaforma nazionale antifrode, unica ed integrata tra tutte le competenti Amministrazioni e comprensiva di tutti i dati disponibili, pertinenti o comunque connessi ai finanziamenti europei, la cui elaborazione possa consentire di sviluppare i cc.dd. "indici di rischio".

Questo vuole rappresentare il primo esempio - in Europa - di Progettualità specificamente orientata allo sviluppo dei

fully implemented with other European states interested in examining Italy's unique anti-fraud expertise.

- In particular, study meetings have been held with the following countries in the last two years: Bulgaria, Poland, Greece, Latvia, Denmark, Serbia and Romania. Furthermore, most recently, last April an innovative partnership project was initiated with all the Balkan countries taking part in the IPA Adriatic Cross-Border Cooperation Programme. Indeed, many of these countries have just triggered the establishment and implementation phases of so-called "Central anti-fraud coordination services" and are looking to Italy as an actual model and reference point for swiftly and effectively solving any existing problems and, therefore, for reaching the high standards for protecting the EU's financial interests more quickly, as required by the European Commission;
- the study of new risk management tools, including IT tools.

In this regard, it should be noted that we recently (last February) presented the "National Anti-Fraud Database" publication, which gathers together the documents of the COLAF project of the same name concerning the feasibility study of a single national anti-fraud platform integrated between all the competent administrations that includes all available or pertinent information, or information that is in any case linked to European financing, the processing of which may help to develop what are known as "risk indicators".

This is intended to be the first example within Europe of a project aimed specifically at the development of so-called "IT tools" for fraud prevention.

cc.dd. “*IT-tools*” (strumenti informatici) per la prevenzione antifrode.

Non a caso è stata sposata appieno dalla stessa Commissione europea - OLAF e, da questa, già citata espressamente quale best practice nella “Relazione annuale sulla Tutela degli interessi finanziari UE” dello scorso anno;

- la partecipazione pro-attiva ai pertinenti tavoli legislativi europei, in primis quello del Gruppo Anti Frode (GAF) del Consiglio ove, nell’ambito del nostro recente “Semestre di Presidenza”, è stata rilanciata la discussione sull’adozione di un Regolamento sulla mutua assistenza amministrativa nel settore dei fondi strutturali i quali, paradossalmente, pur rappresentando la più consistente voce di spesa all’interno dei finanziamenti europei con un alto rischio di frode - anche a carattere transnazionale - non risulta attualmente tutelato proprio da strumenti di mutua assistenza amministrativa tra Stati Membri.

L’Italia è stato, quindi, il primo Paese a porre tale problematica sul tavolo negoziale a Bruxelles forte delle proprie esperienze investigative di contrasto ai fenomeni fraudolenti più insidiosi e complessi, che sempre più spesso vedono “interessati” 2 o più Paesi europei.

Ed è proprio tale iniziativa che sarà oggetto, in questa due giorni di lavori, di una ulteriore fase di analisi ed approfondita discussione con tutti Voi e sotto la regia dell’Ufficio europea lotta antifrode - OLAF il quale vi ripone particolare attenzione ed interesse e non a caso ha supportato anche economicamente con fondi del noto Programma Hercule III.

Sono certo, pertanto, che gli obiettivi saranno pienamente raggiunti grazie al Vostro determinate apporto e potranno

- It was not by chance that OLAF was fully embraced by the European Commission, and was specifically identified by the latter as an example of best practice in the “Annual report on the protection of EU financial interests” last year;
- proactive participation in the relevant European legislative desks, in particular the Council’s Anti-Fraud Group (AFG) where, as part of our recent “six-month Presidency”, debate was reignited on the adoption of a Regulation on mutual administrative assistance in the area of structural funds which, paradoxically, despite representing the largest item of expenditure within European financing with a high risk of fraud - including transnational fraud - are not actually at present protected by instruments of mutual administrative assistance between Member States.

Therefore, Italy was the first country to bring this issue to the negotiating table in Brussels, drawing on its investigative experience of countering the most insidious and complex fraud, which increasingly “involves” two or more European countries.

What’s more, it is this very same initiative that will, during this two-day programme, be subject to further analysis and in-depth discussion with all of you under the leadership of the European Anti-Fraud Office (OLAF), which will focus your attention and interest and, not incidentally, has also provided support, including financial support, through funds of the well-known Hercule III programme.

Therefore, I am certain that the objectives will be fully achieved thanks to your resolute contributions, and may provide further inspiration - in the future - for new and even more ambitious joint actions, with the sole

costituire ulteriore stimolo - per il futuro - per nuove ed ancor più ambiziose azioni comuni, con l'unico scopo di concorrere, in modo leale e costruttivo, alla migliore tutela dei comuni interessi economico-finanziari. Non intendo dilungarmi oltre e, quindi, concludo esprimendo, ancora una volta, i miei più sentiti ringraziamenti agli organizzatori nonché l'augurio a tutti i presenti per la migliore e più proficua prosecuzione dei lavori seminariali.

aim of fairly and constructively contributing to better protecting shared economic and financial interests.

I do not intend to say any more and, therefore, would like to conclude by expressing my warmest thanks once again to the organisers, as well as my best wishes to all of you here today for the best and most successful continuation of the sessions.

Cons. Diana AGOSTI

Capo Dipartimento per le Politiche Europee

Autorità, Gentili Ospiti, buongiorno e benvenuti, sono il Cons. Diana Agosti, Capo del Dipartimento per le Politiche europee della PCM.

Siamo particolarmente lieti della Vostra presenza, così numerosa oggi, ad ulteriore testimonianza dell'intenso livello di collaborazione ormai instaurato dal Comitato nazionale Lotta Antifrode con tutti i Partner esteri, nel comune e sempre più sentito sforzo di tutela degli interessi economico - finanziari dell'Unione.

Un particolare ringraziamento, per aver accettato il nostro invito a partecipare all'incontro odierno, desidero innanzitutto rivolgere a tutti gli Autorevoli Relatori che illustreranno le tematiche antifrode oggetto dei lavori della mattinata.

Desidero altresì rivolgere un caloroso saluto di benvenuto a tutte le Delegazioni dei (ben) 15 Stati membri presenti cui va, altresì, il mio personale ringraziamento per aver aderito all'invito di partenariato al nostro progetto.

Mi sia permesso di rivolgere, infine, il più sentito ringraziamento per aver ideato la progettualità che vive, oggi, l'atto iniziale di avvio al Generale di Divisione Francesco Attardi, Comandante del Nucleo antifrode della Guardia di Finanza.

A Lui ed a tutti i Membri del Comitato nazionale Lotta Antifrode rivolgo, ovviamente, il mio personale e più sentito apprezzamento per l'iniziativa nonché il

Councilor Diana AGOSTI

Head of European Policies Department

Officials, dear guests, hello and welcome, I am council member Diana Agosti, Head of European Policies Department for the Presidency of the Council of Ministers. We are particularly pleased by the presence of so many of you here today, which is a further indication of the strong collaboration now established by the National Anti-Fraud Committee with all international partners, in the joint and increasingly urgent effort to protect the economic and financial interests of the European Union.

I would also especially like to thank all the eminent guest speakers for accepting our invitation to participate in today's conference; they will shed more light on the anti-fraud issues covered by this morning's sessions.

I would also like to extend a warm welcome to all the delegations from fifteen Member States here today, whom I would like to personally thank for accepting the invitation to partner with our project.

Finally, allow me to extend a most heartfelt thanks to Major General Francesco Attardi, Commander of the Guardia di Finanza's Anti-Fraud Unit, for having conceived the projects that are enjoying their initial opening today.

Naturally, I would like to express my personal and most heartfelt appreciation of the initiative to him and to all members of the National Anti-Fraud Committee, as well

doveroso Augurio del più proficuo ed efficace sviluppo dei lavori progettuali. La Progettualità che presentiamo oggi è l'ultimo frutto - in ordine temporale - dell'inteso ed ormai sempre più stretto rapporto che il nostro Comitato Antifrode sta instaurando con tutti i collaterali "Servizi centrali antifrode" degli altri Stati membri.

Questo perché l'esperienza italiana dimostra come non sia possibile porre in essere un'efficace ed effettiva attività antifrode se non attraverso il coordinamento e la collaborazione di tutti gli Attori interessati, nazionali ed europei. Ed è proprio per questo che il Comitato, in esito alla propria diuturna e costante attività di monitoraggio ed analisi delle informazioni concernenti i casi di irregolarità e frode, predispone azioni strategiche e progettualità volte, in primis, alla massima condivisione ed al più ampio coinvolgimento di tutte le Autorità interessate. Testimonianza è, per l'appunto, l'incontro odierno con tutti Voi per il quale cedo ora volentieri la parola al Generale ATTARDI.

as my fitting wish for the most successful and effective development of the project work.

The projects that we are presenting here today are the most recent results of the intended and now increasingly close relationship that our Anti-Fraud Committee is establishing with all the resulting "Central Anti-Fraud Services" bodies of other Member States.

This is because Italy's experience shows that it is not possible to implement efficient and effective anti-fraud initiatives other than by coordinating and collaborating with all involved parties, at both the national and European levels.

It is for this very reason that, further to its incessant and constant monitoring and analysis of information relating to cases of irregularity and fraud, the Committee is preparing strategic and project initiatives aimed primarily at achieving the broadest possible degree of sharing and the greatest involvement of all the authorities concerned. Notably, this is demonstrated by today's meeting with all of you, for which I will now gladly give the floor to General ATTARDI.

Gen. D. Francesco ATTARDI

Comandante del Nucleo della Guardia di Finanza per la repressione delle frodi nei confronti dell'UE

Major General Francesco ATTARDI

Commander of the Guardia di Finanza's Unit for the prevention of fraud against the EU

Gentili Ospiti, buongiorno e benvenuti a Roma !!

Sono il Gen. D. Francesco Attardi, Comandante del Nucleo della Guardia di Finanza presso il Dipartimento Politiche europee della Presidenza del Consiglio dei Ministri.

Intendo innanzitutto esprimere a tutte le Delegazioni estere il mio più caloroso saluto ed un sentito ringraziamento per aver aderito con entusiasmo e pieno spirito collaborativo all'iniziativa progettuale odierna, nella splendida cornice di Palazzo Chigi.

Quando si parla di lotta antifrode, ora più

Dear guests, hello and welcome to Rome!

I am Major General Francesco Attardi, Leader of the Guardia di Finanza's Unit within the Presidency of the Council of Ministers' Department for European Policies.

I would also like to extend the warmest greeting to all overseas Delegations and thank you sincerely for having brought so much enthusiasm and an entirely collaborative spirit to today's project initiative in this beautiful corner of Palazzo Chigi.

When it comes to the fight against fraud, the European Union and its Member States are called upon now more than ever to work

Art. 325, TFEU (Treaty on the Functioning of the European Union)

- "Principle of Assimilation" (art. 325 TFEU), based on which the Member States must adopt the same measures to protect the financial interests of the EU that they would adopt to protect their own national financial resources;
- **Coordination of antifraud activities between the EU and the national Authorities;**
- The need for the European Parliament and Council to undertake any appropriate initiative in this area, which is vital for the EU, to ensure effective and equal protection in all Member States.

Logos at the bottom: Guardia di Finanza, Dipartimento Politiche Europee, OLAF (European Anti-Fraud Office), and the European Union flag.

che mai l'Unione europea e gli Stati membri sono chiamati a combattere insieme contro tutte le attività illegali che ledono gli interessi finanziari dell'Unione stessa mediante misure dissuasive ed efficaci.

