



A NEW LEAF

Agricultural Network
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Against the Fraud



FIGHTING FRAUD

Legislative framework and models of governance against fraud and corruption

Padova, May 5th 2015

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(for more information see http://ec.europa.eu/anti_fraud/about-us/funding/index_en.htm)





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Ministero delle
politiche agricole
alimentari e forestali

The role of MIPAAF (Ministry of Agriculture and Forestry) in the context of irregularities and fraud against the Common Agricultural Policy

Padova, May 5th 2015

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The role of MIPAAF (Ministry of Agriculture and Forestry) in the context of irregularities and fraud against the Common Agricultural Policy

ABSTRACT

Every year, the EU disburses funds worth about € 4.5 billion for the direct payments scheme and the Common Market Organization measures of the Common Agricultural Policy (CAP) measures in Italy, and an additional € 1.2 billion, net of the national co-financing, to support rural development.

This is a massive financial compensation for a large number of beneficiaries, and is unfortunately subject to the risk of fraud, which must be prevented through concrete actions and measures.

In this context, the Ministry of Agriculture and Forestry - as a partner of the European Union in the implementation of European legislation on the CAP at the national level - plays a major role. Directly or in cooperation with other institutional bodies, it has established an effective and efficient national system for preventing and combating fraud against the CAP.

Finally, we provide a brief statistical analysis of fraud and irregularities reported by Italy to OLAF, pursuant to the relevant legislation of the sector, as an overview of this complex phenomenon.



Topics discussed

- ✓ National and EU regulatory framework concerning irregularities and fraud against the CAP
- ✓ The Ministry of Agriculture and Forestry in the context of irregularities and fraud against the CAP
- ✓ Some statistics on irregularities and fraud against the CAP perpetrated in Italy and reported to the European Commission pursuant to EU Regulation n. 1848/2006
- ✓ Remarks



EU reference legislation on irregularities and fraud – overview

Fraud prevention is one of the cornerstones of the protection of the European Union's financial interests

✓ Fraud prevention

Treaty on the Functioning of the European Union - art. 325

✓ Definition of irregularities

COUNCIL REGULATION (EC, EURATOM) N. 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests – **art. 1(2)**

✓ Definition of fraud

COUNCIL ACT of 26 July 1995 drawing up the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office – **art. 1(1)**

✓ General aspects

REGULATION (EU, EURATOM) N. 966/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 on the financial rules applicable to the general budget of the union



EU reference legislation on irregularities and fraud against the CAP 1/2

Fraud has always been taken into consideration in the CAP's financial regulations.
Greater attention has been paid to this issue in 2014-2020 programming.

- ✓ **REGULATION (EU) N. 1306/2013 OF THE COUNCIL of 17 December 2013** on the financing, management, and monitoring of the common agricultural policy – **Art. 58**
- ✓ **COMMISSION DELEGATED REGULATION(EU) N. 907/2014 of 11 March 2014** supplementing Regulation(EU) n. 1306/2013 of the European Parliament and of the Council with regard to paying agencies... – **Annex I (Accreditation criteria for paying agencies)**



EU reference legislation on irregularities and fraud against the CAP 2/2

- ✓ **COMMISSION IMPLEMENTING REGULATION (EU) n. 908/2014 of 6 August 2014** laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies – **Annex I (Management declaration)**
- ✓ **COMMISSION REGULATION (EC) N. 1848/2006 of 14 December 2006** concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field



THE MINISTRY OF AGRICULTURAL, FOOD, AND FORESTRY POLICIES



D.P.C.M. n. 105 of 27/02/2013

The Ministry of Agricultural, Food, and Forestry Policies (MiPAAF) drafts and coordinates policy guidelines for the agriculture, forestry, food, and fishing sectors at the national, European, and international levels.

In particular, the **Department of European and International Policies and Rural Development** is responsible for liaising with the European Union during the drafting and implementation of regulations issued by the European Council, Parliament, and Commission.



