

Post-conference Report of the Online Conference “Transposition of the PIF Directive into National Legislation” (25-26 February 2021)

Status quo and its consequences on the effectiveness of the EPPO's investigations and prosecutions – Annual Forum on Combating Fraud in the EU



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Report

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Reducing the level of fraud, both within Member States and EU institutions, is by no means a novel issue on the EU's criminal justice agenda. On the contrary, it ranks amongst the priority areas where political and legislative actions are needed. The EU's fragmented regulatory framework leads often to an uneven transposition and poor results in effective implementation of legal instruments.

Already back in 2011, the European Commission announced a set of initiatives on protecting the licit economy, including:

- A communication on a comprehensive policy against corruption;
- A proposal of a new legal framework on the confiscation and recovery of criminal assets;
- A communication on the anti-fraud strategy.

Despite the progress made in the last 10 years, the level of protection for the EU's financial interests by criminal law, however still varies considerably across the Union, this state of affairs being generated by a patchy legal and procedural framework. To this extent, the existence of a common legal approach would lead to better cooperation and assistance in cross-border cases.

The online ERA conference “Transposition of the PIF Directive into National Legislation”, which took place on 25-26 February 2021 and which was co-financed by OLAF under the Hercule III Programme, presented the initiatives recently put forward by the European Commission to revamp EU's policies on fraud in an integrated manner, an approach made possible by the adoption of Directive (EU) 2017/1371 (the so-called “PIF Directive”) in 2017. The PIF Directive aims at strengthening administrative and criminal law procedures to fight fraud against the Union's financial interests. Its objective is to deter fraudsters, to improve the prosecution and sanctioning of crimes against the EU budget and to facilitate the recovery of misused EU funds, thereby increasing the protection of EU taxpayers' money.

All in all, the conference debated ideas on how to improve the EU's fight against fraud by enhancing transnational and multi-disciplinary cooperation. After a general introduction: “Fraud types, threats and risks to the EU's financial interests: the key features of the 2017 PIF Directive” done by two OLAF speakers, *Andrea Bordon* (Deputy Head of Unit, Unit C.1, Anti-corruption, Anti-Fraud Strategy and Analysis at OLAF) and *Stanislav*

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ISSN: 1862-6947

<https://eucrim.eu>



Stoykov (Seconded National Expert, Legislative Officer, Unit D1 – Legislation and Hercule, OLAF), various national experts from Italy, Belgium, Germany, Spain, Romania and Portugal addressed the implementation of the PIF Directive into the national legislation.

Yves Van Den Berge, European Prosecutor from Belgium at the European Public Prosecutor's Office (EPPO) in Luxemburg presented not only the transposition of the PIF Directive into national legislation from his Belgian experience as national prosecutor and as policy officer for criminal legislation of the Minister of Justice. He also focussed on his recent experience at EPPO, emphasising how the EPPO draws its most important powers from the PIF Directive.

From a perspective of the defence (as well as from a perspective of victims' lawyers), general remarks were made by *Holger Matt*, defence lawyer in Frankfurt a.M., Germany and former Chair of the European Criminal Bar Association (ECBA). As it stands, there are no provisions dealing with the defence and their interactions with the EPPO, in particular not in the internal rules of procedure adopted in October 2020. According to *Holger Matt*, this is regrettable as it shows that the internal rules are not aimed at providing any interaction with defence and victims' lawyers, although there are, of course, procedural necessities for such interaction.

The international and European legal frameworks (with a special emphasis on the role of OLAF) were presented by the speakers and discussed with the audience, which consisted mainly of EU lawyers, prosecutors and anti-fraud investigators. The holistic approach of this conference, encompassing legal professionals from throughout the EU, along with various Presidents and members of the European Associations for the protection of the EU's financial interests and European criminal law ensured a good mix of practitioners to discuss cooperation in trans-border cases of fraud.

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The project is co-financed by the [Union Anti-Fraud Programme \(UAFP\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



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