D'altro canto è lo stesso Trattato sul funzionamento dell'Unione Europea (TFUE) che, all'art. 325, individua una precisa area di responsabilità condivisa tra l'Unione europea e tutti gli Stati membri, sancendo:

- il c.d. "principio di assimilazione", che impone agli Stati Membri di adottare, per la lotta contro le frodi che ledono gli interessi finanziari dell'Unione europea, le stesse misure di cui normalmente si avvalgono per combattere le frodi che ledono i propri interessi finanziari nazionali;
- il coordinamento dell'azione antifrode tra l'Unione europea e le Autorità nazionali;
- la necessità che il Parlamento europeo e il Consiglio assumano ogni pertinente iniziativa in quest'area vitale per l'Unione europea, per assicurare una protezione

together in combatting all illegal activity that damages the financial interests of the EU itself, by using effective deterrent measures.

On the other hand, it is Article 325 of the Treaty on the Functioning of the European Union (TFEU) itself that identifies a specific area of responsibility shared between the European Union and all Member States, setting forth:

- the so-called "assimilation principle", which, for the purpose of combatting fraud that damages the financial interests of the European Union, requires Member States to adopt the same measures that are normally used to combat fraud that damages their own national financial interests;
- the coordination between the EU and national authorities of anti-fraud actions;
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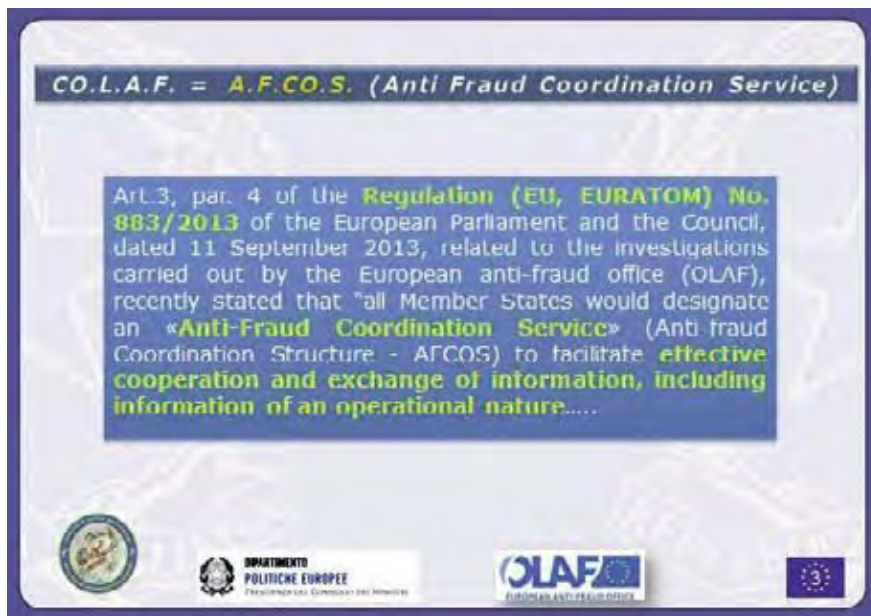
In questo scenario, l'elevato livello di tutela approntato dall'Italia, immediatamente e facilmente rilevabile dai dati statistici inseriti nei rapporti annuali della Commissione al Consiglio e al Parlamento europeo, dimostra come il nostro Paese abbia attuato con la massima lealtà e tempestività il citato "principio di assimilazione", disponendo, come noto, di Amministrazioni particolarmente preparate ed attrezzate sul fronte della lotta alle frodi. Da una lettura critica e ponderata dei dati emerge, infatti, come le alte performances dell'Italia siano certamente frutto - in primis - del proprio peculiare sistema normativo ed organizzativo di contrasto e, quindi, dell'alta capacità delle competenti Amministrazioni nazionali/locali di scoprire i fenomeni di indebita/illecita captazione di risorse pubbliche.

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In this scenario, the high level of protection prepared by Italy, which can be immediately and easily observed in the statistical data included in the annual reports of the Commission to the Council and to the European Parliament, demonstrates that our country has implemented the aforementioned "assimilation principle" with the utmost loyalty and timeliness, as it has particularly well prepared and equipped Administrations working to combat fraud, as we know.

A thoughtful and critical reading of the data actually reveals that Italy's strong performance is definitely and primarily the result of its particular legal and organisational anti-fraud system and, therefore, also a result of the competent national/local administrations' strong capacity to expose instances of improper/unlawful interception of public resources.



per la lotta antifrode (OLAF) che ha più volte elogiato l'Italia quale modello di riferimento, in ambito europeo, nell'azione di contrasto alle frodi che ledono gli interessi finanziari dell'Unione e nelle ultime "Relazioni sulla tutela degli interessi finanziari UE" ha citato espressamente alcune peculiari e rilevanti azioni investigative nonché specifiche iniziative di prevenzione nazionali, quali veri e propri "case-studies".

In merito, l'esperienza dell'Afcos italiano ha dimostrato come sia fondamentale, nel contrasto alle frodi che ledono gli interessi finanziari dell'Unione europea, definire metodiche e strategie comuni tra tutte le competenti Autorità (siano esse nazionali o europee), in una parola, occorre cooperazione, a tutti i livelli.

Questo perché in un mondo ormai globalizzato sotto ogni punto di vista, anche i fenomeni illeciti "viaggiano" in modo trans-nazionale e nessun Paese può dirsi immune dagli attacchi di una criminalità economica che non conosce più frontiere.

In tal senso, e non a caso, anche il nuovo "Regolamento OLAF" n. 883/2013 ha reso obbligatoria l'istituzione in tutti gli Stati membri, proprio sulla base dell'esempio italiano, di Organismi simili al nostro COLAF ovvero di cc.dd. «servizi centrali di coordinamento antifrode» (cc.dd. Anti Fraud Coordination Services - AFCOS) proprio per agevolare la cooperazione e lo scambio di informazioni.

Pertanto, l'azione strategica antifrode posta, nell'ultimo biennio, dall'AFCOS italiano è stata rivolta, tra l'altro, a stimolare un sempre più effettivo ed efficace coordinamento di tutte le competenti Autorità nazionali ed a promuovere, con la

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In this regard, the experience of the Italian AFCOS has shown how important it is, in combatting fraud that damages the financial interests of the EU, to define strategies and procedures shared by all the competent Authorities, whether national or European. In short, we need cooperation at all levels. This is because in a world that is now globalised in every way, even illegal activities "travel" internationally, and no country is immune to attacks by economic crime that knows no borders.

In this regard, it is no coincidence that on the basis of Italy's example even the new "OLAF Regulation" No. 883/2013 has made it mandatory that all Member States establish bodies similar to our COLAF, meaning Anti-Fraud Coordination Services (AFCOS), to actually facilitate cooperation and the exchange of information.

Therefore, the anti-fraud strategic action established by Italy's AFCOS in the past two years has been focused, inter alia, on encouraging an increasingly effective and efficient coordination of all the competent national authorities, as well as on promoting the exchange of "experience" with all other Member States through the necessary leadership actions on the part of OLAF.



necessaria azione di regia dell'OLAF - lo scambio di “esperienze” con tutti gli altri Stati membri.

In tale contesto, la vera parola chiave su cui Noi per primi vogliamo confrontarci con tutti i Partner europei è: **PREVENZIONE**.

Siamo infatti convinti che occorra intercettare ab origine, fin dalle prime fasi dei procedimenti, ogni indebita erogazione di fondi ed è proprio su queste linee direttrici dell’Autorità di Governo che si è mosso e si sta muovendo il nostro AFCOS attraverso l’ideazione di attività progettuali che vedete rappresentate nelle slide, ovvero:

- il progetto “Contrasto alle frodi finanziarie all’Unione europea - Strategie e strumenti di controllo” la cui pubblicazione finale - tradotta anche in lingua inglese - ha rappresentato il primo esempio, in Europa, di raccolta da parte di uno Stato membro di tutte le proprie “esperienze nazionali antifrode” che sono state successivamente messe a disposizione (e quindi fatte circolare) tra

In this context, the real key word that we first want to discuss with all European partners is: **PREVENTION**.

In fact, we are convinced of the need to intercept from the outset, starting from the first stages of the procedure, any improper disbursements of funds, and it is based on these guidelines from the Government Authorities that our AFCOS has been advanced and is advancing through the creation of project activity that you can see on the slides, specifically:

- the project “Countering financial fraud against the European Union. Strategies and control measures” was also translated into English, and its final publication represented the first example within Europe of a Member State gathering together all its own “national anti-fraud experience”, which was then made available (and therefore circulated) amongst all the competent administrations, both within Italy and within other Member States;

- tutte le competenti Amministrazioni nazionali e di tutti gli altri Stati membri;
- il progetto “Database Nazionale Antifrode” che rappresenta il primo sforzo di approfondita analisi di tutti i sistemi informatizzati - nazionali e regionali - volti alla gestione ed al monitoraggio della erogazione di fondi europei. La conseguente idea di una piattaforma integrata comune, che possa raccogliere tutti gli elementi informativi d’interesse per la migliore prevenzione (ed il contrasto) delle irregolarità e delle frodi rappresenta un’ulteriore ed innovativa azione che il Comitato lotta antifrode (CO.L.A.F.) intende promuovere nel prossimo futuro.
 - Detto strumento, oltre ad avere l’ambizione di poter assurgere a vera e propria best practice a livello europeo, può costituire il più valido ed efficace strumento di elaborazione dei cc.dd. “indicatori di rischio” quali veri e propri punti di riferimento, per tutte le Autorità nazionali e Regionali che gestiscono fondi UE, sia nelle fase antecedente alla certificazione della spesa, sia in quella afferente i controlli ex post;
 - il progetto “*Prevention and countering of frauds and irregularities in the European Territorial Cooperation programmes: IPA Adriatic, Cross-border Cooperation Programme*” recentemente promosso con tutti i Paesi dell’area balcanica che partecipano al programma di cooperazione transfrontaliera IPA-Adriatic molti dei quali hanno appena avviato le fasi di istituzione ed implementazione di cc.dd. Servizi centrali di coordinamento antifrode e guardano all’Italia quale vero e proprio modello e punto di riferimento per la celere ed efficace soluzione di ogni
 - the “National Anti-Fraud Database” project, which is the first effort at conducting an in-depth analysis of all computer systems - national and regional - aimed at managing and monitoring the disbursement of EU funds. The resulting idea of a collective integrated platform that can collect all the information of interest to best prevent (and combat) irregularities and fraud is another innovative operation that the Anti-Fraud Committee (COLAF) intends to promote in the near future.
 - As well as aiming to rise to be a true best practice at the European level, this tool may be the most valuable and effective tool for developing the so-called “risk indicators” that can be an effective point of reference for all national and regional Authorities managing EU funds, both in the phase preceding the certification of expenditure and during the pertinent ex-post controls;
 - the project “*Prevention and countering of frauds and irregularities in the European Territorial Cooperation programmes: IPA Adriatic Cross-Border Cooperation Programme*” recently developed with all Balkan countries participating in the IPA Adriatic Cross-Border Cooperation Programme, many of which have just triggered the establishment and implementation phases of so-called “Central anti-fraud coordination services” and are looking to Italy as an actual model and reference point for swiftly and effectively solving any existing problems and, therefore, for reaching the high standards for protecting the EU’s financial interests more quickly, as required by the European Commission;
 - finally, today’s “*Cooperation project in*



eventuale problematica in essere e, quindi, il più rapido avvicinamento agli elevati standard a tutela degli interessi finanziari dell'Unione, richiesti dalla Commissione europea;

- infine, il progetto odierno “*Cooperation project in the anti-fraud sector*”, che riprende la principale iniziativa italiana antifrode del recente Semestre di Presidenza UE la quale è stata volta a stimolare la Commissione a formulare la proposta di un Regolamento europeo che renda possibile la “mutua assistenza amministrativa” tra gli Stati membri in un settore attualmente “scoperto”, ovvero quello dei fondi strutturali.

