

# BETKONEXT

Better Knowledge for the Next Generations

**BETKONEXT Newsletter n. 3/2024**

## 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 potential 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 third BETKONEXT newsletter.**

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

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

## Last updates



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## → BETKONEXT at the School of Inspectors and Superintendents of the Guardia di Finanza – L’Aquila

On 6 December, an event organised by the BETKONEXT Research Group was held at the School of Inspectors and Superintendents of the Guardia di Finanza, based in L’Aquila.

The event was conducted with the support of the Technical Secretariat of the Italian Anti-Fraud Coordination Service (AFCOS) and in collaboration with the School of Inspectors and Superintendents of the Guardia di Finanza.

The event commenced with opening remarks delivered by Division General Gabriele Failla, Commander of the School of Inspectors and Superintendents of the Guardia di Finanza along with Professor Aldo Sandulli, Principal Investigator of the BETKONEXT Project, Luiss University, European Prosecutor Alessandro Di Taranto, representing the European Public Prosecutor’s Office (EPPO), and Mr Francesco Albore, Head of Unit OLAF.A.5 at the European Commission.

The agenda primarily focused on the implementation of the PIF Directive, as well as matters of institutional cooperation.

The first session was introduced and moderated by Professor Maurizio Bellacosa as representative of the BETKONEXT Research Group at LUISS University.

This session, dedicated to the implementation of the PIF Directive, included contributions from:

- Lieutenant Colonel Pietro Medici of the Guardia di Finanza, Commander of the Excise and Consumer Taxes Group of the Special Revenue and Tax Fraud Repression Unit (representing the General Command of the Guardia di Finanza). He spoke on “Tax offences and the transposition of the PIF Directive, with particular reference to the adoption of measures aimed at the confiscation of instruments derived from offences detrimental to the interests of the Union”
- Professor Nicola Selvaggi, Deputy Chief of the Legal Office of the Minister of Justice, with a presentation on “The criminal liability of



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legal entities”;

- Ms Rossella Screpanti, representative of the National Anti-Corruption Authority (ANAC), speaking on “The interrelation between the PIF Directive and criminal law on corruption”.

The second session, introduced and moderated by Professor Marta Simoncini of the BETKONEXT Research Group, LUISS University, addressed the theme of institutional cooperation.

This session featured:

- Colonel Roberto Ribaud, Director of the 3rd Interpol Division of the International Police Co-operation Service (representing the Criminal Police Central Directorate (DCPC)), with a talk on “Police and judicial cooperation”
- Ms Anna Maria Carriero, Head of the Regulatory and Institutional Collaboration Service at the Financial Intelligence Unit for Italy (FIU), speaking on “The national AML prevention system and EU fraud”.

An engaging debate followed the presentations, which were attended in person by 500 cadets of the School of Inspectors and Superintendents of the Guardia di Finanza, with a further 500 participating online.

### News flash

#### → European Commission news on the 2025-2029 EU budget and the protection of EU financial interests

The European Commission, led by Ursula von der Leyen, has presented an ambitious programme for the period 2025-2029. Central themes include reforming the EU budget and protecting EU financial interests, with a focus on simplification, flexibility and impact. The goal is to transform the budget from a programme-based system to a policy-oriented one, linking resources to the Union’s strategic priorities.

The plan consists of three pillars: greater adaptability to short-term challenges, reduction of spending programmes, and greater synergy between



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EU funds and national and private investment.

Conditionality mechanisms, already introduced with the Next Generation EU, will play a key role in strengthening respect for the rule of law. Funds will be allocated for national measures aimed at combating corruption and supporting the single market, with particular attention to SMEs.

Despite the promises, questions are emerging concerning the feasibility of the plan, especially in terms of the enlargement of the Union and the relationship between national and European authorities in managing resources.

The Commission's innovative approach aims to respond to the economic and political challenges currently facing Europe.

## **→ 2023 Annual Report to Parliament by the National Committee for Combating Fraud against the EU (Italian AFCOS). Updates to the National Anti-Fraud Strategy**

As in previous years, the Italian AFCOS presented its annual report to Parliament, detailing the activities of the institutions and administrations that form the National Committee for Combating Fraud against the EU (COLAF).

