

COOPERATION PROJECT IN THE ANTI-FRAUD SECTOR

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

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Rome, 19th May 2016

OUTLINE

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

Rome, 19th May 2016



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*

Rome, 19th May 2016

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)”*

Rome, 19th May 2016



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”***

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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*

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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***

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INTERNATIONAL CO-OPERATION

AIM : TO ENSURE THE CORRECT USE OF NATIONAL AND EUROPEAN FINANCIAL RESOURCES

ADVANTAGE : TO WIDEN AVAILABLE INFORMATION SET



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CO-OPERATION TYPES

JUDICIAL*

ADMINISTRATIVE

POLICE

.....

INTELLIGENCE



YES

LEGAL FRAMEWORK



NO

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EU BUDGET EXPENDITURE FRAUD CO-OPERATION TYPES

COMMON AGRICULTURAL POLICY ADMINISTRATIVE TOOLS (ONLY EU COUNTRIES)

- 1. EC REG. 515/97 and updates
- 2. "NAPLES 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**

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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?*

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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

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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 MMSS would make the difference.

i.e.

To verify suppliers existence

To check invoices and receipts faithfulness

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

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***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)***

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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 :

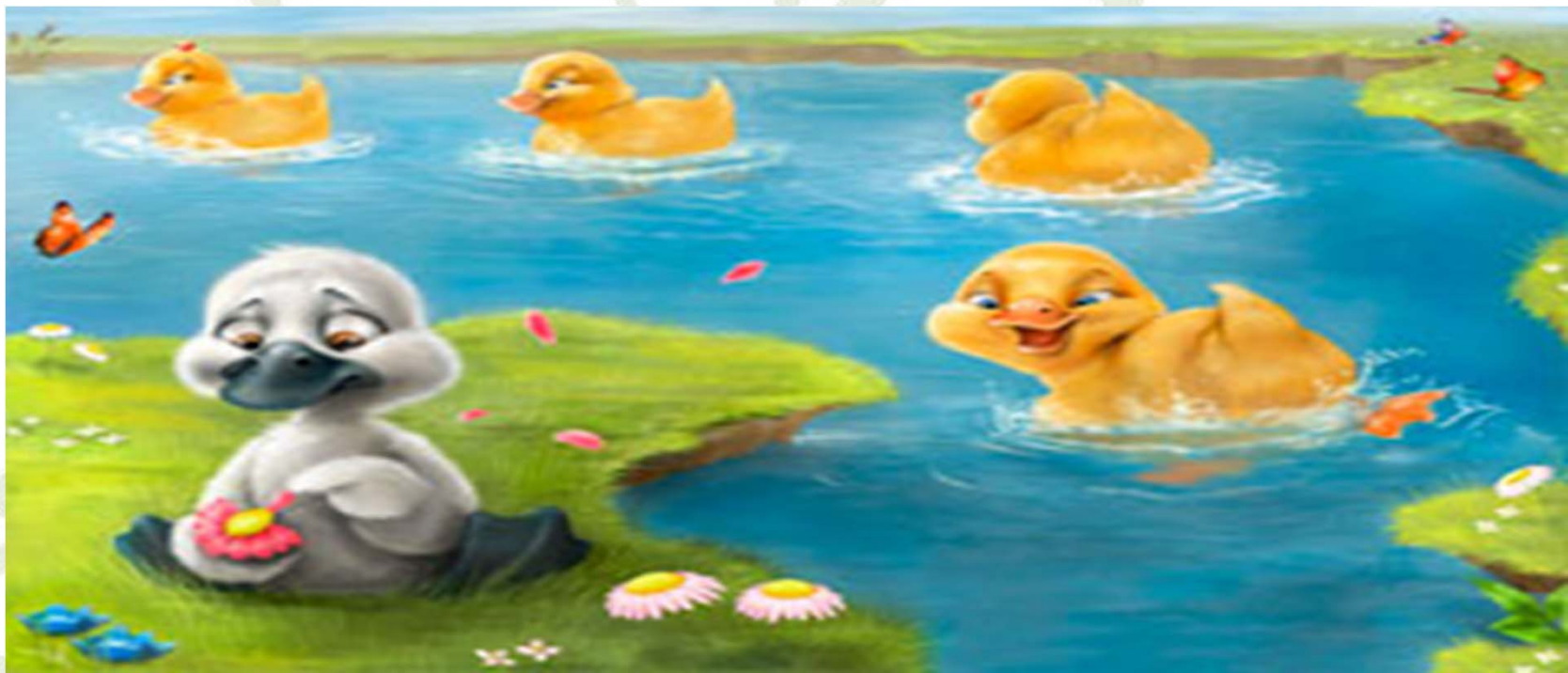
EC Reg. 515/1997 and NAPLES 2 CONVENTION 1997



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INTERNATIONAL DIRECT ADMINISTRATIVE COOPERATION

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



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INTERNATIONAL DIRECT ADMINISTRATIVE COOPERATION

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



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*Thank you
for kind attention*

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Guardia di Finanza