In pratica ad oggi, in questo settore, non è possibile uno scambio diretto di dati e notizie tra le Amministrazioni di controllo dei diversi Stati membri e questo rappresenta, a nostro giudizio, una grave lacuna se sol si considera il fatto che molti controlli hanno fatto emergere il

the anti-fraud sector”, which resumes Italy’s key anti-fraud initiative from the recent six-month EU presidency, which was aimed at encouraging the Commission to draw up a proposal for a European regulation that facilitates “mutual administrative assistance” between Member States in the currently “exposed” area of structural funds.

In practice, within this sector it is not currently possible for the competent authorities of the various Member States to directly exchange information and news; in our opinion, this is a serious shortcoming if you consider the fact that many controls have revealed the involvement - especially in cases of suspected fraud - of economic operators (for example, suppliers or issuers of guarantee policies, etc.) that are based in a Member State other than the one in which the economic operator undergoing controls is based (the recipient of EU structural funds).

coinvolgimento - soprattutto in casi di sospetta frode - di operatori economici (es. fornitori, emittenti polizze fideiussorie, ecc.) aventi sede in uno Stato membro diverso da quello in cui ha sede l'operatore economico soggetto a controllo (beneficiario di fondi strutturali UE).

Da qui discende, a nostro giudizio, la necessità da parte di un'Autorità di controllo di uno Stato membro di poter chiedere ad un collaterale di un altro Paese l'effettuazione di indagini amministrative mirate alla verifica ad es. della esistenza di un operatore economico, della effettività di una fatturazione o altro.

Ricordo, in merito, che la tematica è stata ripresa negli ultimi due anni anche dal Parlamento europeo che nelle proprie Risoluzioni sulla Tutela degli interessi finanziari dell'UE - Lotta contro la frode (anni 2013 e 2014), ha espressamente "...invitato la Commissione a creare un meccanismo per lo scambio di informazioni tra le autorità nazionali competenti, al fine di consentire un confronto incrociato dei documenti contabili relativi alle operazioni tra due o più Stati membri, onde contribuire a rilevare eventuali frodi transnazionali nel contesto del nuovo QFP 2014-2020".

La tematica, quindi, sarà oggetto, in questa due giorni di lavori, di un'ulteriore fase di analisi ed approfondita discussione con tutti Voi e sotto la regìa dell'Ufficio europea lotta antifrode - OLAF il quale vi ripone particolare attenzione ed interesse e non a caso ha inteso supportare anche economicamente con fondi del noto Programma Hercule III.

Non intendendo dilungarmi oltre, mi avvio a concludere con l'augurio anzi, con la personale certezza, che il Comitato nazionale antifrode, forte delle proprie esperienze maturate nel recente passato e potendo attingere al peculiare *know how* in

In our opinion, this means that the competent authorities of a Member State need to be able to request that a body from another country carries out administrative investigations aimed at verifying, for example, the existence of an economic operator, the effectiveness of the invoice, or other factors.

In this regard, it should be recalled that the topic has also been resumed over the past two years by the European Parliament which, in its Resolutions on the Protection of EU financial interests - fight against fraud (years 2013 and 2014), expressly "...invited the Commission to create a mechanism for the exchange of information between the national competent authorities, in order to allow a crossed comparison of the accounting records concerning the transactions among two or more Member States with a view to helping to detect any transnational fraud in the context of the new MFF 2014-2020."

As such, during this two-day programme the topic will be subject to further analyses and in-depth discussion with all of you under the leadership of the European Anti-Fraud Office (OLAF), which will focus your attention and interest and, not incidentally, has also decided to provide support, including financial support, through funds of the well-known Hercule III programme.

As I do not intend to say any more, I shall indeed conclude with the hope and personal assurance that the National Anti-Fraud Committee will be able to lead the way, even in the near future, as the first and most valuable partner working alongside European institutions and all the anti-fraud authorities of the other partner countries, with the sole and ambitious aim of contributing to the more effective and fair

possesso di tutte le Amministrazioni che lo compongono, saprà porsi, anche nel prossimo futuro, quale primo e più valido partner al fianco delle Istituzioni europee e di tutte le Autorità antifrode degli altri Paesi partner, nella sola e ambiziosa prospettiva di concorrere alla più efficace e leale tutela delle comuni risorse economiche.

protection of shared economic resources, building on the experience it has recently gained and its ability to draw on the unique expertise held by all the administrations of which it is composed.

The European Anti-fraud Office (OLAF)

● MISSION

- ▶ Step up fight against fraud, corruption and other illegal activities
- ▶ Assistance to Member States
- ▶ Contribute to design and development of methods of preventing and combating fraud, corruption and other illegal activities
- ▶ Promote and coordinate the sharing of operational experience and operational practices

● INVESTIGATIVE ROLE

- ▶ Administrative investigations
- ▶ Recommendations
- ▶ Monitoring

● POLICY ROLE

- ▶ Promote legislative proposals
- ▶ Coordinating policy initiatives
- ▶ Analysis



Developing a European response to fraud
19/05/2016
5

OLAF's organisation: two core activities

Investigative process

- Investigations related to:
 - ▶ EU staff
 - ▶ New Financial Instruments
 - ▶ Centralised expenditure
 - ▶ Expenditure for external aid
 - ▶ Evasion of import duties
 - ▶ Contraband and counterfeit tobacco products
 - ▶ Counterfeiting products other than tobacco
 - ▶ Agricultural Funds and Structural Funds
- Coordination activities concerning investigations
- Analyses & Customs detection
- Monitoring of the implementation of OLAF Recommendations and assisting the competent authorities

Policy making

(from conception to reporting on progress and effectiveness)

- Policy development
- Fraud prevention
- External relations
- International relations related to the tobacco products
- Customs assistance to M.S.
- Funding (Hercule)

Developing a European response to fraud
19/05/2016
4



OLAF

- Investigates under administrative law
- Seeks evidence for and against the suspect (à charge et à décharge)
- Under a range of legal bases (Regulation 883/2013, Customs law, Mutual Assistance agreements)
- Produces recommendations to national judiciaries and EU disciplinary authorities. They prosecute, we don't!

EU perspective - Magnitude of the problem

- Public procurement is one of the main vectors for injection of public resources into the economy
- Major European public investment tool: ESIF
 - EUR 352 billion 2014-20
 - 40% spent through public procurement
- Estimations:
 - PwC Study - Public procurement: Costs we pay for corruption (commissioned by OLAF – published 2013)
 - focuses on EUR 447 billion spent in 5 areas in 8 Member States
 - direct public loss because of corruption estimated at 15%
 - Commission analysis (DIF Report)
 - 40% of detected irregularities in ESIF refer to infringements linked to public procurement
 - 50% of the irregular amounts

Reasons and root causes (1) + response

- Complex regulatory environment
- Plurality of actors involved
 - Administrative capacity
 - Inconsistency
- Proximity between local political and economic actors
- Package of public procurement rules:
 - 2014/23 - Award of Concession Contracts
 - 2014/24 - Public Procurement
 - 2014/25 - Procurement by entities operating in the water, energy, transport and postal service

Developing a European response to fraud
19/06/2015
5



Reasons and root causes (2) + response

- Fraud and corruption introduce a further layer of complexity
 - ▶ Inherent difficulty in detecting fraud and corruption
 - ▶ New actors on the scene (law enforcement bodies and judicial authorities)
- Holistic approach – the anti-fraud cycle:



Enhancing the response

- National Anti-Fraud Strategies
 - ▶ Based on fraud risk assessment
 - ▶ Identifying strength and weaknesses
 - ▶ Defining goals
 - ▶ Setting resources
 - ▶ Attributing specific roles to the players and
 - ▶ Disciplining their interactions
- Guidelines and tools from the Commission/OLAF

Transnational dimension of fraud and corruption

- Transnationality
 - ▶ Nature of fraudulent behaviour
 - ▶ Nature of the funded initiative
 - ▶ Different outcomes for the "same case"
 - ▶ Different approaches to fraud and corruption

Developing a European response

- PIF Directive proposal (2012)
 - ▶ Harmonisation of criminal sanctions
 - ▶ Specific offense for abuse of public procurement procedures
- ▶ EPPO proposal (2013)
 - ▶ Substantial changes
 - ▶ Prosecuting criminal offences to EU financial interests across the EU
 - ▶ Decentralised and integrated structure
 - ▶ Prosecutors directly collaborate in cross-border investigations
- ▶ Council has a different vision
 - ▶ Shared competence with the MS
 - ▶ Collegial structure

CONCLUSIONS

- Fraud and corruption in public procurement are prominent issues and require a double level of response at EU and national level
- The action we develop take into account both
 - ▶ At national level provide assistance and guidance to national authorities to support adoption of NAFS
 - ▶ At EU level promoting innovative and strong initiatives to overcome limitations of the national judicial systems through a truly European prosecution office
- OLAF's action to complement these responses

Colonel Massimiliano MORA

Italian Expert of Guardia di Finanza - Permanent Representation of Italy to the EU



ITALIAN PERMANENT REPRESENTATION TO THE EUROPEAN UNION

*Co-operation on the anti fraud sector
Presidency's achievements*

- COLUSSMI Massimiliano MORA -



**GAF
GROUP ANTI FRAUD
IT PRESIDENCY APPROACH**



PROACTIVE

ORIENTED TO THE DECISION MAKING PROCESS

OUR AIM:
TO OPEN A DISCUSSION ON THE NEED OF M.A.A. IN TRANS
NATIONAL FRAUD – SECTOR STRUCTURAL FUNDS

PRESIDENCY OF THE GAF OUTCOME IN DOC. ST. 17140/14

1. PROPOSAL COM(2014) 340 FINAL
2. ART 325 - PIF REPORT - GAF OUTCOME OF PROCEEDINGS
3. COM REPORT ON IMPLEMENTATION OF REG. 1210/2010
(AUTHENTICATION OF EURO COINS)
4. MAA REGULATION (FOR STRUCTURAL FUNDS) - STATE OF
PLAY
5. QUESTIONNAIRE FOR STRUCTURAL FUNDS MAA
REGULATION



2014 Italian
Presidency of the Council
of the European Union

3

POSITIVE FEEDBACK

- Conference in Rome 13/14
October 2014
“Frauds on structural Funds”



2014 Italian
Presidency of the Council
of the European Union

4

EUROPEAN PARLIAMENT PLENARY SITTINGS STRASBOURG



REPORT
on the Annual Report 2014 on the Protection
of the EU's Financial Interests -
Fight against fraud
(2014/2155(INI)) par 46 - 26 02 2015

REPORT
on the Annual Report 2016 on the Protection
of the EU's Financial Interests -
Fight against fraud
(2015/2128(INI))
par 42 - 17 02 2016

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THE WAY FORWARD



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Ten. Col. Gennaro PINO³

Comando Generale della Guardia di Finanza

Guardia di Finanza 

**COOPERATION PROJECT
IN THE ANTI-FRAUD SECTOR**

*Legal Instruments for mutual administrative assistance
among Member States
to tackle transnational E.S.I. Funds frauds*

Lt. Col. Gennaro Pino
General HQ - 3rd Dept.
Expenditures and Markets Protection Office
Head of "EU and National Budget Expenditure Frauds" Unit

Guardia di Finanza

Guardia di Finanza 

OUTLINE

- 1. GUARDIA DI FINANZA TASKS**
- 2. TRANSNATIONAL E.S.I. FUNDS FRAUD SCHEMES**
- 3. INTERNATIONAL COOPERATION AGAINST EU BUDGET EXPENDITURE FRAUDS**

Guardia di Finanza

³Analogo intervento è stato tenuto anche in occasione delle Round Tables di Madrid, Rotterdam e Lussemburgo, dal Magg. Lorenzo VILLANI nelle RTs di La Valletta e Zagabria e dal Cap. Italo TOMMASINO in occasione della RT di Bucharest.

