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## At Europe's Expense

Community funds are defrauded in a thousand different ways. How does this happen? And who's combating this fraud?

May 2018

***Between 2014 and 2020, the European Union is setting aside over 77 billion euros in financial resources for Italy: 46.5 bn for cohesion policies, and 31 bn for the common agricultural policy. This major driver of growth is in jeopardy of being weakened by a large number of swindles, fraud and other offences committed by scoundrels, swindlers and organized crime.***

*Between 2014 and 2016, Italy's Financial Police carried out close to 13 thousand checks. In 6 out of 10 cases, funding was fraudulently requested or obtained. The percentage rises even higher for the CAP (Common Agricultural Policy): 64%. Irregularities are highest in Southern Italy, where 85% of EU structural funding and direct spending fraud occurs. Central Italy is responsible for the lion's share of offences involving agriculture and fishing, accounting for almost half of all cases. How can fraud against the EU be contained? Who claws back unduly-received money? What tricks are most commonly used to get rich at Europe's expense? An analysis of the Italian system follows.*

### The Starting Point

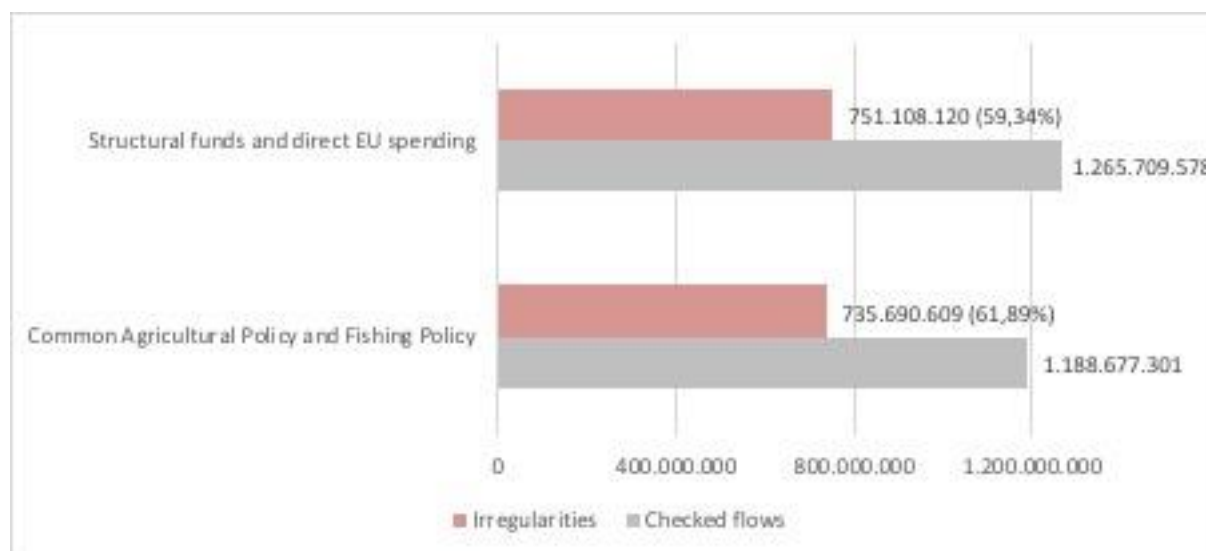
In 1995, the European Convention on the Protection of Financial Interests (PFI) defined the concept of fraud against the EU. This definition includes the misuse of funds for purposes other than those for which they were originally granted. The Convention was updated in 2017 with the PFI Directive (1371/2017), as part of a broader review process of the European Commission's Anti-Fraud Strategy (CAFS), which also saw the establishment of a European Public Prosecutors' Office (EPPO).