The MiPAAF's activities in the context of irregularities and fraud against the CAP

- I. Proposing draft legislation and regulations concerning fraud against the CAP**
- II. Participating in EU and national assemblies on the issue of fraud**
- III. Maintaining relationships with EU and national bodies involved in fraud prevention**
- IV. Playing an active role in fighting fraud against the CAP**
- V. Coordinating the sending of reports of CAF irregularities to the Commission (OLAF) and managing the related information system at the national level.**



I. – Italian anti-fraud legislation1/3

Overview

Penal code

- ✓ **art. 316-bis.** Misuse of public funds (European Communities)
- ✓ **art. 316-ter.** Embezzlement of public subsidies (European Communities).
- ✓ **art. 640-bis.** Aggravated fraud for the embezzlement of public subsidies

Specifically for the CAP

LAW n. 898 of 23 December 1986

Converts into law and amends Law Decree n. 701 of 27 October 1986, containing urgent measures on the oversight of Community subsidies for the production of olive oil. Administrative fines and penal sanctions concerning Community subsidies to agriculture



I. – Italian anti-fraud legislation^{3/3}

Law n. 898 of 23 December, 1986

Jurisdiction over the implementation of sanctions

- ✓ **Measured financed by the EAGF (opinion of the Council of State n. 2991/2012)**
 - MiPAAF in case of subsidies paid by national producers' associations
 - Regional administrations in case of subsidies paid by national producers' associations
- ✓ **Measures financed by the EAFRD (opinion of the Council of State n. 1663/2005)**
 - Regional administrations



I. – Italian anti-fraud legislation^{2/3}

Law n. 898 of 23 December 1986

Salient aspects

- ✓ Adopted at a particular juncture
- ✓ Specifically to fight fraud against the CAP(EAGF and EAFRD)
- ✓ Identifies clearly and simply the type and object of the fraudulent activities prosecuted
- ✓ Calls for detention (for misuse of funds worth over € 5,000)
- ✓ Calls for administrative fines, with different rules for EAGF (equal to the underserved payment) and EAFRD (between € 150 and 150,000 depending on bracket)
- ✓ Also includes national co-financing
- ✓ Penal aspects are independent from administrative ones



II. –MIPAAF participation in assemblies concerning fraud-1/2

With reference to the CAP, MiPAAF participates in the following assemblies

✓ Comitato per la lotta contro le frodi nei confronti dell'Unione Europea – COLAF

- It is Italy's Anti-Fraud Coordination Service – AFCOS. It is based at the Department for European Policies of the Prime Minister's Office and comprises representatives from the administrations involved in preventing irregularities and fraud against European funds.
- It has consultative and steering responsibilities for the coordination of activities to prevent fraud and irregularities in the fiscal sector, the **common agricultural policy**, and structural funds.
- On an annual basis, and with the contribution of the relevant administration, it drafts Italy's answers to the "Questionnaire on the implementation of article 325 of the TFEU", which is then sent to the EU Commission
- It drafts and sends to Parliament the "Annual Report of the National Anti-Fraud Coordination Service".



II. – MIPAAF participation in assemblies concerning fraud 2/2

✓ Advisory Committee for the Coordination of Fraud Prevention – COCOLAF

It is based at the European Commission in Brussels– The Committee discusses the results obtained and the strategies to prevent fraud to be adopted by all member states.

✓ Committee on the Agricultural Funds

It is based at the European Commission in Brussels– The Committee discusses the financial aspects of the CAP, including those concerning irregularities and fraud.



