



PRESIDENZA DEL CONSIGLIO DEI MINISTRI
DIPARTIMENTO PER GLI AFFARI EUROPEI
NUCLEO DELLA GUARDIA DI FINANZA PER LA REPRESSIONE DELLE FRODI NEI CONFRONTI
DELL'UNIONE EUROPEA

Comitato per la lotta contro le frodi nei confronti dell'Unione Europea

Sheet No. 1

Cooperation with the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office in the protection of European funds

1. Cooperation and coordination at European and national level

The coordination of and cooperation between the Member States for the protection of the EU's financial interests is ensured by the following European bodies:

- the **Consultative Committee for Coordination in the Field of Fraud Prevention (COCOLAF)**, established by Commission Decision of 23 February 1994, which is a platform for exchange on general matters relating to the protection of European financial interests between the Commission and its main 'partners' in the field. The Committee, in close cooperation with the Commission services and the Member States, provides guidance to national authorities and reference documents on fraud and other irregularities;
- the **Anti-Fraud Group (FAG)**, which deals with the technical preparation of European draft legislation in the anti-fraud field, for subsequent discussion and approval by the European Council and the European Parliament; it is one of the Council's preparatory bodies, included in the 'Economic and Financial Affairs' sector.

On a more strictly operational level, important is the European Commission's **European Anti-Fraud Office (OLAF)**, which was set up by the Commission by Decision No 352 of 28 April 1999 and which can also carry out investigations, as well as checks and controls in the Member States, with the support of the latter.

In Italy, the coordination and cooperation of the administrations responsible for the protection of the EU's financial interests is the responsibility of the **Committee to Fight Fraud against the EU**, also known by its acronym '**COLAF**'.

Established by art. 76, paragraph 2, of Law no. 142 of 1992, the Committee's composition and tasks were redefined by art. 3 of Presidential Decree no. 91 of 2007 and, most recently, by art. 54 of Law no. 234 of 2012 it was renamed and definitively included in the establishment plan of the Presidency of the Council of Ministers - Department for European Affairs.

Its establishment in 1992 proves that our country has **more than 30 years of experience in interinstitutional cooperation for the** protection of the EU budget.

The Committee, **chaired by the Minister for European Affairs, the South, Cohesion Policies and the PNRR**, according to the aforementioned Article 3 of Presidential Decree no. 91 of 2007, *"has advisory and guiding functions for the coordination of activities to combat fraud and irregularities relating in particular to the fiscal sector and to that of the common agricultural policy and structural funds; it also deals with issues related to the flow of communications on undue receipt of EU funding and the recovery of amounts unduly paid, as well as the preparation of questionnaires relating to the annual reports to be sent to the European Commission..."*.

Article 54 of the aforementioned Law No. 234 of 2012 requires the Committee to submit an **Annual Report to Parliament**; the last Report produced, covering 2022, was presented on 11 December 2023 with an event at the Presidency of the Council of Ministers and is available on the website of the Department for European Affairs.

In order to perform the functions required by the relevant legislation, the Committee shall, in detail

- monitor, through the computer system 'IMS' (*Irregularity Management System*), the flow of all communications of irregularities and fraud against the EU budget that Italy sends to the European Anti-Fraud Office;
- prepare the '**Report on the state of implementation of Article 325 of the Treaty on the Functioning of the EU (TFEU)**', reporting to the Commission on irregularities in fund management, developments in sectoral legislation and the organisation of control structures;
- monitor the implementation of the **European Commission's Recommendations on the** protection of the EU's financial interests by the competent national administrations;
- participate in the work of the **Union's 'Anti-Fraud Bodies'**, in particular the aforementioned COCOLAF and GAF, taking care of the adoption of the national position to be represented in these fora in close cooperation with the Permanent Representation of Italy to the European Union.