**Table 1 - Common Agricultural Policy (CAP) and the Common Fisheries Policy (CFP): Imports checked and wrongfully requested/received 2014-2016**

| Checked       | Flow type (CAP and CFP)   | Irregular          |
|---------------|---|--------------------|
| 519,162,936   | Common Agricultural Policy - other sectors  | 493,026,566        |
| 356,556,057   | EAGF - Single payment scheme  | 129,533,171        |
| 143,151,305   | Rural development (EAGGF/Warranty and EAFRD Section)  | 54,355,143         |
| 99,652,611    | EAGF and EAGGF (arable crops, fruit and vegetables, tobacco, organic farming, olive oil, wine, zootechnics, dairy and public storage) | 39,492,433         |
| 70,154,392    | Common Fisheries Policy (CFP and EMFF)  | 19,283,296         |
| 1,188,677,301 | <b>TOTAL</b>  | <b>735,690,609</b> |

Source: Guardia di Finanza

**Figure 1 - Flows checked and amounts wrongfully requested/received, 2014-2016 (in euros)**



Source: Guardia di Finanza

## Analysis

The European Union's main conduit for spending is to make funds available to member nations, to implement, among other things, cohesion policies, the Common Fishing Policy (CFP) and the Common Agricultural Policy (CAP).

Such funds are managed directly by national, regional and local authorities in each Member State, pursuant to the *Multi-annual Financial Framework* (MFF).

Between 2014 and 2016, Italy's **Guardia di Finanza** financial police carried out 12,838 interventions, auditing some 2.4 billion in subsidies. **Irregularities totalling 1.5 billion euros were**

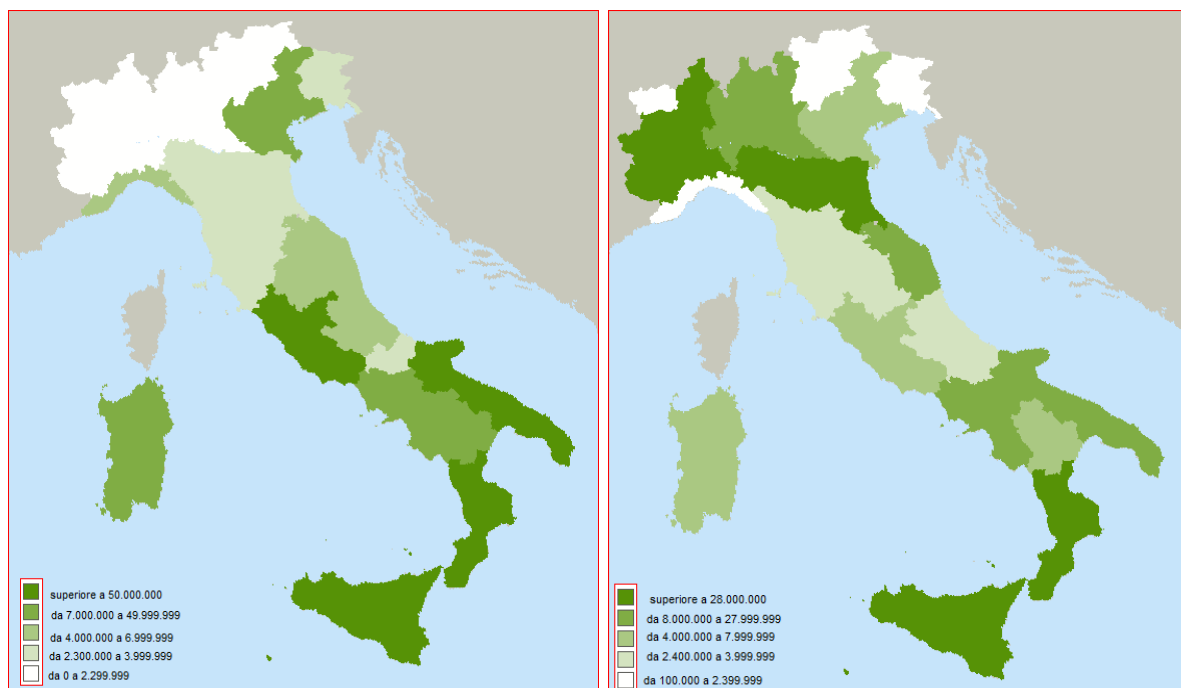
**found: more than 60% of funds.**

The highest percentage of offences and fraud concerned the Common Agricultural Policy and Fishing Policy (**CAP and CFP**): **62% of the funds checked were requested or received in an irregular or fraudulent manner.**

