



The **OLAF** report **2014**

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The **OLAF** report **2014**

**Fifteenth report of the
European Anti-Fraud Office,
1 January to 31 December 2014**

DISCLAIMER:

OLAF's report features case studies for illustrative purposes only. In particular, the fact that OLAF presents such case studies does not prejudge the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.



Executive summary

In 2014, the European Anti-Fraud Office (OLAF) achieved excellent results in its investigative activity, confirming the strong investigative performance reported in 2013.

OLAF received the highest number of incoming allegations since its creation (1 417 items), it issued a record number of recommendations (397) and recommended the highest amount of financial recoveries for the EU budget (EUR 901 million) in the last five years.

OLAF opened a very significant number of investigations (234) — about 60 % more than in the years preceding its reorganisation of 2012 — and is working at full capacity. It also continued to reduce the overall duration of its investigations (down to an average of 21 months), with particular achievements in the selection phase, when OLAF assesses whether or not to open an investigation.

OLAF concluded several complex investigations in the areas of Structural Funds, customs, external aid and smuggling. It coordinated seven major joint customs operations. Examples of this work are presented in the chapter on case studies.

In this report, for the first time — and in order to respond to the interest expressed by various stakeholders — OLAF is presenting a breakdown of its investigations concluded during the year, by Member State and by institution.

In addition to its investigative work, OLAF continued to contribute to the development of EU anti-fraud policy, in particular regarding important proposals on the establishment of a European Public Prosecutor, the directive on the protection of the EU's financial interests and the consolidation of legislation on effective customs cooperation.

OLAF also entered into administrative arrangements throughout the year with several partners and with

EU institutions, in particular with the European Commission and the European External Action Service. Such arrangements provide for faster, easier and more transparent cooperation procedures and information exchange with these institutions, while ensuring full respect for OLAF's independence in its investigative function.

This report includes a focus chapter on OLAF staff.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, *Office européen de lutte antifraude*.

Communicating with OLAF

<http://olaf.europa.eu>

Reporting fraud to OLAF

http://ec.europa.eu/anti_fraud/olaf-and-you/report-fraud/index_en.htm

Complaining about an OLAF investigation

http://ec.europa.eu/anti_fraud/olaf-and-you/complaints-on-olaf-investigations/index_en.htm

Contacting OLAF with general enquiries

http://ec.europa.eu/anti_fraud/contacts/general-enquiries/index_en.htm

OLAF — European Commission — Rue Joseph II/Jozef II straat 30, 1000 Bruxelles/Brussel, BELGIQUE/BELGIË

Visiting OLAF

http://ec.europa.eu/anti_fraud/contacts/request-visit/index_en.htm

Media

http://ec.europa.eu/anti_fraud/contacts/media-enquiries/index_en.htm



Foreword

I am pleased to present the latest edition of the annual report of the European Anti-Fraud Office (OLAF). In 2014, OLAF achieved excellent results in its investigative activity, confirming the strong investigative performance already reported in 2013.

Following its reorganisation in 2012, OLAF has further consolidated its role in the fight against fraud affecting the financial interests of the European Union. OLAF has succeeded in gaining in efficiency and in concentrating on those cases where its intervention is most needed and can bring real added value. In 2014 we concluded complex investigations in areas such as Structural Funds, customs, trade, smuggling and external aid, examples of which are presented in this report. This important work allows for the better protection of EU taxpayers' money and helps to ensure that EU funds go to projects that create growth and jobs in Europe. It is a tangible and real contribution with clear benefits. We are confident that OLAF will be able to confirm these good investigative results in the coming years.

It goes without saying that OLAF can only succeed in the fight against fraud through sustained cooperation with its partners, in particular the Member States and the EU institutions. Only by taking appropriate follow-up action to OLAF's investigations will fraudsters be brought to justice and funds be recovered. In order to give a picture that goes beyond OLAF's investigative performance, we have included more detailed information than in previous years on the follow-up actions that our partners have given to our recommendations.

This year, we have devoted a special section of the report to our staff. OLAF is working at full capacity, which is particularly important since budgetary constraints are such that no staff increase is to be expected. The good performance of OLAF in 2014 therefore speaks for the professionalism, efficiency and commitment of our staff.

In the last few years, OLAF has gone through important changes in the structure and allocation of its staff. Today, to perform its mission, OLAF can therefore draw on a varied team of investigators, policemen and policewomen, public prosecutors, customs officers, forensic analysts and policy specialists coming from 27 Member States.