Traditionally, the Report is presented following the publication of the European Commission Annual Report on the Protection of the EU's Financial Interests (the so-called PIF Report) for the same year. It is prepared by the Guardia di Finanza Unit at the Department for European Affairs of the Presidency of the Council of Ministers in its role as COLAF Technical Secretariat, with the essential support of all its members.

Unlike previous years, the Annual Report for 2023 consists of two volumes and is divided into six sections. This new approach was adopted primarily for two reasons.

Firstly, it addresses the need to highlight the significant actions undertaken by the Committee since 2023 in relation to the National Recovery and Resilience Plan, which prompted the legislator – through Article 3 of Decree-Law no. 19 of 2 March 2024, converted with amendments by Law no. 56



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of 29 April 2024 – to expand the Committee’s functions and broaden its composition. This development reflects the need to strengthen the unified strategy for preventing and combating fraud and other illicit activities affecting funding associated with the National Recovery and Resilience Plan, the Cohesion Policies for the 2021-2027 programming cycle, and the related national funds.

The second reason relates to the intention to strengthen the role of the Institutions and Regional Administrations involved in COLAF, with an entire volume dedicated to them.

As in previous years, the Report aims, among other things, to highlight the actions taken by Italy to implement the European Commission’s Recommendations to the Member States in the 34th Annual Report on the Protection of the European Union’s Financial Interests and the Fight against Fraud, covering the year 2023.

As in past editions, the Report lays great emphasis on the National Anti-Fraud Strategy (NAFS), which has recently undergone a wide-ranging review and update process, conducted in collaboration with COLAF. This process led to the production of a detailed document, accompanied by a specific ‘Action Plan’, forwarded to the European Commission to be implemented by the relevant national institutions for the period 2024-2027. Thus, the Italian NAFS was established in accordance with the European Commission’s guidelines contained in the ARES (2016) 6943965 document of 13 December 2016, titled ‘Guidelines on National Anti-Fraud Strategies’. The guidelines have been adapted to Italy’s regulatory and organisational framework to provide the highest level of protection for the EU’s financial interests in full compliance with the general principles of the Treaty on the Functioning of the EU and the Financial Regulation. It also ensures the comprehensive implementation of the European Commission’s Recommendations, taking into account the guidelines of the other EU institutions with regard to the four phases of the ‘anti-fraud cycle’ as laid down in the aforementioned Commission document: prevention, detection, investigation, recovery, and penalties.

This Strategy must be concretely implemented through the ongoing cooperation of all the Institutions and Administrations that belong to COLAF, in a spirit of flexibility and dynamism, both of which are indispensable for



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promptly adapting actions to the rapidly changing external environment and any emergencies that may require adjustments to the operational response.

## → Annual Report on the Protection of the EU's Financial Interests and the Fight Against Fraud: Legal and Policy Developments in 2023

In accordance with Article 325(5) TFUE, the Commission submits an annual report to the European Parliament and the Council on the measures taken by the Union and the Member States to combat fraud and any other illegal activities affecting the EU's financial interests. In fact, Article 325(2) TFUE requires Member States to adopt the same measures to counter fraud affecting the financial interests of the Union as they do in relation to fraud affecting their own financial interests.

In July 2024, the Commission presented the [35th Annual Report on the Protection of the European Union's financial interests and the Fight against Fraud \(PIF report\)](#), analysing the situation for the year 2023.

Starting with a general overview, the Report goes on to focus on measures taken at the EU level (Section 2) and those implemented by the Member States (Section 3). The EU-level measures cover the current implementation of the National Recovery and Resilience Plans, the transposition of the Whistleblower Protection Directive, the EU anti-corruption package, and efforts to combat money laundering and terrorist financing, both of which can result from fraudulent activities. The Member States' measures concern national anti-fraud strategies and all the activities carried out over the past year.

Section 4 of the Annual Report describes OLAF and EPPO investigations into fraudulent and non-fraudulent irregularities detrimental to the EU budget, highlighting the sectors of revenues and expenditures in which they occurred most frequently.