**5,521 people were reported** for aggravated fraud, misappropriation and undue receipt of European resources. **71 arrests were made.**

**Proposals were made to seize 587.4 million euros; real protective measures worth 196.2 million were undertaken.**

**Figure 2 – Geographical breakdown of fraud 2014-2016: structural funds/direct expenses (left) and agricultural and fishing policy (right)**



Source: Guardia di Finanza

**85% of fraud and irregularities regarding structural funds and direct EU spending occurred in Southern Italy**, that is to say in the recipient regions of funds set aside for the 2007-2013 *Convergence* objective. **Central Italy accounted for 12%; the smallest percentage was in Italy's North, at 3.5%.**

**Offences against the common agricultural policy and fishing policy were as follows: 46% in Central Italy, ca. 33% in Southern Italy, and 21% in the North.**

## The Detail – Fraud Risk: Alarm Bells

The criminal element that exploits Community funds is extremely “flexible”, deploying highly-developed solutions for circumventing procedural rules.

The *Guardia di Finanza* has developed a number of red flags which, especially if they refer to the beneficiaries of **structural funds**, may be “considered symptomatic of potentially fraudulent practices”. By way of example:

- Beneficiary involvement in **previous tax-related offences or pending cases**, particularly if they have already been implicated in the crime of issuing and/or using **invoices for non-existent transactions**
- Stakeholders involved in the management or control of fund beneficiary companies who have **previously offended for particularly serious crimes**, such as participation in simple or Mafia-based criminal organizations, money-laundering, fraud, crimes against government, against property, against public faith or bankruptcy-related
- Links with **external consultants and professionals** who have a reputation as “**specialists**” in obtaining public funds, but who in actual fact often exploit contacts, methods and techniques clearly oriented towards illicit activities

- Regarding company directors, use of **suspicious “front” names and “figureheads”** (owing to advanced age or pathological mental conditions, or names used for previous illicit operations as a smokescreen)
- **Presentation of dubious surety policies**, issued not by companies or financial outfits known for seriousness and reliability
- **Funding out of proportion** to the applicants’ economic potential and assets.

When it comes to the **common agricultural policy**, the most habitual fraudsters are often involved with agricultural firms and producer organizations that operate in **sectors where the aid received is proportionate to the amount**

**of product produced and/or processed.**

The most frequently detected types of fraud are:

- **Falsely inflating requests for aid by making false statements on specific growing** in unsuitable geographical areas, areas sown that exceed the actual planted area, and/or a number of crop plants higher than the actual case
- **Wrongful payment entitlements** based on false statements followed by *en bloc* factoring
- **Fraudulent receipt** of funds by **parties registered as deceased** prior to presentation of the application **or subject to anti-mafia preventative provisions.**

### Who has Oversight for EU Funds

**The National Anti-EU Fraud Committee (COLAF).** Since 1992, this body has served as the national body for orienting and coordinating all activities involved with combating fraud and irregularities detrimental to the Union’s financial interests (income and outgoings). In a *de facto* sense, it is the central control room for management bodies, anti-fraud offices, ministries and EU institutions.