Our staff are our most valuable asset and I am convinced that it is also thanks to the diversity of their expertise that we in OLAF are together succeeding in delivering a high-quality service to EU citizens.

Giovanni Kessler
Director-General of OLAF



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1. OLAF's mission, mandate and competences

Mission: Detect, investigate and stop fraud with EU funds

MANDATE

OLAF fulfils its mission by:

- ▶ carrying out independent investigations into fraud and corruption involving EU funds so as to ensure that all EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- ▶ contributing to strengthening citizens' trust in the EU institutions by investigating serious misconduct by EU staff and members of the EU institutions;
- ▶ developing a sound EU anti-fraud policy.

COMPETENCES

In its independent investigative function, OLAF can investigate matters relating to fraud, corruption and other offences affecting the EU financial interests concerning:

- ▶ all EU expenditure: the main spending categories are Structural Funds, agricultural policy and rural development funds, direct expenditure and external aid;
- ▶ some areas of EU revenue, mainly customs duties;
- ▶ suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission, under the responsibility of Ms. Kristalina Georgieva, Vice-President in charge of Budget and Human Resources. However, when carrying out investigations, it acts as an independent body.

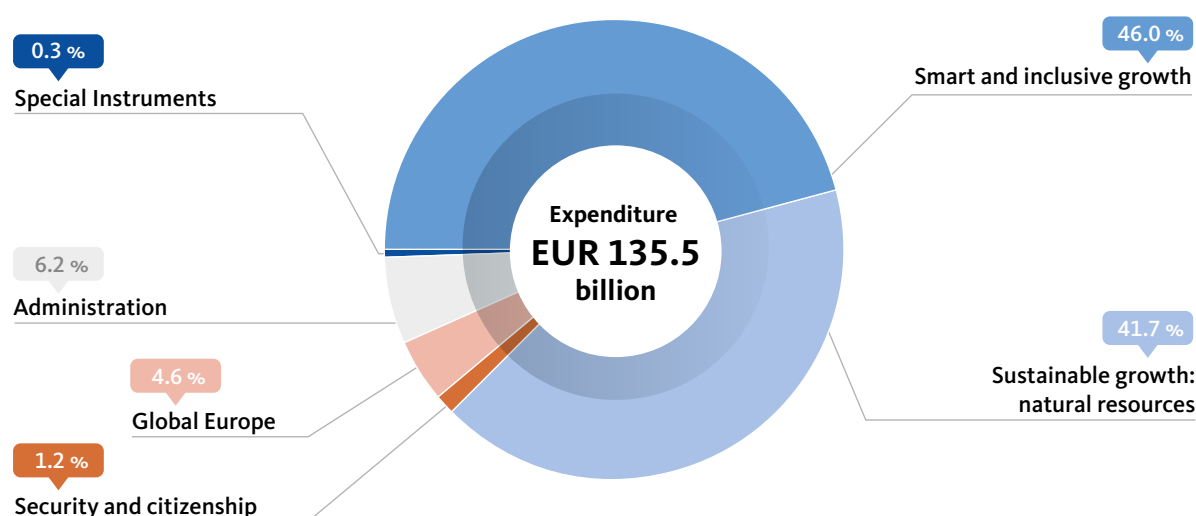
OLAF'S BUDGET

In 2014, OLAF's administrative budget of EUR 57.2 million was allocated as follows.

Figure 2: OLAF's administrative budget in 2014 (million EUR)