III. –MIPAAF relations with agencies involved – in various capacities – in fraud prevention activities

The MiPAAF works closely with various agencies involved in fraud prevention activities

- ✓ **Paying agencies and coordinating agencies**
 - MiPAAF hosts the Authority in charge of accreditation of paying agencies and monitoring the fulfillment of the accreditation requirements set out in Annex I of Commission Implementing Regulation (EU) n. 907/2014
 - MiPAAF's PIUE III office coordinates the reporting to the EU Commission (OLAF) of irregularities pursuant to Regulation (EC) n. 1848/2006
- ✓ **Court of Audit – Section on the oversight of Community and international affairs**
 - The Court drafts an annual report to Parliament on “Financial relations with the European Union and the use of EU funds”, which places special emphasis on irregularities and fraud
 - It also prepares periodical specific reports on fraud against EU funds, including the EAGF and EAFRD
- ✓ **General Command of the Financial Guard**
 - Exchange of information on general aspects concerning the prevention of fraud against the CAP
 - Exchange of information on the results achieved by the Financial Guard's units in the prevention of fraud against the CAP
- ✓ **Other national and local bodies**
 - Customs and Monopolies Agency, autonomous regions and provinces



IV. – Fraud prevention1/2

Relations with law enforcement agencies operating in fraud prevention

Carabinieri – Agricultural Policy Unit

Operates under the functional jurisdiction of the Ministry of Agriculture and Forestry in various capacities, including **extraordinary controls on the disbursement and receipt of Community subsidies** in the food, agriculture, fishing, and aquaculture sectors.



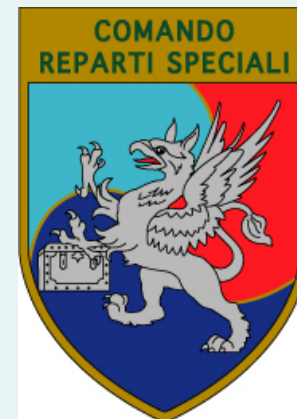
Financial Guard

Special Unit on Public Funds and the Prevention of Fraud against the European Community

It has jurisdiction over public spending, fiscal damage, **fraud against the Community budget**, and outflows from the national and local agency budgets.

It is responsible for analyses and for liaising with local units investigating matters over which it has authority.

It has a presence within the Ministry of Agriculture and Forestry.



IV. – Fraud prevention2/2

Ministerial bodies involved in fraud prevention activities

State Forestry Corps

The law enforcement arm of the Ministry of Agriculture and Forestry, it specializes in protecting Italy's natural heritage, preventing and prosecuting environmental and food crime, and is also responsible for preventing fraud against the CAP



Department of the central inspectorate for the protection of food quality and the prevention of fraud

This ministerial department is responsible for fines and sanctions, including those provided for by law 898/86, and for all related litigation



V. – Reporting of CAP irregularities to the EU Commission (OLAF) 1/2

past

- ✓ **COUNCIL REGULATION (EEC) N. 283/72 of 7 February 1972**
concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field.
- ✓ **COUNCIL REGULATION (EEC) N. 595/91 of 4 March 1991**
concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field and repealing Regulation (EEC) No 283/72.

present

- ✓ **COMMISSION REGULATION (EC N. 1848/2006 of 14 December 2006**
concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Council Regulation (EEC) No 595/91.

future

- ✓ **COMMISSION DELEGATED REGULATION (EU) .../... of...XXX**
supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD).and repealing Commission Regulation (EC) No 1848/2006
- COMMISSION IMPLEMENTING REGULATION (EU).../... of...XXX**
on the setting out of the frequency and the format of the reporting of irregularities, under Regulation (EU) No 1306/2013 of the European Parliament and of the Council, concerning the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD)



V. - Reporting of CAP irregularities to the EU Commission (OLAF) 2/2

General elements

- ✓ **Art. 3 – initial reporting of information on an irregularity**
- ✓ **Art. 5 – subsequent reporting of updates**
- ✓ **Closing of the procedure following full recovery of the underserved payment or confirmation of irrecoverability**

Operational modalities

- ✓ **Up to 2000 on hard copy through the postal service**
- ✓ **Starting 2000 either electronically, through a small number of centralized lines, or on hard copy through the postal service**
- ✓ **Starting in 2009 exclusively electronically, through many decentralized lines**
- ✓ **Until 2013 IMS system, in 2014 NIMS system, starting in October NIMS 5.0 system**