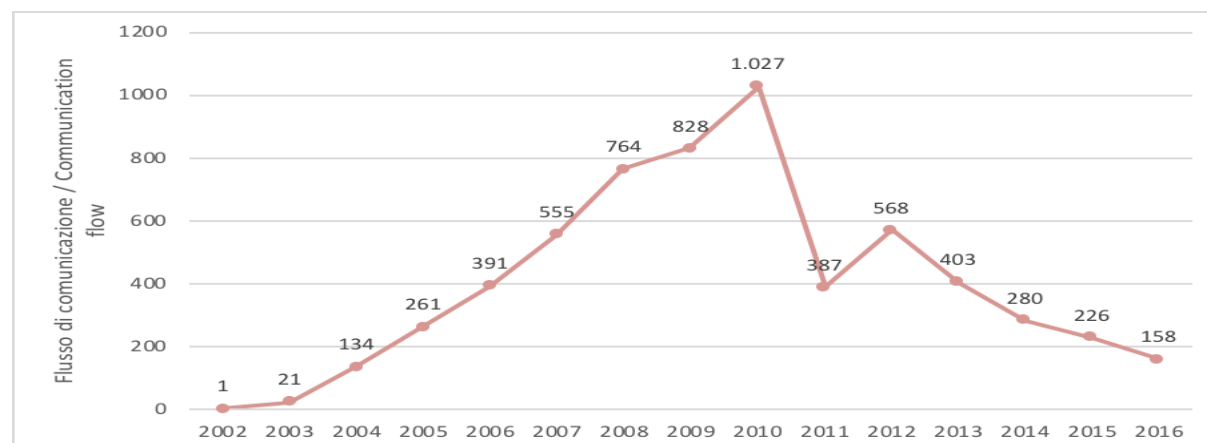
**The Guardia di Finanza’s Special Public Expenditure and Anti-EU Fraud Office.** Established in 1995 to support COLAF, this office plays a leading role in anti-fraud supervision and the protection of Community financial interests. Its investigative powers into tax-related issues, as confirmed through subsequent legislation amendments, may also be used to “audit and combat infringements against the European Union and/or detrimental to the domestic budget associated with the former.”

**The Agency for Territorial Cohesion** Established in 2013, this agency monitors the use of funds, offering oversight on implementing programmes and projects co-funded by the EU.

**Department for Cohesion Policies.** Established in 2014 at the Prime Minister’s Office, this Department is empowered to plan, coordinate and provide senior oversight of cohesion policy programmes and interventions.

## The Detail. The situation in recent years.

**Figure 3 - Flow of suspected fraud reported to the EU by the National Anti-EU Fraud Committee (COLAF)**



Source: COLAF Reports for 2014, 2015 and 2016

A small number of cases was registered during the first eight years. The numbers peaked in 2010. Since then, numbers have dropped (with the exception of 2012), as reporting procedures gradually came into operation and preventative measures were bolstered.

Where critical cases and misappropriation are detected, the figures reveal a need **for more**

**timely intervention in order to block disbursements and recover funds.**

Table 2 lists the amounts that have already been settled in cases of suspected fraud still pending with the various authorities over a variety of planning cycles: 90% of the amounts involved were paid out to the perpetrators of misappropriation.

**Table 2 - Cases of suspected fraud still pending with the various authorities responsible for handling: Amounts (by cycle)**

|                              | 2014 Report       | 2015 Report        | 2016 Report        |
|------------------------------|-------------------|--------------------|--------------------|
| 1989-1993 - amount involved  | 283,542           | 3,626,995          | 143,202            |
| 1989-1993 - amount paid      | 271,002           | 3,614,455          | 913,901            |
| 1994-1999 - amount involved  | 22,390,493        | 26,788,948         | 3,989,488          |
| 1994-1999 - amount paid      | 21,506,045        | 25,032,744         | 12,390,004         |
| 2000-2006 - amount involved  | 72,774,744        | 113,839,144        | 113,851,521        |
| 2000-2006 - amount paid      | 69,047,093        | 107,877,554        | 109,334,702        |
| 2007-2013 - amount involved  | 306,920           | 227,353,953        | 121,504,924        |
| 2007-2013 - amount paid      | 277,267           | 225,986,141        | 120,173,537        |
| <b>Total amount involved</b> | <b>95,755,699</b> | <b>371,609,040</b> | <b>239,489,135</b> |
| <b>Total amount paid</b>     | <b>91,101,407</b> | <b>362,510,894</b> | <b>242,812,144</b> |

Source: COLAF Reports for 2014, 2015 and 2016

Note: Up until the 2000-2006 cycle, the term "paid" referred to fraud and irregularities. Since 2007, "paid" has referred solely to fraud.