³Lieutenant Colonel Gennaro PINO, General Command of Guardia di Finanza: a similar speech was also made to mark the Round Tables of Madrid, Rotterdam and Luxembourg, by Major Lorenzo VILLANI at La Valletta and Zagreb Round Tables, and by Captain Italo TOMMASINO to mark the Bucharest Round Table

Guardia di Finanza



GUARDIA DI FINANZA

- *is a special economic and financial Police Corps*
- *has a military structure*
- *is part of the Armed Forces*
- *is placed under the responsibility of the Minister of Economy and Finance*

Guardia di Finanza



Legislative Decree 19th of March 2001, n. 68

- *use of the same legal instruments provided for the fiscal field to prevent, investigate and repress frauds in the economic and financial sectors*
- *exclusive role as maritime and financial Police*
- *possibility to promote and develop international co-operation initiatives with foreign counterparts to counter economic and financial violations*
- *primary responsibility for carrying out "economic and financial police functions for the safeguard of EU and National budgets (both revenues and expenditures)"*

Guardia di Finanza



GUARDIA DI FINANZA: ECONOMIC AND FINANCIAL POLICE SAFEGUARDING OF NATIONAL AND EUROPEAN UNION BUDGET

ASSIMILATION CRITERION Art. 325 T.F.E.U., parag. 2
" Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests"



PUBLIC FINANCE: EU BUDGET AREA FRAUDS

- ➔ **OWN RESOURCES EVASION**
- ➔ **COMMON AGRICULTURE POLICY FRAUD**
- ➔ **STRUCTURAL FUNDS FRAUD**
- ➔ **COMMON FISHERIES POLICY FRAUD**
- ➔ **DIRECT EXPENDITURE AND EXTERNAL AID FRAUD**



GDF POWERS AND CHECK SELECTION

- ➔ **LEGISLATIVE DECREE 68/01**
- ➔ **FLEXIBLE INSPECTION FORMS**
- ➔ **CRIMINAL VIOLATIONS**
- ➔ **CRIMINAL PROCEDURE CODE**
- ➔ **ADMINISTRATIVE VIOLATIONS**
- ➔ **TAX INSPECTION POWERS**
- ➔ **LIMITED AND SELECTED INTERVENTION**
- ➔ **KNOWLEDGE AND UPDATING FUNDS BENEFICIARIES**



Transnational European Structural and Investment fraud schemes investigated by the Guardia di Finanza

- 1. Fictitious purchase of goods (including intangible ones, i.e. patents) and services from other MS companies, in order to report fake costs, using false invoice**
- 2. Over invoicing of real costs related to goods and services acquired from other MS companies**
- 3. Omitted registration of credit notes issued by suppliers established in other MS**
- 4. Fictitious or fake guarantees from other MS insurance companies to assess sound financial condition**

***Not developed cases**



INTERNATIONAL CO-OPERATION
AIM : TO ENSURE THE CORRECT USE OF NATIONAL AND EUROPEAN FINANCIAL RESOURCES
ADVANTAGE : TO WIDEN AVAILABLE INFORMATION SET



EU BUDGET EXPENDITURE FRAUD
CO-OPERATION TYPES

COMMON AGRICULTURAL POLICY ADMINISTRATIVE TOOLS (ONLY EU COUNTRIES)

- 1. EC REG. 515/97 and updates
- 2. "MAPLES 2" CONVENTION between Customs Administrations signed in Brussels, 18th December 1997

STRUCTURAL FUNDS NO DIRECT ADMINISTRATIVE COOPERATION AMONG MMSS WITHOUT OLAF
NO DIRECT USE OF ACQUIRED INFORMATION BY OTHER ADMINISTRATIVE TOOLS

COOPERATION by INTERPOL (ON A VOLUNTARY BASIS STARTING FROM A JUDICIAL INVESTIGATION)

INTELLIGENCE COOPERATION WITHOUT DIRECT USE OF ACQUIRED INFORMATION



The "strange case" of the Rural Development

1. (Programming period 2000-2006) European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section:
(EC) Reg. n. 515/97 - can be used.
2. (Programming period 2007-2013) European Agricultural Fund for Rural Development (EAFRD):
(EC) Reg. n. 515/97 - can be used?
3. (Programming period 2014-2020) European Agricultural Fund for Rural Development (EAFRD) included in European Structural & Investment Funds (ESI):
Legal instrument for mutual administrative assistance in the field of Structural Funds can be useful?



4. SAPARD FUNDS

Former pre-accession agricultural instrument for the Rural Development (helping Countries candidates for membership of the EU to satisfy the accession conditions)

Wine Sector; Meat Working Machine; Dairy farming products; Wood transformation

The companies receiving the funding and the other ones participating at call for proposals always linked, sometimes headed by the Italian supplier through the use of nominees



How can we improve the protection of the financial interests of the E.U. in the field of E.S.I. Funds?

The use of a mutual administrative assistance tool among NMSS would make the difference.

i.e.

To verify suppliers existence

To check invoices and receipts faithfulness

To verify companies features (employees, machines, etc.)



**ON THE SPOT CHECKS
(EC, EURATOM) REG. N. 2185/96**

**SUCCESSFUL CASES OF CONCURRENT CHECKS RUN, IN THE
SAME TIME, UNDER OLAF DIRECTION
IN DIFFERENT MEMBER STATES**

*Could suggest the use of the same method of
multilateral controls as in VAT, Tax and Excise Field
(EU Regulation 904/2010 and EU Directive 16/2011)*



INTERNATIONAL ADMINISTRATIVE COOPERATION

CUSTOMS :

EC Reg. 515/1997 and NAPLES 2 CONVENTION 1997

EXCISES :

EU Reg. 389/2012

VAT :

EU Reg. 904/2010

TAXATION :

Dir. 16/2011

AGRICULTURE :

EC Reg. 515/1997 and NAPLES 2 CONVENTION 1997



INTERNATIONAL DIRECT ADMINISTRATIVE COOPERATION

E.S.I. FUNDS NOW : -----



INTERNATIONAL DIRECT ADMINISTRATIVE COOPERATION

E.S.I. FUNDS TOMORROW: ??????



*Thank you
for kind attention*

Protezione@df.it



INTERNATIONAL COOPERATION
BETWEEN FIUs: FEATURES,
CHALLENGES, EVOLUTIONARY TRENDS
IN THE LIGHT OF THE 4th EU AML/CFT
DIRECTIVE

I would like to focus on some characteristics of the international cooperation between financial intelligence units (hereinafter FIUs) that make the exchange of information particularly valuable also in the prevention and detection of frauds to the EU's budget, as well on key challenges and evolutionary trends that could be relevant on this front. Financial intelligence units are identified for the performing of specific core functions, being the central national unit responsible for receiving and analysing suspicious transaction reports transmitted by a set of obliged entities (financial institutions, professionals, other business operators) as well as other information referring to money laundering, associated predicate offences or terrorist financing. The FIU are responsible for disseminating the results of their financial analyses to domestic competent authorities and create a network with a worldwide dimension to share all the information at their disposal

⁴ A similar speech was also made to mark the Round Table of La Valletta (25-26 August 2016)

rapidly and effectively with their foreign counterparts. Cooperation between FIUs is for intelligence purposes, information and documents received shall be used for the accomplishment of FIU's tasks and any further dissemination to other authorities is subject –on a case by case basis- to strict rules of prior consent by the FIU that provides the information requested. The Italian FIU, the UIF, makes an extensive use of international cooperation especially in relation to cases that have a cross-border nature, with the main purposes of tracing transnational flows of funds; detect and identify assets held by natural and legal persons in foreign Countries; making request on behalf of the Italian law enforcement or judicial agencies also to facilitate further mutual legal assistance. Which specific features of the international cooperation between FIUs are relevant? An effective prevention and detection of frauds requires a multidisciplinary approach. In this respect, it is worth noting that although FIUs can have different nature (administrative, law enforcement and judicial) the adopted model shall not affect the range of information provided in the international cooperation. The exchange of

⁴ Il medesimo intervento è stato presentato anche in occasione della Round Table in La Valletta (25-26 agosto 2016).

information between FIUs is therefore characterised by a multidisciplinary content, as the responding FIU shall reply to a request for information with all the financial, administrative and law enforcement information available or that can be obtained for performing domestic functions. In this context, any information that may be relevant to frauds as associated predicate crime, the relative money laundering activities as well as on any natural and legal persons involved in the case under analysis by the requesting FIU shall be provided by its foreign counterparts.

Any mechanism for exchanging fraud information shall be in real time, ensuring that fraudsters are promptly identified. The need for timely information sharing between FIUs is ensured by the use of direct and secure facilities for the exchange of information both on operational cases and in relation to possible typologies detected in the different Member States.

The Egmont Secure Web connects 151 FIU members of the Egmont Group and provides a secure on line mechanism for communication in real time, governed by the Egmont Group Principles of Information Exchange. It is a secure encrypted system managed through a centralized server and database which is held by the US FIU, capable to share information via secure e-mail.

At the European level a decentralised computer network, FIU.NET, supports the international cooperation between 28 FIUs. The decentralised architecture entails that there is no central database in one particular Member State where all the exchanged data is stored, as the data are stored on the FIU.NET databases at the premises of the FIUs involved in the exchanges. While the access to the ESW is

provided through a stand-alone workstation, the FIU.NET system is fully integrated into the FIUs internal network and procedures, thus increasing the rapidity of exchange of information. Furthermore, FIU.NET is characterized by advanced functionalities, such as the creation of a “case file” through which, following an incremental approach, subsequent follow-ups can be added to the initial exchange of information, allowing the development of joint analysis on transnational cases.

Furthermore, the EU FIUs shall be empowered to take urgent action to suspend a transaction related to money laundering and terrorism financing also at request of an FIU from another Member States for the period specified in the national law of the FIU receiving the request . The said power ensures the possibility of seizing funds before starting a MLA request.

What major challenges affect the international cooperation?

In our experience domestic features matters and can deeply affects the exchange of information between FIUs.

As mentioned above, when receiving a request for information from a foreign counterpart the receiving FIU shall use all the information and powers granted for the domestic analysis of suspicious transaction reports.

As a consequence, deficiencies in the powers provided to the receiving FIU or loopholes in the range of databases at its disposal or in the way this access is granted under its domestic legislation can undermine an effective and swiftly international cooperation. For example, in cases of frauds with a multi-jurisdictional dimension international transfers are frequently used: in this respect, it is pivotal - in order to trace the funds and identify the

beneficial owners of the accounts involved - that the foreign FIU can provide, at request, all the necessary information obtained from the relevant banks.

Nevertheless, not all the FIUs have the power to request additional information to reporting entities for domestic financial analysis or in response to a request from a foreign counterpart, despite this power shall be granted both in line with the international standard and pursuant to the 4th EU Directive .

In other instances additional information can be requested by the FIU only under the condition that there is prior suspicious transaction report from the obliged entities from which the information needed should be obtained.