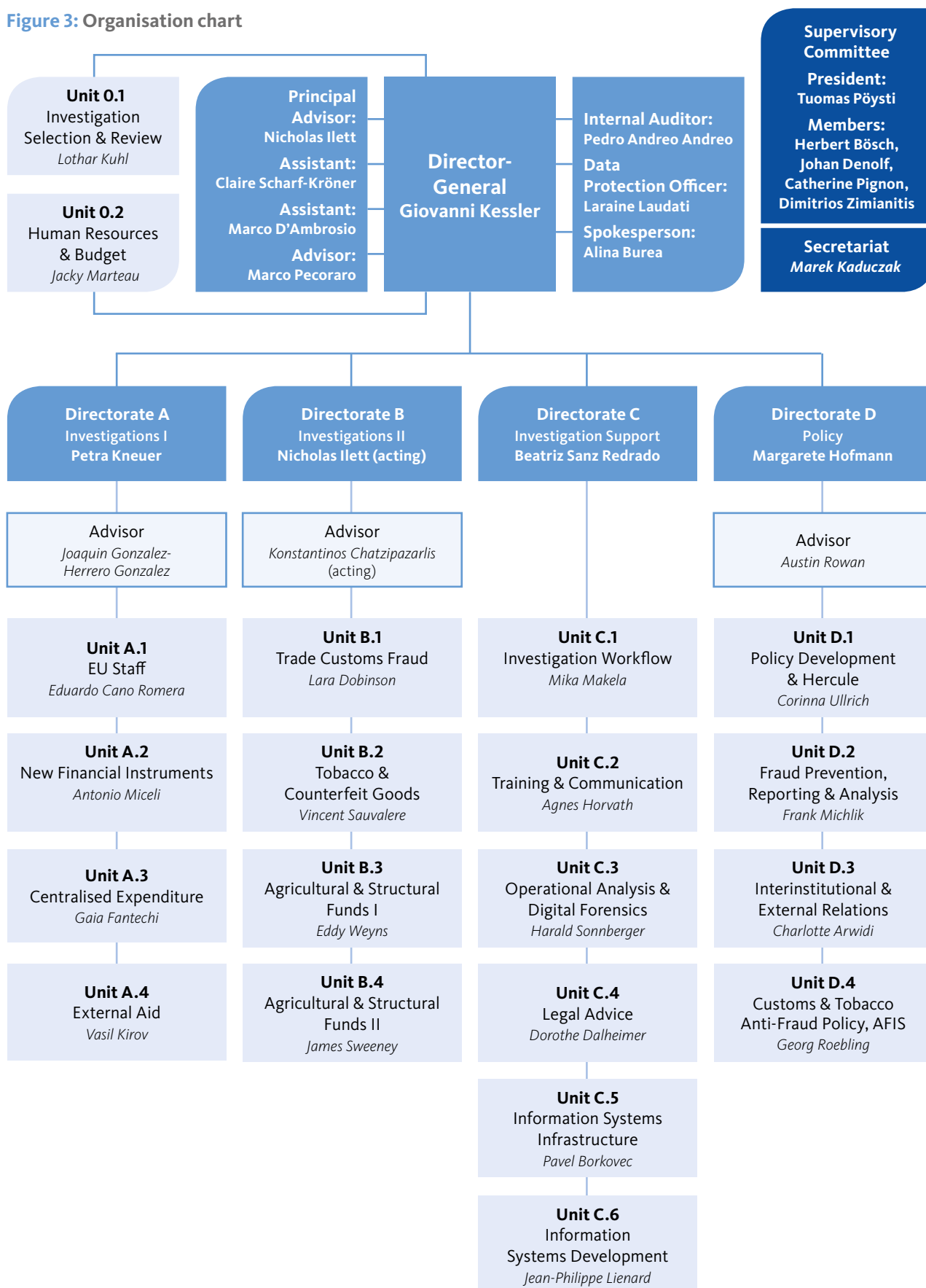
EU staff	38.5
External agents (contract staff, seconded national experts and interims)	2.6
Infrastructure	7.2
Information and communication technology	4.3
Missions	2
Training, meetings and committees	0.9
Anti-fraud measures	1.7
Total	57.2

Figure 1: EU budget 2014 — Expenditure (*)



(*) 2014/67/EU, Euratom: Definitive adoption of the European Union's general budget for the financial year 2014. Expenditures are expressed in payment appropriations.

Figure 3: Organisation chart



2. OLAF's investigative activity

OLAF's strong investigative performance in 2013 was followed by excellent results in 2014. OLAF received the highest number of incoming allegations since its creation and issued the largest number of recommendations in over 5 years. It also recommended the highest amount of financial recoveries for the EU budget in the

last 5 years and succeeded in opening a large number of investigations — about 60% more than in the years preceding its reorganisation of 2012. OLAF also continued to reduce the overall duration of its investigations. These results are detailed in the next chapters, along with supporting graphs and statistical data.

