

“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 STRUCTURE

DIRECTOR



UNIT
OPERATIONAL
COOPERATION

*Responsible for
cooperation and
OTSC with OLAF
and MS' competent
authorities*

UNIT
REPORTING
IRREGULARITIES

UNIT
ADMINISTRATIVE
INVESTIGATIONS

*Responsible for OTSC
on own investigations*

UNIT
INFORMATIONAL
and ANALITICAL
ACTIVITY,
LEGAL and
ADMINISTRATIVE
SERVICE

Legal framework cooperation and on-the-spot checks

European union law

- **Art. 325 TFEU and Commission decision** establishing OLAF
- **Regulation 2988/95** on the protection of the EC financial interests
- **Regulation 2185/96** concerning on the spot checks and inspections
- **Regulation 883/2013** concerning investigations conducted by OLAF
- **Regulation 515/97 on mutual administrative assistance on customs and agricultural matters**
- **Regulation 1798/2003** concerning VAT fraud
- **Regulation on ESIF** cooperation-???

National law

- **Law of the Ministry of Interior**, art. 43a, par. 10
- **Rules of the implementation** of the Law on the Ministry of Interior, art. 85b
- **AFCOS' Internal rules** on investigation procedures, operational cooperation and on-the-spot checks



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.

F
C R I M E
A
U
D

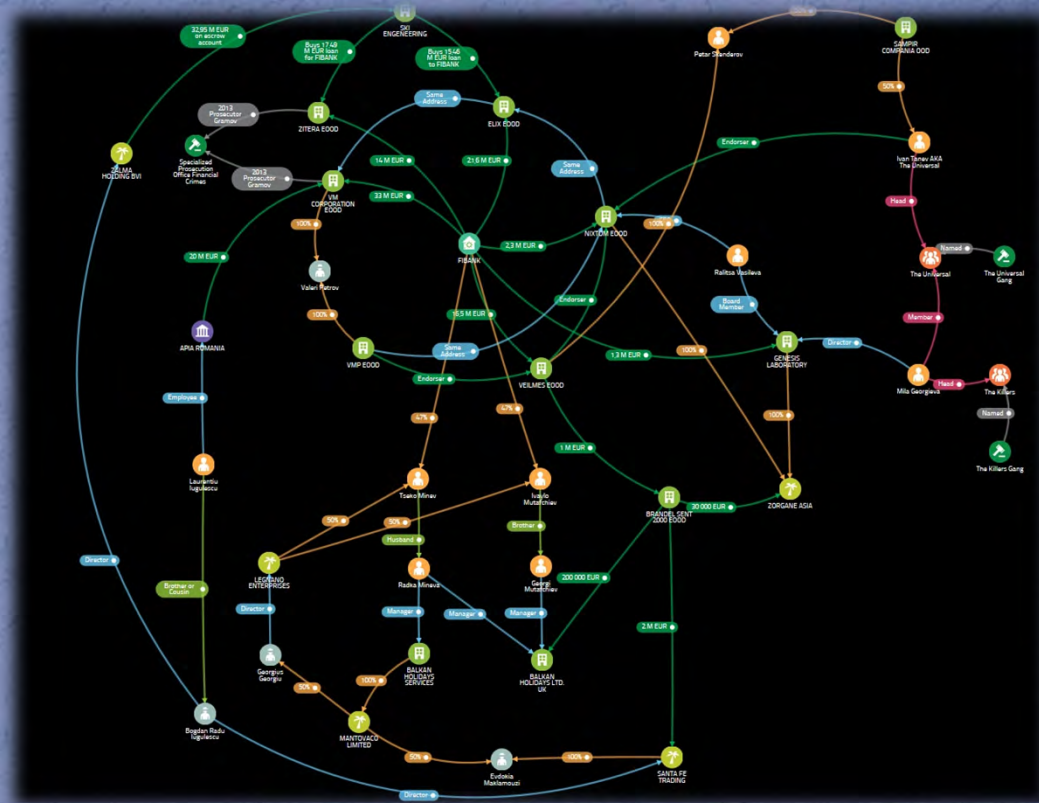


Modus operandi

- 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 BG and MS' competent authorities, by OLAF's request)
- Company without property



Relationships between the persons and companies involved

Project under ERDF



BG Company "A"



Project 2,2 mln lv

Application



Contract for EU grant 1 mln lv

Application
submitted
to MA

EU companies' offers supporting the application:

Italy

Spain

Austria



EU support



What happened in real?



BG company "A"

BG company "B"



BG company "C"



companies in EU:
Austria-4



companies in China



BG companies "D", "F"



companies in China



Who participated during the investigation?



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", "F" 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.

спасибо
danke 謝謝
ngiyabonga
teşekkür ederim
dank je
gracias
tapadh leat
moichchakkeram
go raibh maith agat
arigato
takk
dakujem
merci
ευχαριστώ
terima kasih
sagolun
sukriya
kop khun krap
grazie
hvala
mauriuru
dziękuję
bedankt
obrigado
감사합니다

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