Furthermore, the prompt identification of bank accounts and other financial business relationships held by natural and legal persons involved in the case under analysis is crucial.

In this respect, only some Member States have system of banking accounts registers in place, which hampers the possibility of rapidly having a full picture of all the assets held by natural or legal persons in the Country, without prior notification to the owner. It is worth noting that under the 4th AML Directive the provision of a system of banking accounts register is strongly encouraged, but it is not mandatory .

A smooth exchange of information between FIUs can be also hindered by restrictive conditions applied by the receiving FIU to provide the requested information, such as the need for indicating the exact or the type of predicate offence involved.

Also, not all the FIUs are empowered under their domestic legislation to suspend suspicious transactions for domestic purposes or on the basis of a foreign request.

Moreover, the allowed possibilities of refusing to exchange information both when limited to FIU –FIU , and in cases of dissemination to other authorities of the information provided can be misused and lead to a considerable degree of discretion. In particular, under the international standard and the EU legislation the dissemination of the information provided through the exchange with a foreign FIU to other competent authorities is subject to the principle of prior consent granted by the FIU receiving the request. Although the FIU receiving the request shall grant prior consent to the largest extent possible and promptly, the FIU providing information is allowed to deny the dissemination not only when the said consent could impair a criminal investigation, but also in cases of refusals based on the “scope of AML/CFT provisions” or on the “accordance with fundamental principles of national law” which could limit international cooperation. What are the relevant evolutionary trends in the international cooperation between EU FIUs?

Some evolutionary trends in the international cooperation between the FIUs can be particularly helpful to strengthen also the role played by the Units in the prevention and detection of fraud cases. In particular the 4th EU Directive explicitly recognises the EU Financial Intelligence Units’ Platform (the ‘EU FIUs Platform’), an informal group composed of representatives from FIUs established in 2006 and aimed not only at facilitating cooperation among FIUs, but also in favouring joint analysis of cross-border cases and trends and factors relevant to assessing the risks of money laundering and terrorist financing at national and supranational level.

The international cooperation is effective if domestic authorities have adequate powers

and access to an adequate set of information: in this respect, and the EU legislation strengthens the FIU functions and powers as well as sets out more detailed provisions on the independence and autonomy of the FIUs, as well as on the need for adequate resource to perform the institutional tasks.

Transparency of legal persons is a key factor also in preventing and detecting cases of frauds: accurate and updated information on the ownership structure of the entities and on beneficial owners shall be provided timely through international cooperation. In this respect, the 4th AML Directive not only provides that legal entities and legal arrangements are required to obtain and hold adequate, accurate and current information on their beneficial ownership, but also that the said information shall be accessible to FIU without restriction and can be provided within international cooperation.

Cross-border criminal activities are getting more and more sophisticated: in this respect to address the transnational character of frauds and related money laundering activities an exchange of information developed following the logic of

“request-reply” in a bilateral dimension is not always effective. The 4th AML Directive establishes that apart from the exchange of information spontaneously or upon request when an FIU receive a STR that concerns another Member State it shall promptly forward it to the FIU of that Member States.

A multi-jurisdiction cooperation through specific provisions is also favoured, which make reference, for example, to the establishment of joint analyses conducted together with other FIUs on cross border cases, beyond bilateral and multilateral analyses, as well as to the exploitation of technologies to match FIUs data in order to detect subjects that operate in several member States. In this context, from the operational point of view, through FIU-NET, more flexible requests (known/unknown requests) have been developed aimed at ascertaining whether particular subjects have been reported to the requested FIU, also in the absence of a full description of the case and of ground for suspicion. In case of positive matches, this can be followed by a traditional request, aimed at acquiring all the information at disposal of the requested FIU.

**CONFERENZA INTERNAZIONALE
PRESIDENZA DEL CONSIGLIO DEI MINISTRI**

Gruppi di lavoro

***INTERNATIONAL CONFERENCE
PRESIDENCY OF THE COUNCIL OF MINISTERS***

Working Groups

1. Republic of BULGARIA

“Cooperation project in the anti-fraud sector”
International Conference in Rome, 19-20 May 2016

Cooperation


OLAF - AFCOS Bulgaria - Member States'
competent authorities
as to fight against fraud to the EU budget



Boyko KOSTOV
Head of Unit
Operational Cooperation
AFCOS Bulgaria

Presentation content

- AFCOS Bulgaria Structure
- EU and National legal framework
- Cooperation OLAF – AFCOS BG – Member States' competent authorities
- Case study





AFCOS Directorate – Ministry of Interior

MAIN Functions

1. **National contact point** to OLAF and to the relevant Member States' competent authorities in the anti-fraud area.
2. **Realizes the operational cooperation** with OLAF and Member States' competent authorities, exchanges of information
3. **Performs operative cooperation** with OLAF in conducting on-the-spot checks on the territory of Bulgaria.



AFCOS Directorate – Ministry of Interior

MAIN functions

4. **Receives signals concerning irregularities** affecting the financial interests of the EU and performs an analysis, evaluation and checks on them.
5. **Conducts administrative investigations** on its own initiative or due to request made by OLAF.
6. **Provides, monitors, controls and coordinates the reporting of irregularities** by the national institutions to the European Commission



Cooperation between OLAF, AFCOS and other national authorities



Who do we cooperate with in case:

1. The economic operator resists an on-the-spot check?
2. Coercive powers guaranteeing immediate and prompt intervention by national authorities are needed?
3. The competent authority needs to obtain a warrant from judicial authority before using coercive powers?
4. There are reasonable grounds to believe that a crime has been committed?
5. Digital forensic operations are performed during OTSC?
6. Assistance is needed from another Member State?



Case Study

1. BG company "A" submitted project application under ERDF worth 2,2 mln. leva (-1,1 mln. €), supported by EU companies' offers from Italy, Spain and Austria.

2. Bulgarian Companies "B" and "C" are winners of the public procurement procedure and receive 2,2 mln. leva from the MA as payment for delivery of machines and equipment to company "A".

3. Cooperation and OTSC in Bulgaria and in the Member States during AFCOS/OLAF ongoing administrative investigations.

Γ
C R I M E
A
U
D



Modus operandi

- Presented false offers, invoices and supporting documents to the MA with the application form
- Manipulation of the Public procurement procedure
- Many contracts signed for transfer of the companies' capital and ownership
- Contracts signed by persons concerned in conflict of interests

Difficulties

- Many persons involved (Interviews conducted documents and statements taken)
- Huge number of companies involved (multiple OTSC by AFCOS BO and MS' competent authorities, by OLAF's request)
- Company without property



Relationships between the persons and companies involved



Conclusions and Recommendations

1. BG company "A" has been transferred to Mr. X and his Son 1 by Ms. Y and her Daughter before signing the contract. BG company "B" has been transferred to Ms. Y's Daughter by Mr. X' Son 2. At the same time BG company "B" has contracts (signed by Mr. X' Son 2) with two AT companies for producing the same machines. BG company "C" is owned by the Ms. Y's Daughter but contracts for delivery are signed by Mr. X.
2. BG company "C" has signed several contracts with the BG companies "D", "E" and CN companies for delivery of machines and equipment. According to the customs declarations the prices of delivered goods are 3-5 times less than the prices in the invoices issued by BG company "C" to the beneficiary BG company "A".
3. Guardia di Finanza by OLAF's request conducted examination and it has established that the Italian company in question is in bankruptcy. The Italian citizen owner of the company has not found any documents or offer in relation to BG companies "A" "B" "C".
4. Guardia Civil in Spain (OLAF request) has taken statement by the owner of the Spanish company and seized the original offer presented with the application. It was found fake.
5. Austrian MF has checked by OLAF's request four companies and seized the original offer of one of them presented with the application. It was found fake as well.
6. OLAF has provided 7 invoices issued by the AT companies which are manipulated.
7. AFCOS's FCR reveals serious violation of the sound financial management of the ERDF and recommends recovery of unduly paid subsidy. The process is ongoing.

REPUBLIC OF BULGARIA

MINISTRY OF INTERIOR

"Protection of the European Union's financial interests" Directorate -
AFCOS Bulgaria

Sofia, sq. "Sveta Nedelya" № 6

e-mail: afcosbg@mvr.bg

website: <http://afcos.bg>

tel. +359 2 9401445

2. Republic of CROATIA



Projects „Inland waters”

- ◆ National proceedings: in accordance to our national procedures we have organized a meeting between MA, State Attorney Office and Ministry of Interior (police)
- ◆ Conclusion of the meeting:
 - State Attorney Office started criminal proceedings
 - MA started administrative proceedings (suspension of further payments)
- ◆ OLAF contacted AFCOS and State Attorney Office and informed us that they have also opened a case for administrative investigation



<http://www.afcos.hr/hr/za-otvor-funkcioniranje-interosa>

Projects „Inland waters”

- ◆ **Project 1**
- ◆ Beneficiary Croatian beneficiary „Port X”
- ◆ Type of the contract: service contract for developing Action plan for inland waters
- ◆ Economic operators: MS company „A” in consortium with Croatian company „A”



<http://www.afcos.hr/hr/za-otvor-funkcioniranje-interosa>

Projects „Inland waters”

- ◆ **Project 2**
- ◆ **Beneficiary:** Croatian beneficiary „Port Y”
- ◆ **Type of the contract:** service contract for technical assistance for reconstruction of Port „Y”
- ◆ **Economic operators:** MS company „B” in consortium with Croatian company „B”
- ◆ **Croatian company „A”** was the connection between the MS company „B” and Croatian company „B”
- ◆ From pre-financing amount around 80% is missing



<http://www.mtdp.hr/hr/za-ista-temu-iz-izvornih-izvjestaja>

Projects „Inland waters”

- ◆ **Project 3**
- ◆ **Beneficiary:** Croatian beneficiary „Port Z”
- ◆ **Type of the contract:** service contract for developing of IT system and education
- ◆ **Economic operators:** Croatian company „A” in consortium with MS company „C”



<http://www.mtdp.hr/hr/za-ista-temu-iz-izvornih-izvjestaja>

Projects „Inland waters”

◆ **Conclusion:**

- Croatian company „A” had confidential information before the tendering procedure
- Market division: Croatian company „A” and MS companies „A” and „B” divided projects in which they know that they would win because they had confidential information
- Administrative and criminal investigation was conducted in the premises of the Croatian company „A”



<http://www.afcos.hr/hr/za-otvorena-razmjena-informacija>

Projects „Inland waters”