V. – Italian framework for the reporting of irregularities to OLAF - Reg. (EC) n. 1848/2006

level 0

OLAF

level 1

Customs and Monopoles
Agency

MiPAAF

level 2

SAISA





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YESTERDAY - 1973



A reporting form for irregularities- Reg. EEC n. 283/72

ALLEGATO A
(1116/02/197)

SCHEDE GARANZIA

R I S E R V A T O

RILEVAZIONE TRIMESTRALE DELLE IRREGOLARITA', A NORMA DELL'ART. 3
DEL REGOLAMENTO (CEE) N. 283/72.

Trimestre: ...2°.../...1973...

Stato membro: ITALIA Organismo pagatore: INTERVENZIONE DI FINANZA-ROMA

SCHEDA INFORMATIVA

- Numero: R.283/I/.2°...1973.../...1.....
(trim) - (anno) / (N° prov. o d'ordine)
- Disposizione(i) trasgressiva(e):
Norme nazionali penali
- a) Natura della spesa: Restituzione prelievo all'esportazione... R
b) Entità della spesa: L. 8.588.810
- a) Organizzazione comune di mercato: 13742 uA
b) Prodotto(i): Carni suine lavorate PM
- Data o periodo in cui è stata commessa l'irregolarità:
...11.12.70 e 8.1.72
- Fatto che ha determinato l'irregolarità:
(caratteristiche) ...Falsa dichiarazione doganale... (per l'art. 3816 d. 11.6.73)
...La dichiarazione doganale è stata presentata in data 11.12.70 e 8.1.72.
- Scoperta dell'irregolarità:
(data e circostanze) ...verifica Polizia Tributaria Processo Verbale
di accertamento di violazione di leggi doganali 15.6.73 trasmesso su
autorizzazione A.Giudiziaria in data 19.6.73
- Ufficio o servizio che ha constatato l'irregolarità:
Dogana di Genova
- a) Conseguenze finanziarie:
b) Possibilità di recupero: Avanzata richiesta di fermo amministrativo
su altre pratiche di rimborso, al Giudice Istruttore del Tribunale
di Genova

IL FUNZIONARIO RESPONSABILE
(qualifica, nome e cognome)
...PM...
(data) 7.9.73...



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A reporting form for irregularities – Reg. (EC) n. 1848/2006

TODAY - 2015



AFIS Portal **Production** **AFIS IMS v.4.1.7** *AFIS Operations*

Benvenuti Francesco Gurrieri Ultimo accesso: 11/03/2015 09:53:11 CARATTERI SPECIALI IL MIO PROFILO AIUTO DISCONNESSIONE

NIMS - Initial communication R1848/CAP/IT/MPAF/2015/10228/1 EUR~EURO - EUROPA **View history**

1. Identificazione **2. Nominativi** **3. Operazione** **4. Irregolarità** **5. Individuazione** **6. Importi** **7. Recupero** **8. Sanzioni** **9. Commenti**

