

# BETKONEXT

## Better Knowledge for the Next Generations

**BETKONEXT Newsletter n. 1/2024**

### **Contents**

→ Luiss University has been awarded European funding for the [BETKONEXT project - Better Knowledge for the Next Generations](#), submitted by Professor of Administrative Law Aldo Sandulli under the EUAF (Union Anti-Fraud) Programme, overseen by the European Anti-Fraud Office (OLAF).

The project aims to explore thematic clusters focused on safeguarding the EU's financial interests under the umbrella term "coordination". It will do so thanks to the state-of-the-art advancements presented in a previous Hercule III project, "Better Knowledge for Better Solutions (BETKOSOL)".

Throughout the various phases of the project, BETKONEXT aims to explore the potential of institutional cooperation by examining the diverse normative contexts and operational collaboration practices.

The research, scheduled to last 24 months, will be conducted by Luiss University and will involve research experts from the universities of Leuven, Toruń, and Barcelona. The Italian Committee for Combating Fraud against the European Union (COLAF) will also collaborate in the scientific research activities.

→ **This is the first BETKONEXT newsletter.**

The newsletter will be published every quarter on the project website for the entire duration of the project.

If you no longer wish to receive the newsletter, please write to: [betkonext@luiss.it](mailto:betkonext@luiss.it).

### **Last updates**

→ **BETKONEXT kicked off in Rome on 24 May 2024.**

The conference "Lost in transnations: the EU financial interests and their protection" hosted a round table with the



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institutions (the Italian AFCOS, Olaf, the European Court of Auditors, the Italian Court of Auditors, and the European Commission) in the morning, followed by a thematic workshop in the afternoon, with the participation and contribution of the research team and the national AFCOSs.

The day was opened by the Director of the Department for European Affairs of the Italian Presidency of the Council of Ministers (Consigliere Marco Canaparo), the Head of the Law Department at Luiss (Prof. Antonio Punzi), and the principal investigator of the BETKONEXT project (Prof. Aldo Sandulli).

The European Prosecutor, Andrea Venegoni, closed the afternoon workshop.

The press release is available [here](#)

The streaming is available [here](#).

→ The BETKOSOL [website](#) has been updated for the new project.

Please note that all the material concerning the previous BETKOSOL project is still available (see especially the “publications” section).

### News flash

→ **Cooperation between OLAF and the EPPO: the show must go on!**

An Operational Partnership Conference by the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO) took place on 22 and 23 April 2024. Click here for the [news](#): “Prosecutors and financial investigators from the EPPO and investigators, forensic experts, and analysts from OLAF gathered in Brussels to discuss their respective experiences and possible improvements almost three years after the start of EPPO operations”.

Prof. Bellacosa and Prof. De Bellis started exploring the topic during the previous European project (BETKOSOL) leading to the



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publication of an article in the Common Market Law Review: [The protection of the EU financial interests between administrative and criminal tools: OLAF and EPPO, in the 'Common Market Law Review', vol. 60, n. 1, 2023, 15-50](#)

Stay tuned for updates on the new project (BETKONEXT), as we will continue to focus on this topic!

### → **The EPPO and the Court of Justice: a new beginning?**

The Court of Justice was recently called upon to rule in its judgment of December 21, 2022, Case C-281/22, *G.K. and others* (European Public Prosecutor's Office) regarding challenged measures adopted by the EPPO during a cross-border investigation.

The case regards several persons who were being prosecuted for fraud related to EU biodiesel imports. The fraud is alleged to have caused damage to the financial interests of the Union amounting to approximately 1,295,000 euros. The European Public Prosecutor's Office conducted an investigation through a decentralised European prosecutor in charge of the case in Germany. A search and seizure of assets in Austria was ordered as part of the investigation, and the German European prosecutor in charge of the case then delegated the execution of these measures to an Austrian counterpart. The defendants challenged these investigative measures before the Austrian court, which opted to refer questions to the Court of Justice for a preliminary ruling on whether it was entitled to exercise full oversight (as it would in a purely domestic situation) or whether its jurisdiction should be limited to solely procedural matters concerning the implementation of the cross-border investigative measures.

In C-281/22, *G.K. and others* (European Public Prosecutor's Office), the Court of Justice ruled that Articles 31 and 32 of Regulation (EU) 2017/1939 must be interpreted as meaning that the oversight conducted within the Member State of the Deputy European Public Prosecutor responsible for providing assistance, where a delegated investigative measure requires judicial authorization in accordance with the law of that Member State, may concern only aspects related to the execution of the measure itself and not the elements relating to the justification and adoption of the measure



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itself, which must undergo prior judicial review in the Member State where the Deputy European Public Prosecutor in charge of the case is based, particularly in cases involving serious infringement of the rights of the person concerned guaranteed by the EU Charter of Fundamental Rights (para. 70).

### **→ Implementing the PIF Directive in Europe: waiting for the new Report of the European Commission**

The European Commission's 2023 Report on implementing the PIF Directive (COM(2023)0464) reveals substantial developments and persistent challenges in combating financial crimes across the EU. Specifically, the Commission has initiated 20 infringement procedures against Member States for failing to correctly implement the Directive. These actions confirm the need for uniform application and adherence to the PIF Directive's provisions across all Member States, ensuring a unified and efficient strategy for safeguarding the EU's financial interests.

However, the Report has drawn criticism for failing to address a key issue: the threshold for the EPPO's competence in VAT fraud cases. Currently set at €10 million, this threshold has proved contentious. In its January 2024 resolution, the European Parliament urged the Commission to reconsider this limit, advocating for a reduction and to establish a clear method for calculating the value of VAT fraud. This omission in the Report highlights the need for further clarity and action to bolster the Directive's effectiveness.

In addition to the ongoing efforts under the PIF Directive, the European Commission has also proposed a new Directive to combat corruption. It seeks, among other things, to amend the existing PIF Directive by introducing stricter measures and broadening the scope of offences covered. The objective is to bring national legislation closer into line with international standards, thereby promoting greater cross-border cooperation and improving the overall effectiveness of anti-corruption efforts.

In the light of the above, the upcoming 2024 report on the implementation of the PIF Directive will be of particular interest. This Report will be crucial for assessing the impact of national transposition laws and the measures taken to address shortcomings



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in implementation. It will also evaluate how the Directive can be further strengthened to fight financial crime more effectively across the EU.

### **→ Poland a part of the European Public Prosecutor's Office: the story unfolds**

Minister of Justice Adam Bodnar submitted a request to the Prime Minister of the Republic, Donald Tusk, for Poland to join the European Public Prosecutor's Office on 13 December 2023, his first day in office at the Ministry of Justice. On 29 February 2024, the European Commission confirmed Poland's participation in the European Public Prosecutor's Office (EPPO). The European Public Prosecutor's Office will investigate crimes affecting the financial interests of the Union committed in Poland after 1 June 2021.

There will be 24 European prosecutors in Poland, each serving as district prosecutors. They will operate within three or four European Public Prosecutor's offices, with one located in Warsaw and the rest in other cities.

During a visit to Warsaw, European Prosecutor General Laura Kovesi stated in January that Poland would be one of the most important "elements of the European Public Prosecutor's Office". The involvement of Polish prosecutors in the Office's work will allow more effective prosecution of crimes against the financial interests of Member States, including Poland itself. Effectively combating monetary fraud will reduce cuts to the Union's budget and give the Union itself more resources to pursue its objectives. Joining the European Public Prosecutor's Office will result in better cooperation between the judiciary of Poland and other EU countries (see more [here](#)).

The BETKONEXT team



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