Figure 4: OLAF's investigative activity in 2014: a year of excellent results

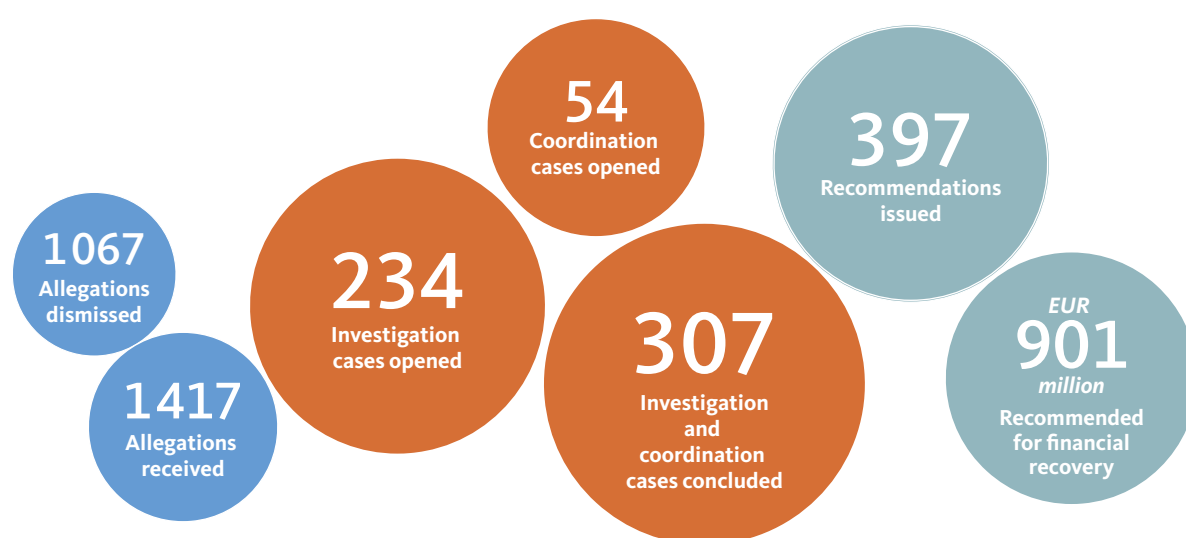
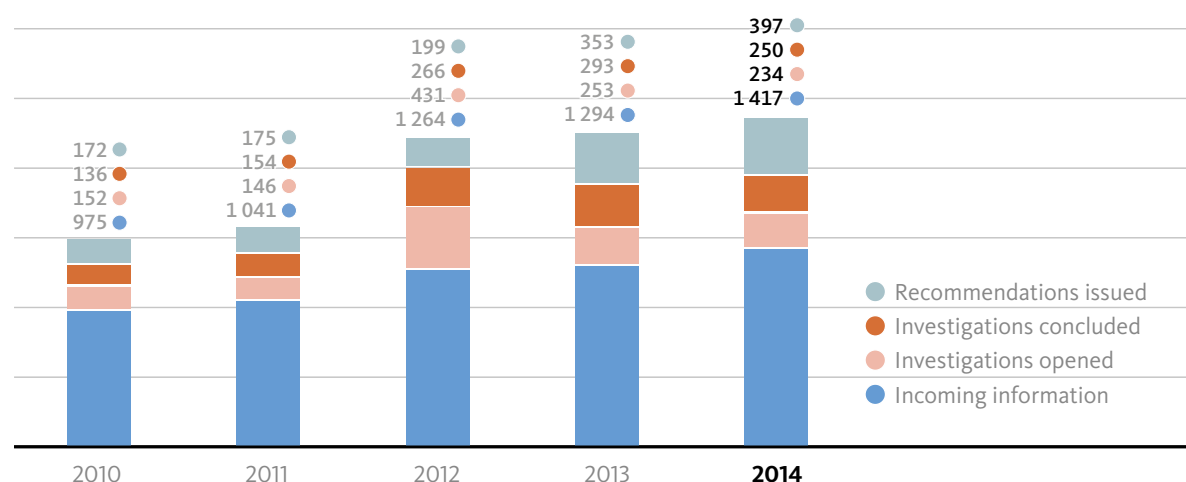


Figure 5: OLAF in 2014: incoming information at record level; highest number of recommendations issued in 5 years; high volume of investigations opened and concluded