◆ **Administrative investigation:**

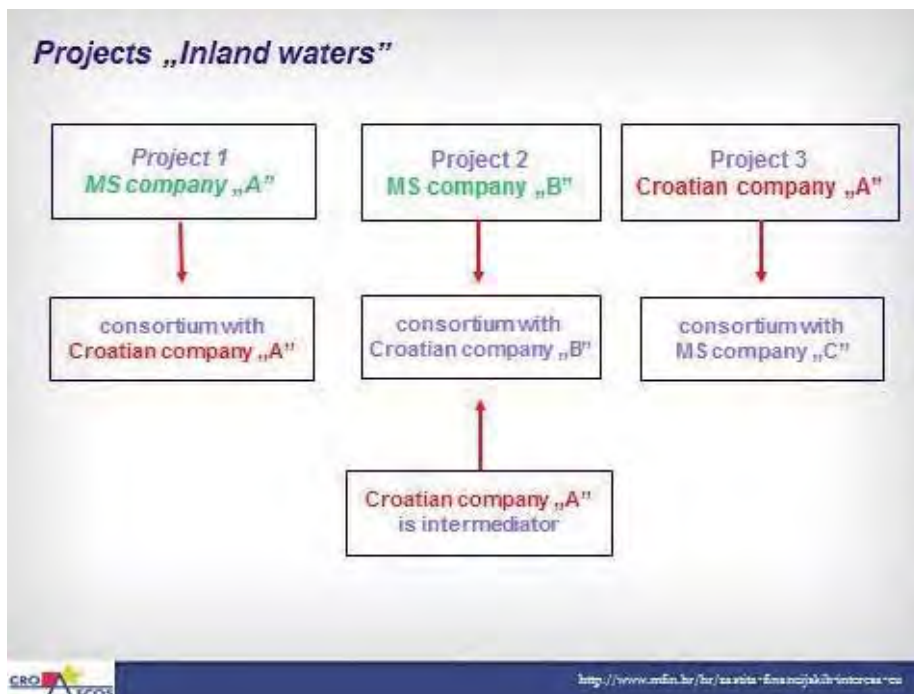
- At the same time OLAF carried out investigation in Croatia (Croatian company „A”) and in MS company „A”
- Support from AFCOS Croatia and Police
- Investigation carried out in coordination with the State Attorney Office

◆ **Criminal investigation:**

- State Attorney Office issued a decision on conducting a criminal investigation against the first defendant (director of Croatian company „A”)



<http://www.afcos.hr/hr/za-otvorena-razmjena-informacija>



3. Republic of CYPRUS



The Economic Crime Investigation Office

Is responsible for investigation on:

- Fraud
- Crimes related to economic issues
- Corruption
- Fraud against European Union's financial interests
- Money Laundering



E.C.I.O.-POLICE HQ

Economic Crime Investigation Office

The ECIO is also responsible for the Investigations carried out upon requests made by

- *Interpol*
- *Europol*
- *Liaison Officers at foreign Embassies*
- *execution of legal requests for assistance to foreign countries (received through the Ministry of Justice)*



E.C.I.O.-POLICE HQ

The E.C.I.O. works in close cooperation with

- all police Units involved in the fight against serious crime
- the FIU (Anti-Money Laundering Unit - MOKAS)
- the Customs & Excise Department
- the Divisional Units of C.I.D.
- the Central Bank of Cyprus
- the VAT & Income Tax Authorities



E.C.I.O.-POLICE HQ



Role in the Anti-fraud strategy



The Economic Crime Investigation Office participates, on behalf of the Chief of Cyprus Police, in the authorities and bodies mentioned below:

- the Advisory Authority for Combating Money Laundering and Terrorist Financing
- the Anti-Fraud Coordination Structure (AFCOS)
- the Coordination Body Against Corruption

which are composed of various public bodies, including bodies from the private sector

E.C.I.O.-POLICE HQ

8




Cooperation with OLAF

- *Since EU accession in May 2004, the Cyprus Police works closely with OLAF.*
- *Mutual assistance.*
- *Cases related to EU Financial Interests*
- *However, cases related to EU financial interests had also been investigated prior to EU accession.*

E.C.T.O.-POLICE HQ




FRAUD AGAINST EU INTERESTS CASE INVESTIGATED BY CYPRUS POLICE

- THE PROGRAMME
- **EU CHEESE PLEASE**
(Multi – Country Program)
Countries: Cyprus & Bulgaria
Proposing Organizations: POCF (CYPRUS) & BADP (BULGARIA)
Implementing Body: Agropromotion Sprl (Belgium)

E.C.T.O.-POLICE HQ



THE FINANCE

- Total Finance: €4.988.000 (50% from EU, 30% from Cyprus and Bulgaria and 20% from the proposing organizations)
- Duration: 3 years (24/4/2009-23/4/2012) divided in 3 annual phases
- **FOUR OFFERS (for Implementing body)**
Agropromotion Sprl (Belgium)
Media Consultant AG (Germany)
Economotechniki Ltd (Greece)
RTD Talos Ltd (Cyprus)

E.C.I.O.-POLICE HQ 8



COUNTRIES INVOLVED IN THE FRAUD

- CYPRUS
- BULGARIA
- UKRAINE
- UNITED KINGDOM
- RUSSIA
- SEYCHELLES

E.C.I.O.-POLICE HQ 10




COMPLAINANTS AND SUSPECTS

- **COMPLAINANTS**
Cyprus Government through the Audit office of the Republic
- **SUSPECTS**
Stella Scarlis (Australian citizen, Greek national)
Alexander Hedersven or Alex Filaretou or Constantinos Danis (Swedish citizen, Greek national)
Savvas Evangelou (Cyprus-president of POCF)
Georgios Hadjiafxentis (Cyprus-Ministry of Commerce, Industry and Tourism)
Alexander Kondratyuk and Andriy Orcharuk (Ukraine-strawmen)

E.C.I.O.-POLICE HQ 11




COMPANIES INVOLVED IN THE SCHEME

- 14 COMPANIES HAVING RELATION WITH THE MAIN SUSPECT (HEDERSVEN)

- 8 in Cyprus
- 1 in Belgium
- 1 in Bulgaria
- 1 in Greece
- 1 in UK
- 1 in Ukraine
- 1 in Seychelles

E.C.I.O.-POLICE HQ 12




OFFENCES

- (a) Conspiracy to defraud, (Cy Crim. Law)
- (b) Cheating, (Cy.Crim. Law)
- (c) Active bribery in the private sector, Passive bribery in the private sector (European Council Criminal Law Convention on Corruption Law 23(III)/2000 section 7 & 8)
- (d) LAW WHICH RATIFIES THE CONVENTION ON THE PROTECTION OF THE EUROPEAN COMMUNITIES FINANCIAL INTERESTS (Law 37(III)/2003 Article 5(1),
- (e) The prevention and suppression of money laundering activities Law (Cyprus law)

E.C.I.O. POLICE HQ 13




- The finance stopped at 1.313.000 euros after the Police started investigation

The suspects used false invoices (overvalued) in order to get the maximum of the finance the program allowed for each action.

E.C.I.O. POLICE HQ 14



OTHER ACTIONS



- 9 disclosure orders were issued
- 6 rogatory letters were sent to 6 different countries
- A huge number of evidence was obtained specially Bank statements, swifts, invoices, papers for registration of companies, signature specimens etc. (totally 285)

E.C.T.O.-POLICE HQ

15



MONEY MOVEMENT



- Different bank accounts were used to move the money.
- They were opened in the names of different companies in Cyprus and abroad. Totally to these accounts were transferred 1.313.000 million euros approximately
- From the above sum of money 1.2 million euros finally reached a personal bank account of Hedersven, instead of the purpose for which they were paid.

E.C.T.O.-POLICE HQ

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ON GOING INVESTIGATION

- There is an on-going investigation for the same facts and persons from Belgium Authorities and from OLAF itself.
- In May 2015 members of Cyprus Police joined investigations and searches, took place in Brussels from Belgium Police and OLAF for this case (statements were taken and evidence)

E.C.I.O.-POLICE HQ 17




E.C.I.O.-POLICE HQ

INSPECTOR
CHRISTOS CHRISTODOULOU


THANK YOU VERY MUCH FOR
YOUR ATTENTION

E.C.I.O.-POLICE HQ 18

4. CZECH Republic



Ministry of Finance
of the Czech Republic



Central Contact Point of AFCOS

Department 69
Analysis and Reporting of Irregularities

Barbora Vykoukova and Ladislav Janák



KAMILA

- » Cover name was "KAMILA"
- » Police of the Czech Republic
Unit for Combating Corruption
and Financial Crime Division
of Criminal Assets and Money
Laundering Prague
- » Main investigator Col. Vladimír Závrel



Barbora Vykoukova, Ladislav Janák
Central Contact Point of AFCOS
69 - Analysis and Reporting of Irregularities

The Key Facts

Ministry of Finance
of the Czech Republic



- **10 perpetrators:** businessmen, liquidators, lawyer (UK) and Deputy Minister
- investigation from 2005 to 2006 (from September 2006 up till today, it is still ongoing in a court of law)
- Should they have succeeded, the financial damage would have totaled 230 mil. Czech crowns (8,5 mil. EUR)

Barbora Vyhoukova, Ladislav Janák
Central Contact Point of AFCOS
69- Analysis and Reporting of Irregularities

Legal Qualification

Ministry of Finance
of the Czech Republic



- **Laundering of proceeds of crime (money laundering)** - section 216 of Act. No. 40/2009 Coll., Penal Code, as amended
(Legalization of the proceeds obtained from crime)
- **Fraud** - section 209 of Act. No. 40/2009 Coll., Penal Code, as amended
- Suspects faced up to 10 years in prison

Barbora Vyhoukova, Ladislav Janák
Central Contact Point of AFCOS
69- Analysis and Reporting of Irregularities

Basic Facts

Ministry of Finance
of the Czech Republic

- EU funds (PHARE) *Pre-Accession Assistance*
- Supporting less developed regions in the Czech Republic
- **Managing authority**
 - Ministry of Regional Development of the Czech Republic
- **Paying authority**
 - Ministry of Finance of the Czech Republic
- Established the *Regional Business Fund*

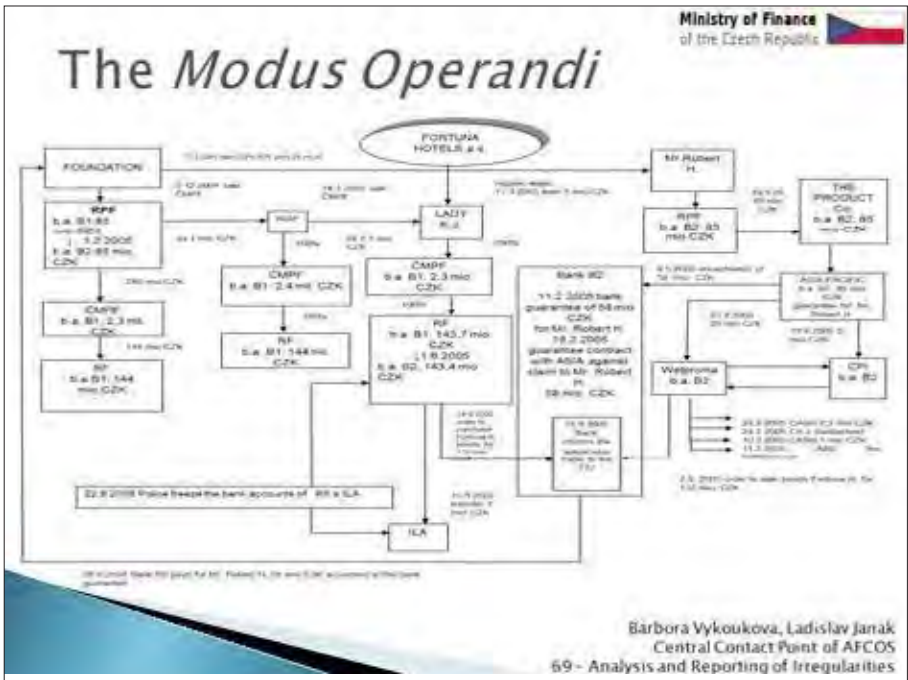
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Central Contact Point of AFCOS
09 - Analysis and Reporting of Irregularities

The *Modus Operandi*

Ministry of Finance
of the Czech Republic

- SME (small and medium enterprises)
- Changing the Czech legal system
- Legal liquidation of the Fund
- Establishing "shell companies" – straw men
- Purchasing *Regional Business Fund* with 8,5 mil. EUR for the price of 1,6 mil. EUR
- This money would come from the Regional Business Fund's own account
- Fraud and money laundering

