



AFCOS Bulgaria: Role, Procedures and Practice for Interreg Programmes

*General Overview
Case Studies*



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What is an Anti-fraud coordination service (AFCOS)?

An AFCOS (anti-fraud coordination service) is:

- an **operationally independent national authority**
- responsible for **protecting the EU's financial interests from fraud and irregularities.**

What does AFCOS do?

- coordinates **legislative, administrative and operational obligations and activities** aimed at protecting the EU financial interests
- ensures **liaising between national authorities and OLAF**
- **notifies the Commission of fraud and irregularities**



Arrangements for AFCOS Bulgaria



AFCOS Council
(high political level)



AFCOS Directorate
Ministry of Interior
(operational level)



AFCOS Council

Council for coordination in the fight against infringements affecting the financial interests of the European Union

Discussion of issues regarding the EU's financial interests and support to measures and activities, taken by the national authorities in the fight against fraud and irregularities

Interaction and cooperation with the Prosecution Office

Preparation and adoption of projects of new legislative acts, strategies and action plans regarding fight against fraud and irregularities with EU funds

Making decisions and taking measures for optimization of the process of the fight against fraud with EU funds



Structure & Functions of the AFCOS Directorate



The AFCOS Directorate is a structure within the Ministry of Interior, which carries out **control, information and coordination** activities with regard to the **protection of the financial interests of the European Union** and serves as an **Anti-Fraud Co-ordination Service**, which supports the **efficient cooperation and exchange of information** with the European Anti-Fraud Office (OLAF) in accordance with art. 3 pt. 4 of Regulation (EC, Euratom) № 883/2013 of the European Parliament and of the Council of 11 September 2013 Concerning Investigations Conducted by the European Anti-Fraud Office (OLAF)



Operational Cooperation Unit



Serves as a contact point with OLAF and the competent authorities in other Member States and third countries



Secretariat of the AFCOS Council



Implements the operational cooperation and exchange of information with OLAF and EU Member States



Operational cooperation with OLAF in conducting the on-the-spot checks on the territory of Bulgaria



Assists OLAF with the preparation of the Report under Art. 325 of TFEU



Administrative Investigations Unit

1

- Conducts administrative investigations for identifying irregularities, affecting the EU's financial interests on own initiative or upon request by OLAF.

2

- Performs on-the spot checks as part of investigations in order to establish whether an irregularity/fraud has been committed or not

3

- Prepares reports on the investigations carried out with recommendations to the competent authorities with regard to the corrective measures to be taken



Key Players (the actors involved in the process)

European Anti-Fraud Office

AFCOS Directorate

AFCOS Council Members

Bulgarian Law Enforcement Authorities

Prosecution Office of Republic of Bulgaria



Legal Basis

The Rules behind the AFCOS Functioning

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

EU Sectoral Regulations and Implementing decisions

National Law

Law on the Ministry of Interior and the Rules on its implementation

Law on the management of the EU Structural and Investment Funds

Council of Ministers decree No 18 of 2003 for the Establishment of the AFCOS Council

AFCOS Internal rules on investigation procedures, operational cooperation and on-the-spot checks

Inter-institutional agreements



OLAF Judicial Recommendations Follow-up



The Prosecution Office, on OLAF request, shall submit to the AFCOS Directorate information about initiated, on-going and closed pre-trial proceedings with regard to:

- on-going administrative investigations, initiated by OLAF;
- closed administrative investigations followed by a final case report with judicial recommendations;
- on-the-spot controls on the territory of Republic of Bulgaria.



Case Studies

The Case Cycle

- Certain internal rules should be followed at each stage of handling the case.
- Only administrative methods are used
- In the assessment of information the compliance with the programmes' rules should always be examined



Case 1

- The collected information and documents were analyzed and the situation became clear.
- The Final case report contained all the findings and relevant documents.

Case Closure:

The Case Report, drafted in the English language, was communicated to OLAF

- A Romanian commercial company, receiving an EU grant, held a tender procedure and the winning bidder was a Bulgarian company.
- The Bulgarian company appeared suspicious.

Case Initiation:

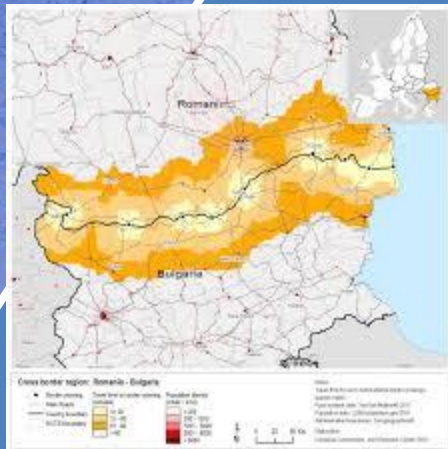
OLAF Request addressed to AFCOS Bulgaria

Interview with the present company owner – a poor person of the minorities

- The information gathered proved intentional criminal activities and fraud.
- The interviewed lady remembered nothing
- False willingness to cooperate

An on-the-spot check in the town of Ruse was organized and performed

- The office of the Bulgarian company was visited without prior notification;
- The help of the local police was requested and received.
- The companies accounting records were examined



Modus Operandi:

Pre-arranged tender procedures;

Purchase and sale of one and the same equipment with a huge price margin

Case Findings:

Intentional Criminal Behaviour – special arrangement for achieving a certain goal and use of the “services” of a homeless person on the foreign territory

Case Background:

Cross border region with free movement of persons and capitals;

Different national criminal law systems;

Bureaucratic communication between the MS.



Case 2

The project proposals was prepared by a consultancy

Renovation of cultural buildings in a small cross border municipality

Construction works

Improper implementation of the construction works
Low value for money!

Links between the construction company and the construction supervisor

Both companies were selected with the “help” of the consultant

Small
municipality in
the mountains
in a cross-
border region

Lack of local know-
how and expertise

Non-Fair
Competition -
arrangements
between the parties

Involvement of a
consultancy
playing double
role

The lack of local
knowledge and expertise
should be compensated
by the import of
knowledge and expertise

The consultants chase
the profit – both from
the beneficiary and the
contractors as the
consultants “sell” know-
how to all the interested
parties