10. OLAF

Identificazione della comunicazione

1.1. Numero indice - OLAF R 1848 / EAGF/EAFRD / IT / MPAF / 2015 / 10228 / 1

1.2. Numero indice - nazionale

Redazione informazioni

1.3. Autorità notificante IT_MPAF - MINISTERO POLITICHE AGRICOLE e FORESTALI

1.4. Lingua della comunicazione Italiano

1.5. Valuta EUR~EURO - EUROPA

1.6. Trimestre della comunicazione - iniziale Secondo Trimestre 2015

1.7. Trimestre della comunicazione - aggiornamento

1.8. Data di creazione 17/04/2015 (gg/mm/aaaa)

Notifica speciale

1.9. Nuovo modus operandi ☐

1.10. Necessità di informare gli altri paesi ☐

1.11. Caso irrecuperabile ☐

Stato

1.12. Stato procedimenti

1.13. Stato finanziario

Chiusura caso

1.14. Caso può essere chiuso ☐

1.15. Caso chiuso ☐

1.16. Data chiusura caso (gg/mm/aaaa)

Fine Internet 100%

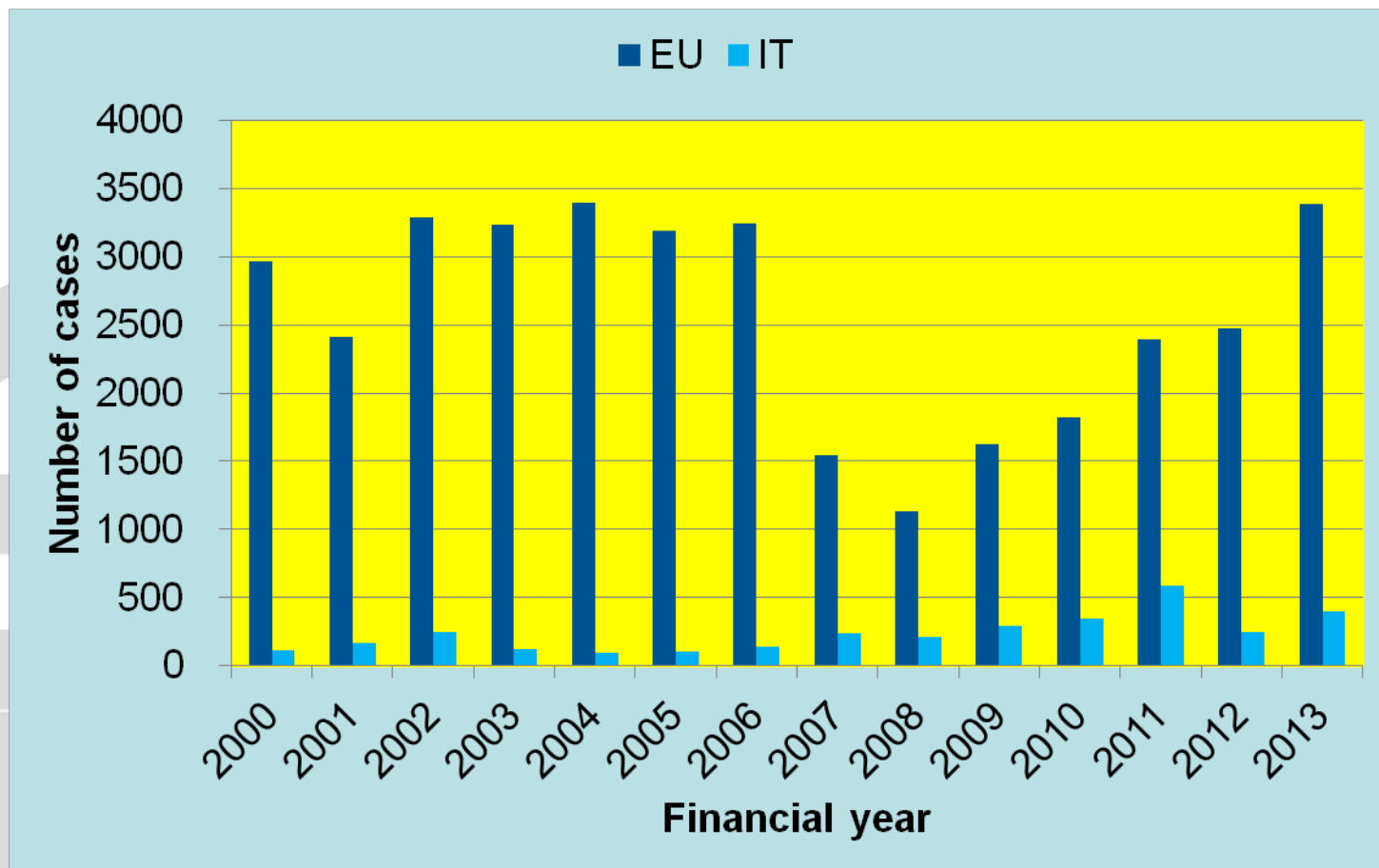


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IRREGULARITIES REPORTED IN 2000 – 2013