Barbora Vykouřilová, Ladislav Janák
Central Contact Point of AFCOS
09 - Analysis and Reporting of Irregularities



Ministry of Finance
of the Czech Republic

International Aspects and Cooperation

- Swiss banks
- British police authorities and prosecutor
- European Commission – OI AF

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graph TD; A[European Commission – OI AF] --> B[purpose of the grant]; A --> C[origin of the money]
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Barbora Vyšková, Ladislav Janák
Central Contact Point of AFCOS
69- Analysis and Reporting of Irregularities

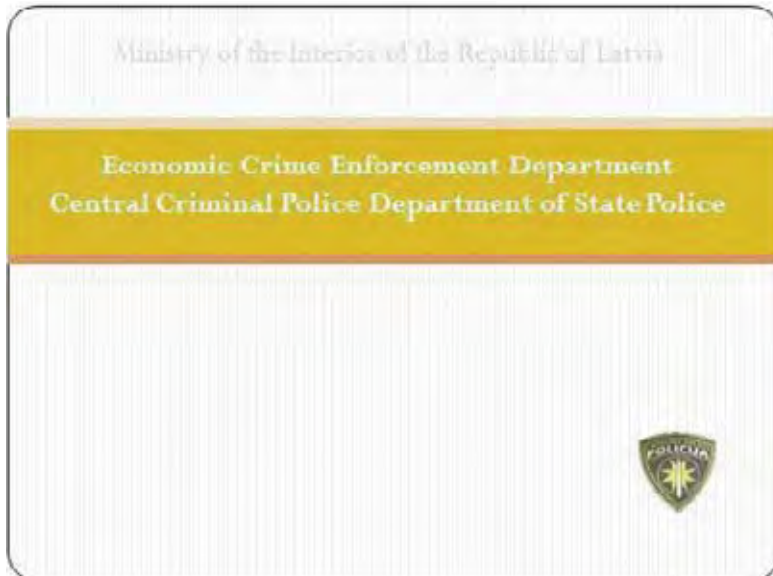
Ministry of Finance
of the Czech Republic

Result

- 10 suspects
- 6 sentenced
- 3 sentenced to 3 – 4 years in prison
- 3 got suspended sentences
- Deputy Minister – ongoing judicial inquiry
- 8,5 mil. EUR financial damage
- In total, 7,4 mil. EUR were seized by police;
suspects were also fined 1,1 mil. EUR

Barbora Vyšková, Ladislav Janák
Central Contact Point of AFCOS
69- Analysis and Reporting of Irregularities

5. Republic of LATVIA



Structure of Economic Crime Enforcement Department



ECED plans, organizes, coordinates and takes measures in prevention, detection and combating of:

- Money laundering
- Illegal actions in financial instruments and means of payment
- Crimes in credit institutions
- Counterfeiting of money or securities
- Fraud and unlawful appropriation
- Corruption in the private sector
- Illegal movement of goods in internal market
- Cyber crimes
- Intellectual property fraud

Crimes falling under Unit 2 of ECED competence

- Counterfeiting of money
- Fraud and unlawful appropriation
- EU funds
- Corruption in the private sector

Statistics - Criminal Investigations related to the illegal receipt and use of the EU support funds

Claims received: 2015 – 21

2016 – 9

Cases started: 2015 – 27 (ECED – 15)

2016 – 10 (ECED – 7)

Amounts of projects involved:

2015 ~ 14 million EUR

2016 ~ 17 million EUR

Forwarded to criminal prosecution:

2015 – 4

2016 – 6

Concept of fraud when receiving EU funds

The disposition of Article 177 «**Fraud**» of the Criminal Law of the Republic of Latvia assumes criminal responsibility «for a person who commits acquiring property of another, or rights to such property, by the use, in bad faith, of trust, or by deceit (fraud)».

Receiving property (in our criminal cases – money (object of a criminal offence)) acquired by criminal means consists in this, that offender deceives the victim (institution dealing with management and control of EU Funds), which is in possession of the property and the victim, being deceived, property or the right to property gives voluntarily, believing, that the criminal is entitled.

Crimes related to EU funds

- Usually performed by criminal groups
- The investigation is often significantly impeded by careful masking of the crime using various documents (agreements, sale and purchase contracts, loan agreements, etc)
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- Most often foreign companies (from Poland, Estonia, England, Germany, Canada) and offshore companies are involved in fraud schemes

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Most common fraud methods

- Fictitiously increasing the price of machinery when receiving EU funds, and paying the difference to the buyer
- Increasing the cost (by 100 or even 1000 times) of the project, construction estimates, using circuit payment schemes in order to deceive the institutions about the real cost of the project
- Fake information on the project, like, for example, passing off cheap machinery for more expensive machinery by creating false certificates
- Asking EU funds for unfulfilled projects by presenting false documents

Purpose and mechanisms of fraud

Purpose:

- Increase the price of the project item/object in order to defraud the money to earn
- Increase the price of the project item – receive the item/object for free (without co-financing)

Mechanisms:

- Project subject/service provider is owned by the project applicant or is their accomplice

Example from investigation practice:

Criminal case No.XX was started in 2014 by ECED, classified under Article 177 clause 3 of the Criminal Law (for fraud, if it has been committed on a large scale, or has been committed in an organised group), by examining the submission of the Latvian Rural Support Service (RSS) regarding possible fraudulent activities of the Latvian company (Ltd) responsible officials during project implementation, in order to embezzle the EU structural funds on a large scale.

In 2016 the criminal proceeding were transferred to the Riga District Court Prosecutor's Office for criminal prosecution according to the Article 15 clause 4 (for an attempted crime), Article 177 clause 3 and Article 275 clause 2 (falsification of documents for the purpose of acquiring property by an organized group) of the Criminal Law against two suspect. Loss was prevented (EUR 140 000 was to be paid in funding)

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Conditions of the case:

In 2012 Ltd. X officials submitted a project for the purchase of metal processing equipment to the RSS to receive financial support amounting to EUR 140 000.

Evaluating the submitted project documentation RSS employees had suspicion about the veracity of the documents submitted.

RSS sent the obtained documentation for further inspection to ECED.

Police investigation showed and proved that Ltd. X officials had provided false information about the company's financial condition – forged bank documentation were submitted for the project (including from a bank which is located in Russia) on the company's financial resources in order to acquire necessary equipment and receive co-financing from EU structural funds.

Thank you for your attention!

KRISTAPS KALNINS

Ministry of the Interior of the
Republic of Latvia

STATE POLICE

CRIMINAL POLICE DEPARTMENT

Communications Enforcement Department

Head of asset unit


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5. Republic of ROMANIA



Presentation of the new DLAF
legal framework 

Law no 61/2011 regarding the organization and functioning of Fight Against Fraud Department – DLAF

Government Decision no 738/2011 for the approval of the Regulation for the organization and the functioning of Fight Against Fraud Department - DLAF



Law No. 61/2011

Fight Against Fraud Department - DLAF is organized as structure with legal personality within the Working Apparatus of the Government and it is financed from the state budget

Law No. 61/2011



- Ensures, supports and coordinates the fulfillment of Romania's obligations with regard to the protection of EU's financial interests, in accordance with the provisions of art. 325 from the Treaty on the Functioning of the European Union
- Exclusive competences regarding the protection of EU's financial interests in Romania

Law No. 61/2011



- Contact institution of the European Antifraud Office – OLAF
- Acts on the basis of **functional and decisional autonomy, independently** of other public institutions and authorities

MAIN ATTRIBUTIONS

- ensures and facilitates the cooperation between the national institutions involved in the protection of EU's financial interests in Romania as well as between these and OLAF
- carries out or coordinates control activities in order to identify irregularities, frauds or other illegal activities which affect EU's financial interests

MAIN ATTRIBUTIONS

- collects, analyses and processes data and performs statistical surveys
- initiates or endorses draft legislation regarding the protection of EU's financial interests in Romania

INVESTIGATIVE POWERS

- DLAF is ascertaining body, according to Criminal Procedure Code, as regards the criminal activities affecting the European Union's financial interests in Romania
- DLAF may, **at the request of the prosecutor**, carry out controls regarding the observance of the legal provisions in the matter of the protection of EU's financial interests

INVESTIGATIVE POWERS

- Takes statements from any person who may provide data and information regarding the alleged irregularities, frauds
- Draws up control reports that may constitute means of evidence, according to the Criminal Procedure Code
- At DLAF request, the police, gendarmerie or other public servants are obliged to assist the control team in carrying out its duties
- Applies sanctions in the case of physical or legal persons who refuse to make available the documents and information necessary for drawing up the control report

Case study

- The Ministry of Agriculture from Romania sent DLAF a note regarding the suspicion of fraud consisting in the creation of artificial conditions by two beneficiaries, SC X SRL and SC Y SRL, in the purpose of obtaining financial support that exceeded the limit established by the National Programme of Rural Development. The programme settles that the maximum eligible value of such a project should not exceed the limit of 2 000 000 EUR, while the European financial support attained 40% of the entire amount (maxim 800 000 EUR). Commission Regulation no. 65/2011 stipulates that there will be no payment in the benefit of the applicant if the applicant creates artificial conditions for obtaining an advantage which is not in compliance with the objectives of the support scheme.
- During the activity of DLAF, it was established that between 2011-2014, Mr. MF, a businessman from Brasov county, tried to obtain European funds exceeding the limit we had discussed above.

Case study

- To elude these stipulations and to beneficiate of non-refundable funds that exceed the legal limit, the businessman used two companies, SC X SRL and SC Y SRL, which he controlled by his position as manager or legal representative, companies that had as associates persons related to Mr. MF (relatives). Using these two companies, Mr. MF divided artificially his business plans and he presented to the Management Authority two applications for receiving structural funds as not to exceed the limit established by the national programme.
- A part of DLAF activity revealed that, for establishing the projects' budgets, the businessman used counterfeit tenders issued by the same economic operators. In these tenders, the prices were settled next to the maximum limit, so he could beneficiate of a larger amount of non-refundable funds.

Case study

- After he got the approval of the projects and the contracts were signed with the Management Authority, he organized the tender procedure at the same time for the two of the companies, letters being sent to the same tenderers. For example, for the procurement of technological equipment, both beneficiaries used the procedure called *"selection of offers"*, setting as award criterion *"the lowest price"*.
- Consequently, he sent 3 letters to SC AE SRL, to SC P BULGARIA LTD and to SC GS SRL, both for SC X SRL and for SC Y SRL. For obtaining the contracts, all of the invited companies sent their tenders. The evaluation committees recommended the contracts should be signed with the same company, SC P BULGARIA LTD. So SC X SRL and SC Y SRL signed contracts for the price of 498.498 EUR each, not including VAT. SC P BULGARIA LTD delivered the equipments both for SC X SRL as well as for SC Y SRL, companies where Mr. MF had the right to sign for the bank accounts. For the equipments, both companies made payments in the benefit of SC P BULGARIA LTD in a total amount of 996.996 EUR.

Case study

- DLAF sent a request to the Bulgarian AFCOS to communicate if the winner company signed those contracts, if that company had in store those equipments and the market value of those equipments. Bulgarian authorities communicated very quickly that, at the time of making the offer, SC P BULGARIA LTD didn't have in store the equipments, but they were bought after that from an Italian company, for the total price of 628.034,47 EUR.