In addition, COLAF has been designated by our country, pursuant to Article 12-bis of Regulation No. 883 of 2013, as the '**Anti-fraud coordination service' (AFCOS)**, as such **competent to facilitate cooperation and exchange of information, including of an operational nature, with the European Anti-Fraud Office (OLAF)**, as well as to draw up the **National Anti-Fraud Strategy**, contained in the Annual Report to Parliament and also sent annually to the European Commission.

Within the framework of the **vigilance mechanism** set up against fraud in **PNRR-related** funding, COLAF takes part in the meetings of the '**Network of Anti-Fraud Contact Persons**' specifically set up for this purpose, which will be discussed in more detail below.

COLAF includes, in addition to the Head and all the general managers of the European Affairs Department, the Commander of the Unit of the Guardia di Finanza for the repression of frauds against the EU, the representatives of the Ministries, Agencies and Police Forces having, in various capacities, functions in the fight against frauds against the EU, the members designated by the Regions, the Managing Authorities and the Paying Agencies.

In order to support the COLAF in carrying out all the tasks assigned to it and for the realisation and implementation of all the initiatives and decisions taken in the work, the Department for European Affairs of the Presidency of the Council of Ministers operates the **Guardia di Finanza Unit for the repression of fraud against the European Union**.

The Guardia di Finanza Unit also analyses data on irregularities and frauds, also as part of a general risk assessment at national level, collects information and data from the competent national administrations and takes part in training and study initiatives, in partnership with other national and foreign institutions and also in the framework of EU-funded projects, to improve the fight against fraud, supporting the communication of European and national institutions in order to ensure correct information on the actions implemented in the sector.

2. The European Public Prosecutor's Office (EPPO) and the implementation of legislation in Italy

Regulation (EU) No. 2017/1939 established the **European Public Prosecutor's Office (EPPO)**, which started on 1 June 2021 in 22 Member States (Denmark, Ireland, Hungary and Sweden did not join), and which performs the functions of a public prosecutor before the competent courts within the Member States, according to their respective procedural rules and until the final decision is taken.

The European Public Prosecutor's Office is articulated on a central level - in Luxembourg, where the Chief European Public Prosecutor is based, with 15 'permanent Chambers', with tasks of direction and coordination - and a decentralised structure hinged on **delegated European Public Prosecutors** (so-called 'DPEs') located in the Member States, who materially conduct investigations within the Member States.

The **competence** of the EPPO is defined in relation to the offences referred to in Articles 3 and 4 of the above-mentioned PIF Directive and includes, principally, **offences against public administration and property involving EU funds** (for amounts exceeding EUR 10,000), **tax offences in the field of VAT** where they affect **two or more Member States** with a damage of at least **EUR 10 million**, **smuggling, corruption, money laundering** in relation to offences within the **competence of the EPPO, offences inextricably linked to these**.

The operationalisation in Italy of the Office of the European Public Prosecutor was achieved by **Legislative Decree No. 9 of 21 February 2021**, as well as by a series of agreements and initiatives between the Italian Ministry of Justice and other national institutions that enabled the Deputy European Public Prosecutors (DPEs) present in Italy to fully exercise their functions.

The data released by the **Annual Report** presented by the **European Public Prosecutor's Office for 2022** prove that **Italy** is the **country** that, in Europe, is providing the **most cooperation** to the Office, both in terms of resources and in terms of the investigative capacity actually expressed.

In fact, the aforementioned Report shows that in Italy, at the end of 2022, 16 Deputy European Public Prosecutors (DPEs) had been appointed, compared to 11 for Germany and Romania, 9 for Bulgaria and the ECSC Republic, 7 for Greece and Spain, and 6 for Slovakia; the other states followed with lower numerical appointments.

The 'assistants' of the National Deputy Prosecutors appointed in Italy also represent the highest number (45).

Moreover, the European Public Prosecutor's Office in our country can rely on the support of an articulated and coordinated framework of **police forces** and, in particular, of the **Guardia di Finanza**, as **economic and financial police with general competence** for the protection of the national and EU budget.