NUMBER OF CASES – ITALIAN CASES COMPARED TO THE EUROPEAN TOTAL



(EU share only)



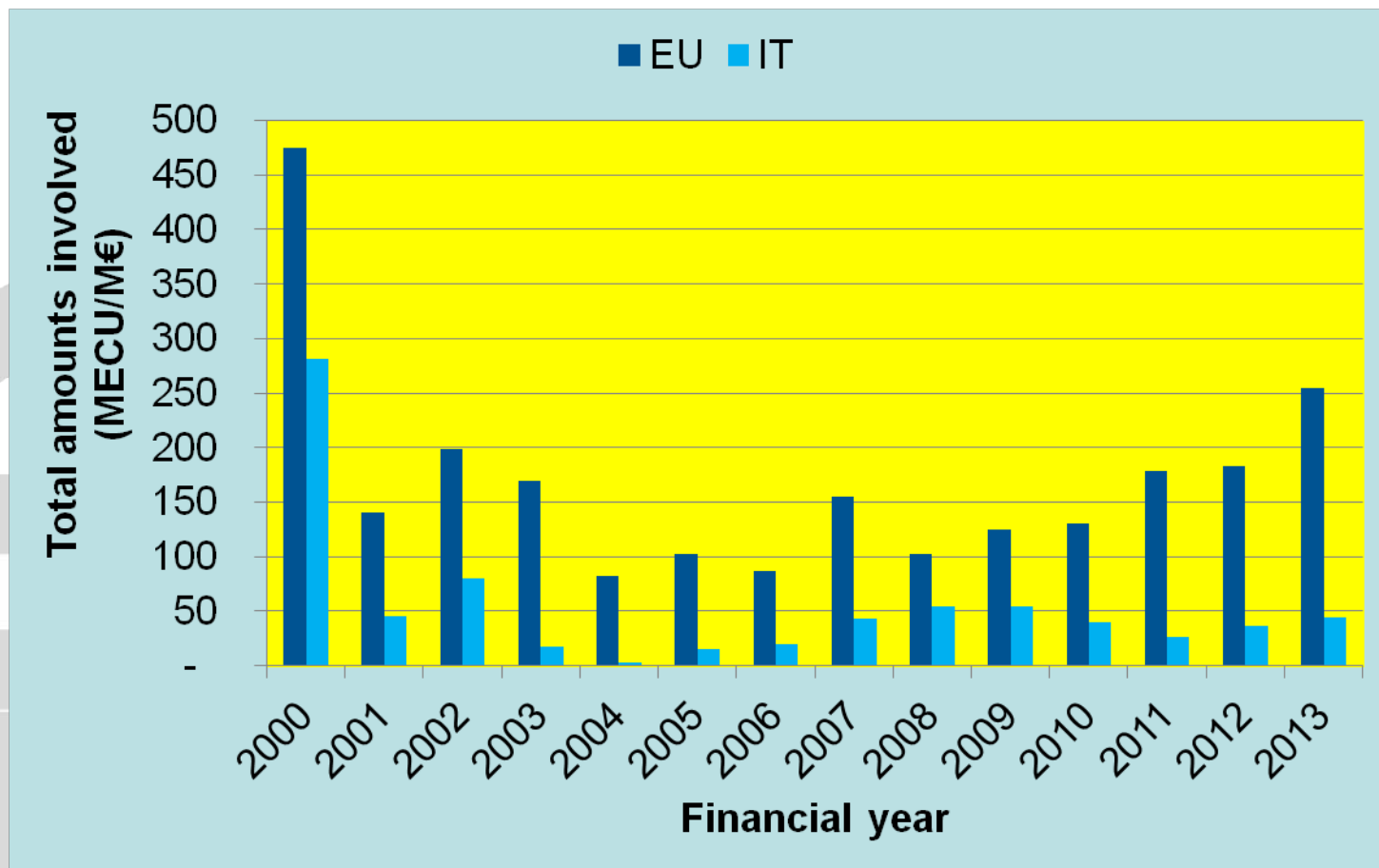


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IRREGULARITIES REPORTED IN 2000 – 2013