From a criminal law perspective, among the measures taken at the EU level, the proposal contained in the Directive on combating corruption warrants particular attention.



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The proposal, submitted by the Commission in May 2023 as part of a broader anti-corruption package, aims to step up the prevention of corruption across all Member States, harmonise corruption offences and penalties, and provide the necessary tools for prosecution authorities to tackle the phenomenon. It establishes rules on definitions and penalties for corruption offences, extending the list of such crimes to include misappropriation, trading in influence, abuse of functions, obstruction of justice, and illicit enrichment linked to corruption offences, in addition to the standard bribery offences. The proposal also established uniform penalty thresholds, along with provisions for aggravating and mitigating factors. For the first time at the EU level, it consolidates both public and private sector corruption within a single act.

Moreover, the proposed Directive boosts corruption prevention by requiring Member States to implement measures such as information and awareness-raising campaigns, research and education programmes, and encouraging civil society and community-based organisations to participate in anti-corruption efforts. It also requires them to ensure key preventive tools are in place, such as open access to information of public interest, effective rules for the disclosure and management of conflicts of interest in the public sector, and the disclosure and verification of assets of public officials, among others.

The Commission and the High Representative of the Union for Foreign Affairs and Security Policy also adopted a Joint Communication, announcing, among other measures, the establishment of an EU network against corruption. The network includes law enforcement, public authorities, practitioners, civil society, and other stakeholders, with the aim of creating synergies for cooperation and developing best practices in areas of common interest. OLAF, Eurojust, Europol, and the EPPO are all members of the network.

One of the network's key tasks will be to help the Commission identify common areas where risks of corruption are high across the EU, in preparation for a future EU anti-corruption strategy.

Another aim of the proposal is to target serious acts of corruption worldwide, regardless of where they occurred, complementing and strengthening the EU's internal and external instruments against corruption and demonstrating the EU's commitment to using all available tools, including penalties, to fight it.



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Moving on to address national measures, the Annual Report highlights that twenty-one of the twenty-seven Member States have an anti-fraud strategy for the protection of the EU's financial interests. Their approaches differ, with ten of them, including Italy, having a national anti-fraud strategy that covers all sectors of expenditure, while others have adopted anti-fraud measures for specific sectors, such as agriculture, fisheries, VAT and cohesion.

As for Italy, the Report highlights three measures adopted in the last year concerning the implementation of the RRP: the aforementioned national anti-fraud strategy, the improvement of the IT tool for monitoring and implementing the plan, and the strengthening of the investigative role of the economic and financial police with regard to the RRF.

## **→ EPPA Arrests Two Suspects in Connection with €3.1 Million Biodiesel Fraud Scheme in Belgium**

In May 2024, the European Public Prosecutor's Office (EPPA) in Brussels, Belgium, arrested two suspects as part of an investigation into a customs fraud scheme related to biodiesel imports, with an estimated financial loss of €3.1 million.

The two individuals were arrested during proceedings at the Court of Antwerp, where they were being tried before the Belgian national prosecutor in a separate case involving biodiesel fraud.

The arrests were part of a broader investigation led by the EPPA into a criminal network importing biodiesel from the United States to the EU under false pretences. The operation was carried out by the Belgian Federal Police (CDGEFID/OCDEFO), and the suspects remain under electronic surveillance.

The investigation was triggered by reports from the European Anti-Fraud Office (OLAF) and the Belgian General Customs and Excise Administration. The suspects are believed to be the masterminds behind a scheme that involved importing biodiesel from the US but falsely declaring it as Moroccan in origin.

The fraudulent imports aimed to bypass EU anti-dumping tariffs, which are levied on subsidised US biodiesel that is cheaper than other non-EU





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alternatives. The biodiesel in question was most likely produced using soy methyl ester (SME), a cheaper option than used cooking oil methyl ester (UCOME), which is seen as more environmentally friendly and typically preferred for biodiesel production in the EU.

To avoid anti-dumping duties, the biodiesel was transhipped through third countries such as Costa Rica and Morocco, where it was declared as UCOME, temporarily stored, and, presumably, converted into biodiesel. However, evidence suggests that the necessary transformation to alter the product's legal origin never took place, rendering the entire operation a fraudulent attempt to evade tariffs.