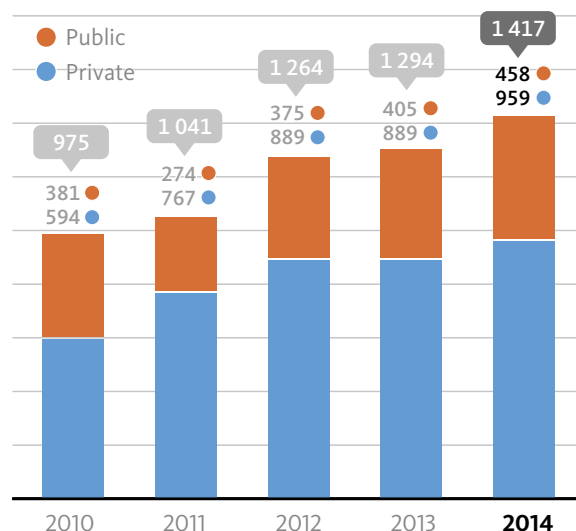
2.1. Incoming information

Incoming allegations of potential investigative interest are the starting point for OLAF's investigative activity. As provided for in the OLAF Regulation ⁽¹⁾, OLAF may open an investigation if there is sufficient suspicion of fraud, corruption or any other illegal activity affecting the EU's financial interests. Furthermore, OLAF can open investigations into serious misconduct by EU staff and members of the EU institutions in the discharge of their professional duties.

INFORMING OLAF IN 2014: A NEW RECORD YEAR

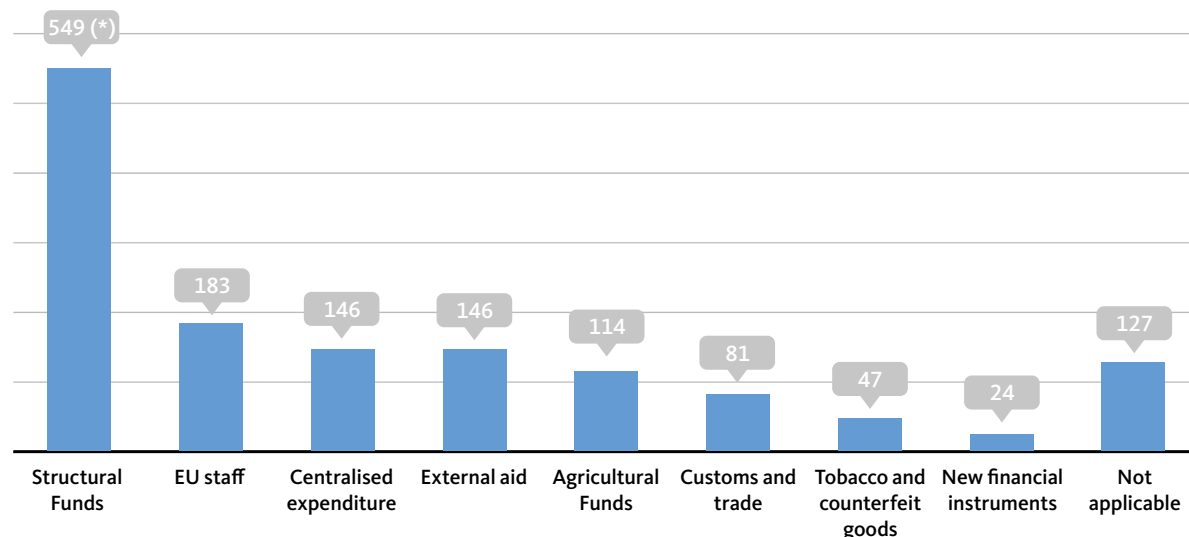
In 2014, following a steady increase in incoming information over the last 5 years, OLAF received the largest number of allegations since its creation: 1 417 items. This does not necessarily mean that fraud and corruption have increased, but it shows the increased trust and high expectations placed in OLAF by institutions and the public. A detailed breakdown shows in particular that, in 2014, OLAF received 13 % more information from the public sector than in 2013. Public sources

Figure 6: Incoming information by source



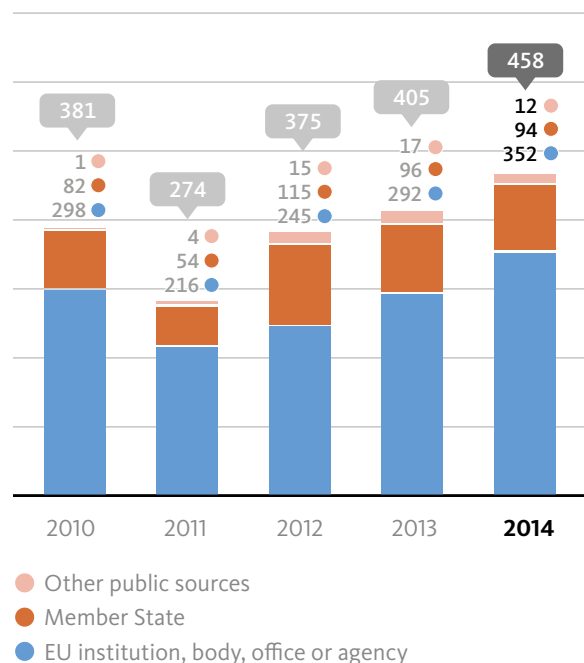
usually submit more substantial information in terms of suspicions of fraud than private entities. Therefore, based on this information, OLAF is more often able to pursue a case. The increase of information from public

Figure 7: Incoming information by sector



(*) Of which 127 concerned the European Social Fund.