TOTAL AMOUNTS INVOLVED – DATA FROM ITALY COMPARED TO THE EU TOTAL



(EU share only)



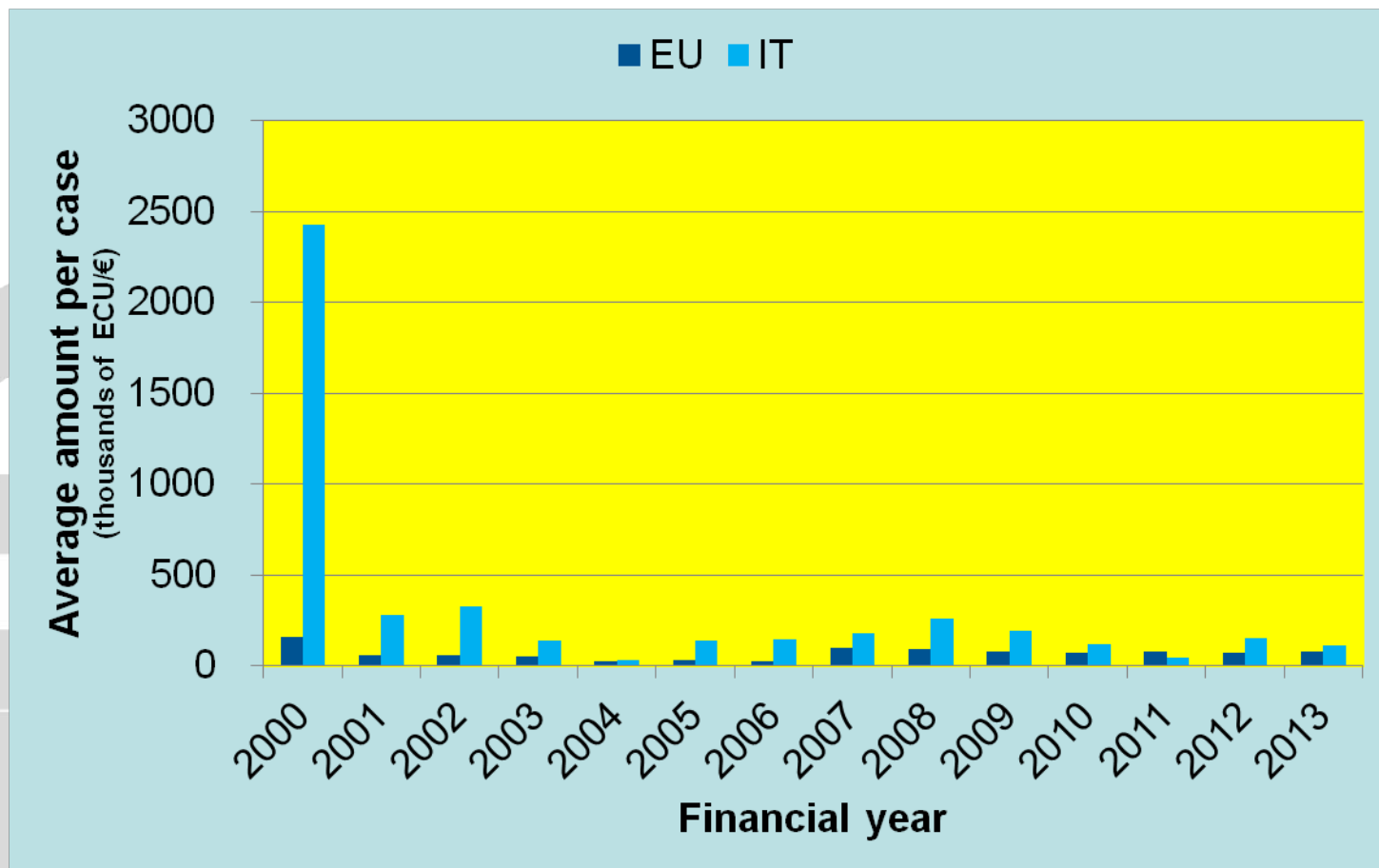


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IRREGULARITIES REPORTED IN 2000 – 2013

AVERAGE AMOUNT PER CASE - DATA FROM ITALY COMPARED TO THE EU TOTAL



(EU share only)



ITALY – IRREGULARITIES AND FRAUD REPORTED FOR THE 2014 FISCAL YEAR

TYPE	NUMBER	AMOUNT (€)
UNSPECIFIED	6	1.605.891,43
IRREGULARITY (IRQ2)	418	31.462.682,31
SUSPICION OF FRAUD (IRQ3)	54	5.812.888,26
FRAUD (IRQ5)	--	--
TOTAL	478	38.881.462,00





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ITALY AND FRAUD AGAINST THE CAP 1/2

A few press clippings.....

Truffa a Stato e Ue: ottenevano finanziamenti milionari per mandrie inesistenti

[Frodi. Italia maglia nera su agricoltura e fondi strutturali. Illeciti diminuiti ma c'è stato un salto di qualità che rende difficile scoprirli](#)

Italia in testa per i casi di frode nel settore agricolo. Ma non solo. Anche nella pesca e nell'utilizzo dei fondi strutturali. Lo scrive la Commissione europea nel rapporto annuale sulla

tà e agricoltura, un bi-
questo che si ripropone
e più spesso nei titoli di
li e telegiornali a dimo-
i come ormai il settore
nentare italiano presenta
i illegalità e di criminali-
uno la libera e leale com-
a le imprese del settore e
l normale funzionamen-
cati. Sempre più spesso
atiche toccano il lavoro
mpi così come l'utilizzo

presenti risultati in controtendenza.

460 milioni di euro. L'agricoltura, che da sempre occupa i primi posti nella lista delle frodi europee per la prima volta, stando ai dati diffusi