Moreover, the fraudsters took advantage of a preferential 0% tariff rate for goods originating from Morocco, further evading additional customs duties.

As the primary suspects are US nationals with assets in the United States, the EPPO is working to secure cooperation from the relevant US authorities to seize the assets and recover the estimated damage to the EU budget.

The EPPO, as the EU's independent prosecutor, is responsible for investigating, prosecuting, and adjudicating crimes that harm the financial interests of the EU.

## → Poland officially joins the European Public Prosecutor's Office

The Council of the European Union has appointed Grażyna Stronikowska PhD as the European Public Prosecutor. Dr Grażyna Stronikowska will represent Poland at the EPPO headquarters in Luxembourg for a six-year term. She was selected through a competitive process organised by the Ministry of Justice in March 2024. In the subsequent phases of the several-month procedure, the specially appointed Qualification Commission assessed, among other factors, the candidates' experience in conducting fraud proceedings, competence in international cooperation in criminal matters, academic achievements, and English language proficiency.

The Luxembourg Selection Committee selected Grażyna Stronikowska from the three best candidates. On 12 December, the EU Council officially



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appointed her as Poland's first European Public Prosecutor. European Prosecutors oversee pre-trial proceedings and the filing and support of charges. Together with the European Attorney General, they form the College of the European Public Prosecutor's Office.

Dr Grażyna Stronikowska has worked in the Department for Organised Crime and Corruption of the National Prosecutor's Office. She is also a National Council of Prosecutors to the Prosecutor General member. From 2016 to 2022, she was a member of the Supervisory Committee of the European Anti-Fraud Office (OLAF) in Brussels. She is a graduate of the Nicolaus Copernicus University in Toruń (See more: <https://www.gov.pl/web/sprawiedliwosc/dr-grazyna-stronikowska-pierwszym-przedstawicielem-polski-w-prokuraturze-europejskiej>).

## → European vs. National Jurisdictions: The “Koldo Case” and the Challenges of Cross-Border Anti-Corruption Investigations

In March 2024, following the well-known ‘Koldo case’, the European Public Prosecutor's Office opened an investigation involving Spain concerning alleged crimes of misappropriation of public funds, misuse of office, and trading in influence related to public contracts co-financed using European funds for the purchase of health equipment during the Covid-19 pandemic. The preliminary investigations revealed that EU funds were used fraudulently, specifically 14.6 million euros from the European Regional Development Fund (ERDF) and 3.1 million euros from the EU Solidarity Fund.

Later, in May of this year, the European Public Prosecutor's Office sent a request to the Spanish Court (Audiencia Nacional), which is hearing the case, asking for all the files so as to assess whether the case met the requirements for assuming jurisdiction. After reviewing the documentation, the European Public Prosecutor's Office concluded that it should take over the responsibility for carrying out the investigations concerning the contracts in the Koldo case, stepping into the role previously held by the Spanish Anti-Corruption Prosecutor's Office.



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The discrepancy in the criteria for establishing who should be responsible for carrying out the investigations led to a question of jurisdiction being raised before the Second Criminal Chamber of the Supreme Court. On 26 July, the court ruled on the matter, rejecting the idea that the European Public Prosecutor's Office should replace the national authorities. Its reasoning was based on the fact that this investigation seeks to determine the possible existence of a corruption scheme at the national level, which would affect various public administrations and bodies. For reasons of efficiency, it should therefore be investigated by bodies of the same nature at the national level. Moreover, surprisingly, despite these contracts being co-financed by the European Union, the Supreme Court stated that there was no material connection with any supranational interest that would justify the intervention of the European Public Prosecutor's Office. This case seems to highlight some challenges regarding collaboration between national and European prosecution bodies and may call for clearer rules on the distribution of powers in complex cases.

Links to further information:

<https://www.poderjudicial.es/search/AN/openDocument/40a12a411e2934eba0a8778d75e36f0d/20240805>

<https://www.eppo.europa.eu/en/media/news/spain-eppo-takes-over-judicial-investigation-purchase-covid-19-protective-equipment>

The BETKONEXT team



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