⁽¹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.

Figure 8: Incoming information from the public sector

sources also reflects the better cooperation of OLAF with its partner institutions and other public authorities, as well as the implementation of anti-fraud strategies in the Commission services. In 2014, the largest amount of incoming information was related to the Structural Funds sector ⁽²⁾.

The Member States share the management of around 80 % of EU funds with the Commission. For this reason, OLAF continues to encourage Member States to provide it with any information at their disposal on potentially illegal activities and to pursue, at national level, fraud cases that affect the EU's financial interests.

⁽²⁾ The term 'Structural Funds' in this report covers the following: European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF) and European Maritime and Fisheries Fund (EMFF, and its predecessors EFF and FIFG), as well as the EAGGF Guidance Section.

The term 'Agricultural Funds' in this report covers the following: European Agricultural Fund for Rural Development (EAFRD), European Agricultural Guarantee Fund (EAGF), European Agricultural Guidance and Guarantee Fund (EAGGF — except the EAGGF Guidance Section) and pre-accession funding, including through the IPA, Phare and Sapard programmes.

The first column of Figure 9 shows the incoming information items reported by each Member State to OLAF. This is one indicator of the level of cooperation of national authorities with OLAF. It is also interesting to note the proportion of allegations received from public authorities and from private sources from each Member State.

Figure 9: Incoming information from Member States (*)

Member State	2014	
	Public source	Private source
Belgium	28	25
Bulgaria	5	54
Czech Republic	4	17
Denmark	0	2
Germany	10	25
Estonia	0	0
Ireland	0	5
Greece	4	27
Spain	4	52
France	5	14
Croatia	0	9
Italy	7	35
Cyprus	2	3
Latvia	0	5
Lithuania	2	1
Luxembourg	2	2
Hungary	0	28
Malta	0	1
Netherlands	3	6
Austria	2	2
Poland	2	50
Portugal	2	7
Romania	6	73
Slovenia	1	2
Slovakia	1	11
Finland	0	3
Sweden	0	0
United Kingdom	4	14

^(*) Twelve information items came from non-EU countries and international organisations in 2014, compared to 17 in 2013, and 486 private sources could not be attributed to a country.

2.2. Selection phase

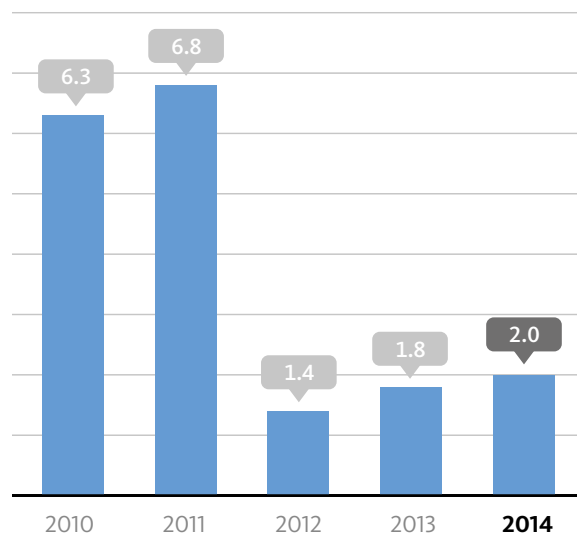
During the selection phase, the Investigation Selection and Review unit analyses information received of possible investigative interest and provides an opinion to the Director-General on whether or not an investigation or a coordination case should be opened.

The first step in the selection phase is to establish whether OLAF is competent to investigate. Once this is confirmed, the available information is examined in order to determine whether there is sufficient suspicion that there has been fraud, corruption, any other illegal activity affecting the financial interests of the Union, or serious wrongdoing by EU staff or a member of an institution. This examination constitutes a preliminary evaluation of the likelihood that an OLAF investigation would produce evidence leading to findings of any such offence, and is conducted on the basis of three indicators:

- ▶ the reliability of the source;
- ▶ the credibility of the allegations;
- ▶ the availability of sufficient information to justify the opening of an investigation.