gli interessi finanziari dell' la crescita costante di frodi tarie e corruzione in territ-
peo. e gravi sono le ripercu

budget comuni

Nel 2008, si
dati presentati
mese, sono stat
te 425 indagin
204 nuovi casi
dei quali ha r
sei paesi: Itali
Bulgaria, C
Romania e Re
to. Dati positi
anche all'uso, f
ma volta nel 2008, di coll



presenta risultati in controtendenza.

ma volta nel 2008, di coll

Gli illeciti più comuni accertati hanno riguardato: la mancanza del requisito della residenza in zona montana o svantaggiata, la non disponibilità assoluta o parziale di bestiame, la non disponibilità delle superfici dichiarate in domanda, la mancata utilizzazione dei pascoli montani indicati in domanda.

Aziende agricole 'truffatrici': 99 denunce, 1,4 milioni di multe




ITALY AND FRAUD AGAINST THE CAP 1/2

Italy is implementing strong and effective measures to prevent fraud

- ✓ To prevent fraud against the EU (CAP), it has long implemented measures analogous to those used to prevent fraud against national financial interests (principle of assimilation, art. 325 TFEU)
- ✓ It has a number of law enforcement agencies operating in the prevention of fraud, including the Financial Guard, which has specific jurisdiction over economic and financial crime
- ✓ It has long had an Anti-Fraud Coordination Services (COLAF) with consultative and steering responsibilities for coordinating fraud prevention activities at the national level
- ✓ It strives to promote an anti-fraud culture shared by the various administrations involved





Thank you for your
attention

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