Table 3 presents the situation updated to June 30, 2017 for amounts to be recovered/already recovered: of the **322.6 million euros in monies unduly received between 2008 and 2016, 74.4 million euros have been recovered. A further 248.2 million euros is yet to be recovered.**

Measures for retrieving EU funds cashed in a fraudulent manner are highly important to the Italian economic system: if the State fails to deliver by allotted deadline, the Commission deducts the amount of unsuccessfully recovered monies from its total planned financing.

**Table 3 - Amounts to be recovered/recovered in specific years**

|            | 2008       | 2009       | 2010       | 2011       | 2012       | 2013       | 2014       | 2015       | 2016       |
|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| To Recover | 30,249,440 | 33,014,947 | 14,709,530 | 16,482,208 | 17,899,952 | 37,393,397 | 21,208,301 | 25,871,158 | 51,381,974 |
| Recovered  | 9,342,620  | 15,064,660 | 13,879,432 | 6,082,658  | 6,287,122  | 5,068,582  | 4,441,241  | 5,446,226  | 8,794,249  |
| Total      | 39,592,060 | 48,079,607 | 28,588,962 | 22,564,866 | 24,187,074 | 42,461,979 | 25,649,542 | 31,317,430 | 60,176,223 |

Source: 2016 COLAF Report

## New Funds on the way: The 2014-2020 Planning Cycle

After approval by the European Parliament, on January 1, 2014, **Europe 2020, the EU new global growth strategy** officially came into effect. It will continue to apply until December 31, 2020.

The Union's *Multi-annual Financial Framework* (MFF) is the central plank of this strategy, sharing out 959.988 billion euros for activities undertaken over these seven years.

The new planning cycle sets aside **funding of ca. 77.5 billion euros** for Italy, of which 46.5 billion earmarked for cohesion policies and 31 billion for agricultural support.

**National cofinancing** is to be added to these resources: **94 billion euros** for cohesion policies alone.

**Table 4 - Resources earmarked for Italy by the Common Agricultural Policy (2014-2020)**

| Funds                          | EU   | Domestic | Total |
|--------------------------------|------|----------|-------|
| Direct payments                | 27   | 0        | 27    |
| CMO wine, fruit and vegetables | 4    | 0        | 4     |
| Rural development*             | 10.5 | 10.5     | 21    |
| Total                          | 41.5 | 10.5     | 52    |

Source: MIPAAF, "Uno sguardo sulla PAC 2014-2020"