Only after establishing the existence of sufficient suspicion do OLAF selectors proceed to the analysis of the criteria of (i) proportionality, (ii) efficient use of investigative resources and (iii) subsidiarity (whether a national body may be better placed to intervene or whether an EU institution, body, office or agency may be better placed

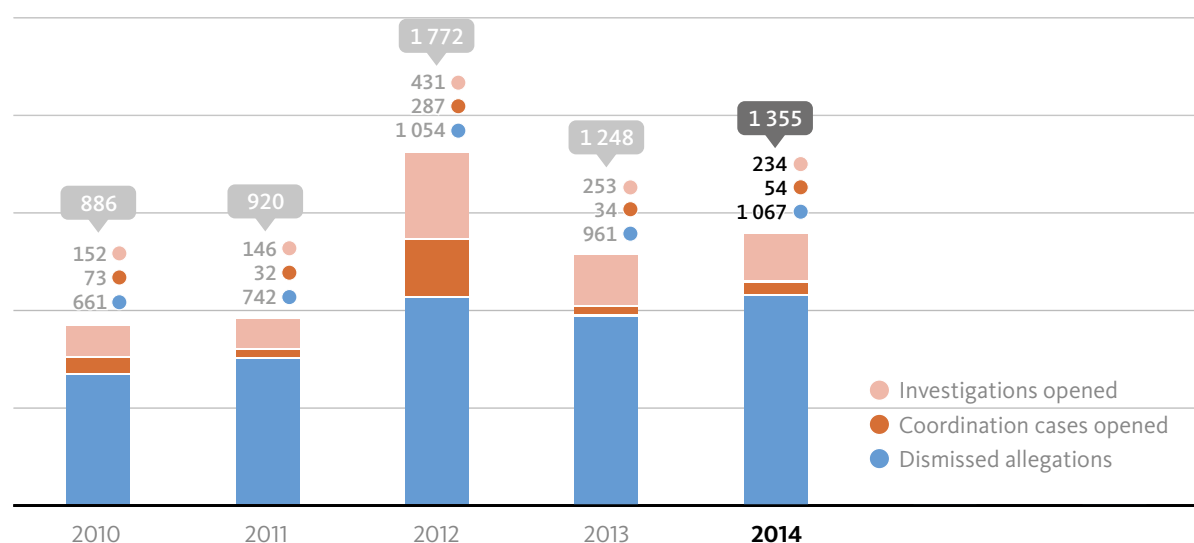
Figure 10: Average duration of the selection phase (in months)



to act). They furthermore examine (iv) whether an OLAF intervention would add value, before checking (v) the investigation policy priorities set by OLAF for the year.

OLAF has progressively put in place a new management system for the more efficient handling of incoming information of investigative interest, referred to as the Single Point of Entry (SPE). The purpose of the SPE is to speed up the opening of new selection cases and their assignment to selectors.

Figure 11: Results of the selection process





DURATION OF THE SELECTION PHASE REMAINS SHORT IN 2014

In 2014, OLAF succeeded in keeping the average duration of the selection phase short despite the continuously growing volume of incoming information. Its management plan stipulates that the average length of selections should be no longer than 2 months. Despite the increase in the number of allegations received, OLAF has managed to stay on target.

The number of selections completed was higher than in 2013. The proportion of dismissed information has remained stable over the last 2 years.

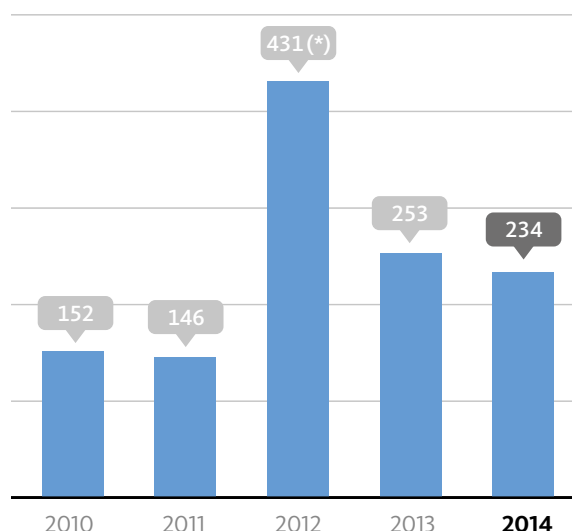


2.3. Investigations

FOR THE SECOND YEAR IN A ROW, A HIGH NUMBER OF INVESTIGATIONS OPENED

In 2014, OLAF opened 234 investigations. This high number confirms the trend since 2012 and shows once again the effort made by OLAF, over the last 3 years, to strengthen its investigative capacity, seeking to boost the protection of EU taxpayers' money and to ensure that EU funds reach projects that stimulate growth and jobs and are not diverted by fraudsters.

