

# Introduction to the PIF Directive and particularities regarding its implementation in the Member States

ERA Workshop

Competences of the EPPO and Cooperation with National Authorities

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•Case study

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The project's background to request EU funding

The director of the **Italian company A** applied for Community assistance (EU funding from the Guidance Section of the European Agricultural Guidance and Guarantee Fund- EAGGF Guidance Section) under Article 8 of Regulation No 4256/88 for a pilot and demonstration project for the use of new technology on fruit trees.

The project's background to request EU funding

The application states that the project was designed to demonstrate the possibility of reducing the costs of applying fertiliser for a number of fruit tree varieties and treating them against pests using a technique based on the 'intravenous' injection of nutrients and fungicides in a preprocessed form which can therefore be directly assimilated by the trunk.

The project's background to request EU funding

According to the application, the project was to consist of three stages:

Agronomic

Agro-industrial

Publication

The project's background to request EU funding

#### Agronomic:

new method was to be put into practice by applying it to various fruit trees, namely apple trees, pear trees, plum trees, peach trees, apricot trees and actinidia trees (plants which bear kiwi fruit). The intention was to collect data on the progress of that stage and to monitor the results.

The project's background to request EU funding

#### Agro-industrial:

the fruit produced using the new system was to be compared with traditionally-produced fruit, using laboratory tests and also comparing their keeping quality.

The project's background to request EU funding

**Publication:**

the publication of the results of the projects, was to include design and production of written and audiovisual materials.

The application stated that implementation of the project would last 24 months and that its total cost would be euro **2 084 000**.

**Award of the Union's assistance**

The Commission granted the applicant's request for assistance from the EAGGF Guidance Section for the above-mentioned project (Article 1). Under Article 2 of the Award Decision the period for implementing the project was set at 24 months. Under Article 3 the eligible costs of the project was euro 2 072 000 and the maximum Community contribution was euro 1 036 000. Article 3 also stated that if the costs finally incurred showed that the eligible cost was less than that originally provided for the amount of assistance would be reduced proportionately.

### Award of the Union's assistance

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### Award of the Union's assistance

Under the financial conditions laid down in Annex II to the Award Decision, the Commission was authorised, for the purposes of checking the financial statements of the various expenses, to ask to examine any original document, or a certified copy thereof, and to carry out that examination directly on site or to request the documents in question to be sent to it (paragraph 5). It was also stated that if any of the conditions set out in that Annex was not complied with or if operations not provided for in Annex I were undertaken the Community could suspend, reduce or withdraw the assistance and require repayment of sums already paid (paragraph 10).

Award of the Union's assistance

The Commission paid the applicant an initial tranche of euro 414 000, equal to 40% of the Community assistance. Seven months later it ordered the payment of a second tranche amounting to euro 310 800, equal to 30% of the assistance. The third tranche remained unpaid.

Award of the Union's assistance

At the time of the second tranche payment, the Commission conducted **an on-the-spot inspection of the project**. The report drawn up relating to that inspection visit did not reveal any irregularities.

### Award of the Union's assistance

By letters dated two years later the applicant gave reports on the state of progress of the work and asked that the date set for ending the project should be postponed due to the unfavorable weather conditions which had affected the harvest. The Commission agreed to the requested postponement and set a new date for ending the project.

On completion of the project, however, it was clear that the new technique did not meet in practice the objectives set for it.

By letter, **Company A** informed the Commission that work on the project had been duly completed. It added that the reports were being drawn up and that *'the final report and the economic assessments of the results obtained giving a methodological description of the instruments used for publishing them'* would be sent as soon as possible. That letter received no reply from the Commission. The final report on the project was sent to the Commission two years later.

### On-the-spot inspections carried out two years after the end of the project

Following an audit of an Irish project conducted by the European Court of Auditors, OLAF decided to carry out a series of inspections of a certain number of projects receiving Community assistance under Article 8 of Regulation No 4256/88 because it suspected that a network had been set up in order to obtain Community subsidies by fraud. The Italian project was subjected to such inspections. The network involved similar projects in several EU Countries. An on-the-spot inspection of the project was carried out under Article 23 of Regulation No 4253/88 at the applicant's premises. OLAF carried out the inspection in the presence of officials of the **Italian Authorities** and the director of **Company A** at that time and its advisers. OLAF drew up a report setting out the results of the inspection.

On-the-spot inspections carried out two years after the end of the project

The OLAF report highlighted the following issues:

- a) the human resources mentioned in the application for assistance did not exist
- b) contrary to what was stated in the application for assistance, the competent public office (Ispettorato Provinciale dell'Agricoltura) had no connection with the project

On-the-spot inspections carried out two years after the end of the project

The OLAF report highlighted the following issues:

- c) staff costs and related expenses were charged to the project at a flat-rate 50% of the overall staff costs of the beneficiary of the project, but no detailed supporting documents concerning the people employed on the project and the work carried out were supplied to the Commission



Issues for the discussion

Does this situation amount to a fraud under the PFI directive

Can/may/shall OLAF report the case to the EPPO (art 24 regulation; art 101 regulation)

EPPO assessment (art 25 para 2 and 3 regulation)

The national judicial authority has already opened a case: what happens (art 24 para 2, 27 regulation)

Issues for the discussion

Does this situation amount to a fraud under the PFI directive

Art 27 para 8: damage of less than 100.000 euros

Can the EPPO use the OLAF report as evidence

Can OLAF still play a role in the EPPO investigation (art 101)

How can the EPPO undertake cross-border investigative measures