**Table 5 – Funds set aside for cohesion policies 2014-2020 in Italy**

|  | Resources       |                 |                 |                        |                 |                  |
|--|-----------------|-----------------|-----------------|------------------------|-----------------|------------------|
|  | EU              | Domestic*       | Breakdown       |                        |                 |                  |
|  | Total           | Total           | Southern Italy  | Central-Northern Italy | Not broken down | Total            |
| <b>A) Structural and European investment funds (ESI Funds 2014-2020)</b>   | <b>44,656.1</b> | <b>31,451.3</b> | 47,577.0        | 25,352.9               | 3,177.5         | <b>76,107.4</b>  |
| European Regional Development Fund (ERDF)                                  | 21,660.5        | 12,558.0        | 26,929.9        | 7,288.7                | -               | <b>34,218.6</b>  |
| European Social Fund (ESF)   | 11,103.4        | 7,983.9         | 10,855.9        | 8,231.4                | -               | <b>19,087.3</b>  |
| European Agricultural Fund for Rural Development (EAFRD)                   | 10,444.4        | 10,468.5        | 9,352.9         | 9,360.6                | 2,199.4         | <b>20,912.9</b>  |
| European Maritime and Fisheries Fund (EMFF)                                | 537.3           | 440.8           | -               | -                      | 978.1           | <b>978.1</b>     |
| Youth Employment Initiative (specific resources)                           | 910.5           | -               | 438.3           | 472.2                  | -               | <b>910.5</b>     |
| <b>B) European Territorial Cooperation schemes</b>                         | <b>1,136.8</b>  | <b>200.6</b>    | -               | -                      | 1,337.4         | <b>1,337.4</b>   |
| <b>C) Fund for European Aid to the Most Deprived - (FEAD)</b>              | <b>670.6</b>    | <b>118.3</b>    | -               | -                      | 788.9           | <b>788.9</b>     |
| <b>D) Supplementary Operational Programmes – Action and Cohesion Plans</b> | -               | <b>7,725.6</b>  | 7,725.6         | -                      | -               | <b>7,725.6</b>   |
| <b>E) Fund for Development and Cohesion (FDC)</b>                          | -               | <b>54,678.1</b> | 44,069.2        | 10,608.9               | -               | <b>54,678.1</b>  |
| <b>TOTAL</b>   | <b>46,463.5</b> | <b>94,174.0</b> | <b>99,371.7</b> | <b>35,961.9</b>        | <b>5,303.8</b>  | <b>140,637.5</b> |

Source: European Commission. \* European Agricultural Fund for Rural Development (EAFRD): included in cohesion policy

## Comments

An examination of cases covered by Italy's *Guardia di Finanza* investigators confirms how important it is to adopt an **integrated strategic approach** in the fight against anti-Community fraud. Such an approach makes it possible to leverage data assets and operational experience in a variety of sectors (in particular, tax-based anti-fraud activities), while at the same time enhancing the capacity to identify offences.

Judicial Police investigations show that

measures introduced to protect the public purse under Law no. 300 of 2000, such as compulsory seizure where liability is ascribed, and the option to carry out "equivalent" seizures until the entire amount of the damages caused is paid back, have increased the effectiveness of anti-fraud activities.

**At present, no international collaboration exists in the structural funds and direct spending sector.** Even though information exchanges are vital for authorities empowered to conduct checks, **no legal instrument is in place**



**for direct reciprocal assistance among member states.** Given the operational backdrop of increasingly globalized markets and ever-more internationalized financial and commercial transactions, **this is a significant shortcoming.**

Resolving this issue has for some time been a key plank of Italy's domestic anti-fraud activities. Indeed, during its six-month presidency of the European Union Council (July 1 to December 31, 2014), **Italy proactively sought to establish a legal instrument for direct administrative co-operation**, giving it priority status on the Anti-fraud Group (AFG) agenda.

In its *Resolution on the Annual 2015 Report on Protecting the European Union's financial interests*, approved on May 16, 2017, **the European Parliament reiterated the need to establish an effective system for direct cooperation between individual member states** to combat transnational fraud within the framework of ESI funds.

**One positive aspect is collaboration with the European Anti-Fraud Office (OLAF), which is, at present time, the only administrative "channel of cooperation" for investigations into structural funds and the Common fishing policy** (now part of the ESI funding system).

## The Dossier

Part One:

Research carried out by

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- Map of the complex system for managing European funds
- Presentation of a detailed framework of the phenomenon from Community and national legislative standpoints
- Analysis of data on cases of fraud and irregularities identified in Italy and reported to the Commission
- At juridical and organizational level, an exploration of the architecture of the supervisory system for ensuring that the Union's resources are legitimately used.

Part Two:

- The framework of the *Guardia di Finanza's* responsibilities
- Lines of action and methods of intervention in cases of misappropriation, fraud and undue requests/receipt of resources from the Union budget (interventions carried out, flows subject to operational interests, results achieved and asset clawback applied to perpetrators)
- A set of cases from the most significant system of fraud in the field.

In appendix, the Dossier offers a comprehensive bibliography with hyperlinks to Community and domestic legislation.

Focus edited by

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