Case study

- So, it was settled that there was a big difference between the value of the procurement made by Bulgarian company and the price they sold the goods to the two beneficiaries: difference which raises to about 60,00% from the procurement value (368.961,53 EUR). Consequently, the investigation team of DLAF have analysed the accounts belonging to the two companies to check the money transfers that were made between the beneficiary of European funds and the Bulgarian company. Analysing the accounts we discovered that after SC X SRL paid the money to SC P BULGARIA LTD the Bulgarian company made payments right away into another account belonging to a Romanian company (SC FM SRL) in a total amount of 307.079 EUR. From this account there were made two operations of bank transfer: one bank transfer transaction was made into an account belonging to Mr. MF (250.590 EUR) while another one indicated bank transfer into the account belonging to SC X SRL (65.790 EUR). There were no support documents for these payments issued by the company which had made the bank transfer operations.

Case study

- This suspicion of fraud was sent to DNA prosecutors for further investigation related to false documents presented by the two European fund beneficiaries in the purpose of obtaining non-refundable funds. Those documents refer to the documents that were used in the procurement procedure as a result of a preliminary agreements among the tenderers, invoices and documents that justify the payments based on which the Management Authority approved the funds to be paid.

Questions ?



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Conclusioni dei Gruppi di lavoro

La discussione in seno al Working Group A, ha fatto emergere le seguenti problematiche:

- le frodi transnazionali di solito implicano una serie di fatturazioni che coinvolgono sempre più operatori economici “stranieri” (ovvero di altri Stati membri, se non extra UE);
- spesso gli schemi di frode sono semplici anche perché gli autori sanno che non c'è un adeguato strumento giuridico di cooperazione amministrativa nel campo dei fondi strutturali;
- i vari AFCOS hanno diverse strutture, poteri e funzioni. Alcuni AFCOS non hanno poteri investigativi e devono chiedere, ad esempio, alle forze di polizia competenti di condurre i cc.dd. controlli in loco. Alcuni sistemi nazionali hanno Organismi di controlli molto diversi, tutti coinvolti nella lotta contro la frode, per cui è difficile un loro coordinamento effettivo ed efficace;
- a causa della mancanza di strumenti di mutua assistenza amministrativa, oggi gli AFCOS devono rivolgersi all'OLAF per ottenere utili informazioni concernenti possibili frodi con riverbero transnazionale.

Le problematiche sopra evidenziate (ovviamente) rallentano di molto le indagini e, pertanto, il Gruppo di lavoro A, ha manifestato le seguenti necessità:

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*Head of Technical Secretariat
Committee for the Fight Against Community
Fraud (Italian A.FCo.S.)*

Conclusions of the Working Groups

The discussion within Working Group A revealed the following problems:

- transnational fraud usually entails a series of invoices that involve an increasing number of “foreign” economic operators (or from other Member States, if not non-EU countries);
- fraud schemes are often simple, since perpetrators know that there is no adequate legal instrument for administrative cooperation in the area of structural funds;
- the various AFCOSs have different structures, powers and functions. Some AFCOSs do not have investigative powers and must, for example, submit a request to the competent police forces to be able to carry out so-called on-site checks. Some national systems have very different inspection bodies, all of which are involved in countering

Cooperation Project in the Anti-fraud Sector

Workshop Group «A» Conclusions

Rome 19th – 20th May 2016

PROBLEMS

- transnational frauds usually imply over invoicing, always involving more than one foreign economic operator
- Due to the lack of legal basis on the subject (i.e. mutual administrative assistance) today AFCOSs must ask OLAF for relevant information concerning frauds, which slows down investigations
- Each single AFCOS has different structure, powers and functions; in particular a number of AFCOSs do not have investigative powers and must ask, for instance, relevant police forces to conduct on-the-spot checks.
- MAA does exist in other fields such as Common Agricultural Policy but recent developments in European laws concerning structural funds caused new doubts on how far already existing legal instruments can be used
- Some national systems have different bodies, all involved in combating fraud, so it is difficult to coordinate them also at the national level
- Intelligence cooperation, which is anyhow to be supported should there be no other legal basis, doesn't give the possibility to use the collected data in legal proceedings
- Fraud schemes are simple also because fraud perpetrators know there is no adequate juridical tool (i.e. MAA) in this field

PROPOSALS AND SUGGESTIONS

- Overcome triangulation, leaving OLAF as point of reference mainly for major cases
- Close cooperation among AFCOSs allows faster reconstruction of frauds schemes
- Thanks to the establishing of AFCOSs in all EU MSs, although with their own peculiar features, they are direct contact points
- MAA would give transparency, open-mind attitude, fluid, rapid and precise feedbacks
- Implement activities (such as questionnaires) to get to know better partner AFCOSs
- step by step working, aiming at outlining common how-to-do models; legal basis should follow
- Fostering MAA could be the starting point to conform and enlarge powers and structures of national AFCOSs
- Proceed exchanging information directly, keeping OLAF informed about ongoing cooperation

- superare la (eccessivamente) lenta triangolazione nella richiesta di informazioni su possibili frodi attraverso l'OLAF, il quale dovrebbe restare come punto imprescindibile di riferimento - in termini operativi - “solo” per i casi più importanti di frodi transnazionali (anche ai fini del necessario coordinamento di più Paesi nelle azioni da porre in essere). Nelle restanti (e minori) casistiche l'OLAF potrebbe essere semplicemente messo a conoscenza dello scambio di informazioni “in corso” tra i vari AFCOS;
- favorire una più stretta collaborazione tra gli AFCOS che permetta una più veloce ricostruzione dei sistemi di frode;
- favorire il superamento della lacuna normativa nei fondi strutturali attraverso strumenti di mutua assistenza amministrativa che darebbero maggiore trasparenza nonché consentirebbero valutazioni più rapide e precise da parte delle competenti Autorità di controllo. Questo, inoltre, potrebbe essere il punto di partenza per allargare i poteri e le strutture di ogni AFCOS nazionale.

In parallelo, anche la discussione in seno al Working Group B, ha fatto emergere varie problematiche e, quindi, alcune proposte.



fraud, which makes it difficult for them to effectively and efficiently coordinate;

- due to the lack of mutual administrative assistance instruments, AFCOSs today must call on OLAF to obtain useful information concerning potential fraud with transnational reverberations.

The problems outlined above (of course) significantly slow down investigations and, therefore, Working Group A revealed the following needs:

- overcome the (excessively) slow indirect exchange in requests for information relating to potential fraud through OLAF, which should remain an essential point of reference - in operational terms - “solely” for the most significant cases of transnational fraud (including for the necessary coordination of several countries in terms of the action to be taken). In the remaining (minor) cases, OLAF could simply be made aware of the “ongoing” exchange of information between the various AFCOSs;
- encourage closer collaboration between AFCOSs, enabling fraud systems to be rebuilt quicker;
- help overcome the lack of legal provisions for structural funds using mutual administrative assistance instruments that would provide greater transparency, whilst also enabling faster and more accurate assessments by the competent control authorities. This could also be a starting point for expanding the powers and structures of each national AFCOS.

In parallel, the discussion within Working Group B also revealed various problems and, as a result, some proposals.

PROBLEMS

- Different approach to the definition of fraud and corruption;
- Transnational Fraud is a known and increasing problem, which has an important impact on EU budget;
- A lot of national institutions are involved (Managing Authorities, General Auditors, LEA, etc);
- Integrate approach and organization are mandatory;
- Tax heaven and third countries are involved in frauds;
- Lack information exchange and related problems;
- No legal basis for exchanging information among AFCOSs except public information;
- Requested time for asking/receiving answers from other bodies is too long;
- Different national and EU legal frameworks.

I problemi emersi hanno contemplato, principalmente:

- il diverso (e perdurante) approccio alla definizione di frode e corruzione adottato dagli Stati Membri;
- il problema della frode transnazionale, ormai noto e di crescente dimensione, che ha un impatto importante sul bilancio dell'Unione europea;
- il fatto che molte istituzioni nazionali (autorità di gestione, revisori generali, etc.) sono coinvolte nei controlli ed è importante integrarne l'approccio e l'organizzazione;
- la circostanza che non ci sono basi giuridiche per lo scambio di informazioni tra AFCOS;
- il tempo eccessivamente lungo che intercorre tra la domanda di

The problems raised mainly considered:

- the varying (and continuing) approaches to the definitions of fraud and corruption adopted by Member States;
- the now well-known and growing problem of transnational fraud, which has a significant impact on the EU budget;
- the fact that many national institutions (for example, managing authorities and general auditors, etc.) are involved in controls, and it is important to integrate their approach and organisation;
- the fact that there is no legal basis for the exchange of information between AFCOSs;
- the excessively long amount of time that elapses between requesting information and obtaining a response from the foreign body.

informazioni e l'ottenimento della risposta dal collaterale estero.

Le proposte ed i suggerimenti emersi nel Working Group B contemplano, in sintesi, la necessità di un miglioramento nel coordinamento info-investigativo con/attraverso l'OLAF e nelle attività di prevenzione attraverso lo scambio informativo tra gli AFCOS.

Quanto sopra potrebbe essere perseguito, in ipotesi, nell'ambito della revisione intermedia del Reg. 883/2013 la quale potrebbe, altresì, costituire valida occasione di riflessione ai fini di ulteriori iniziative.

In conclusione, i lavori della Conferenza di Roma e dei connessi *"working groups"* hanno dimostrato come molti dei problemi

In short, the proposals and suggestions put forward in Working Group B relate to the need to improve both information-investigative coordination with/between OLAF and preventative activities by exchanging information between AFCOSs.

The above could, in theory, be pursued through the mid-term review of Reg. 883/2013, which could also provide a good opportunity to reflect on further initiatives.

In conclusion, the work of the Rome Conference and connected working groups demonstrated that the common denominator of many of the problems relating to the prevention and combatting of transnational fraud is the absence of a regulation on mutual administrative

PROPOSALS AND SUGGESTIONS

- Better coordination with OLAF (M.o.U. and agreements);
- Better prevention activity;
- Better implementation of the IT solutions already in place and/or integration with new IT intelligence tools (new specific issue for working groups);
- Empower the legal frameworks to deal with intelligence and signing of new M.o.U.;
- Data protection/information integrity;
- EU Commission initiatives;
- Midterm review of reg. 883/2013 as a reflection for further initiatives.

in materia di prevenzione e contrasto alle frodi transnazionali hanno quale comune denominatore l'assenza di un regolamento sulla mutua assistenza amministrativa nel settore - attualmente "scoperto" - dei Fondi Strutturali.

Una delle soluzioni proposte trasversalmente dai Delegati per prevenire ed arginare il fenomeno delle frodi ai danni del bilancio UE, consiste proprio nel migliorare, facilitare ed accelerare il flusso informativo tra gli Stati Membri ed il canale naturalmente individuabile potrebbe essere proprio quello degli AFCOS.

Un Regolamento di Mutua Assistenza Amministrativa che permetta agli AFCOS di comunicare e scambiarsi informazioni potrebbe, infatti, essere immediatamente operativo grazie al *network* di conoscenze che questi stanno già instaurando e cementando, negli ultimi anni, anche grazie alle numerose iniziative progettuali e di partenariato promosse dal Comitato antifrode italiano.

assistance within the currently "exposed" area of Structural Funds.

One of the solutions identified across the board by Delegates for preventing and controlling the phenomenon of fraud against the EU budget actually involves improving, facilitating and speeding up the flow of information between Member States, and the naturally identifiable channel for this could be the AFCOSs.

A Mutual Administrative Assistance Regulation that enables AFCOSs to communicate and exchange information could actually be operational immediately thanks to the network of knowledge that these services have already been establishing and strengthening in recent years, thanks also to the many project and partnership initiatives promoted by the Italian Anti-Fraud Committee.