Figure 12: Investigations opened



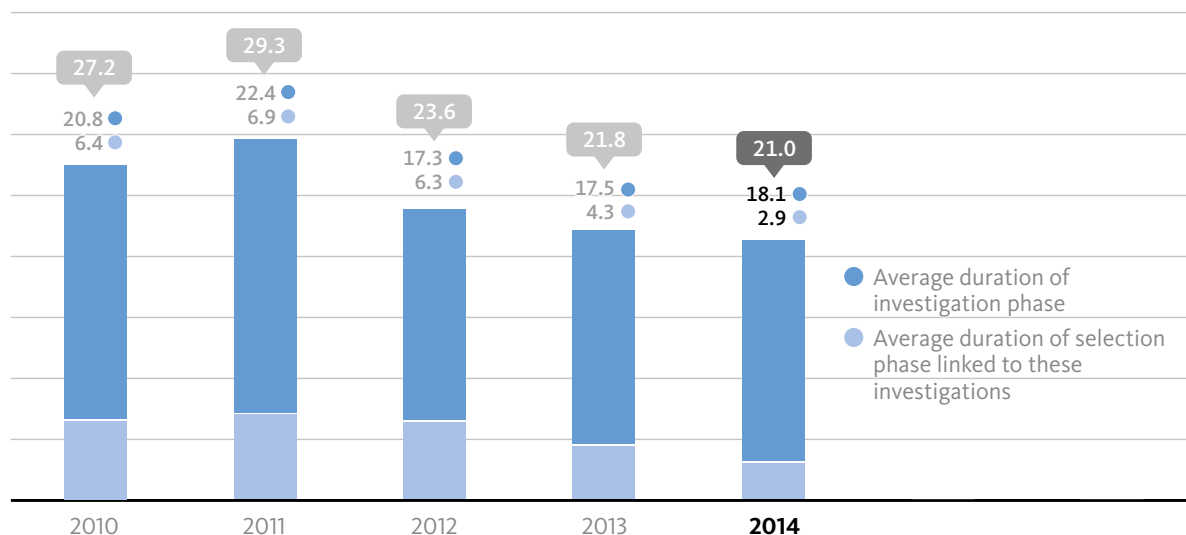
(*) The figures for 2012 include 219 investigation cases, already previously under evaluation, opened as a result of the reorganisation of 1.2.2012.

THE DURATION OF INVESTIGATIONS REMAINS STABLE, WHILE THE CORRESPONDING SELECTION PHASE IS DECREASING

The higher volume of incoming information has not prevented OLAF from continuing to work on reducing the duration of investigations by increasing its efficiency. This OLAF report presents two indicators in this respect ⁽³⁾.

⁽³⁾ In Figures 13 and 14, the duration of the selection phase is linked to the investigations shown in those figures. Figure 10 refers to the average duration of all selections conducted in a given year (whether or not they resulted in the opening of an investigation or coordination case).

Figure 13: Average duration of investigations, considering investigations concluded during the year and investigations ongoing at the end of the year (in months)



► The first indicator (Figure 13) looks at both the duration of the investigations concluded during the year and the duration of the investigations that were ongoing at the end of the year. This gives a complete picture of OLAF's investigative performance, since it also captures any investigations that have remained open for long periods of time and were not closed before the end of the reference period. This indicator will therefore show whether a backlog of old cases is building up.

► The other indicator (Figure 14) reflects only the duration of the investigations concluded during the year. It does not capture the duration of ongoing investigations and would, therefore, not provide any information on a possible backlog of cases building up. This indicator alone is thus not sufficient to provide a complete picture of OLAF's performance.

Despite the different information reflected by each indicator, it is worth highlighting that both show the same trend: a confirmed decrease in the average duration of investigations.

In order to give a more comprehensive picture of the duration of its investigations, Figure 15 provides information, for the first time in this report, on the percentage of ongoing investigations lasting more than 20 months. OLAF's aim is that no more than 30 % of investigations should last more than 20 months (selection phase excluded), and its management is con-

tinuously monitoring the compliance with this target. Figure 15 shows that less than one third of the ongoing investigations lasted longer than 20 months. This is a significant drop in comparison with the years before the reorganisation of 2012.

Figure 14: Average duration of investigations, considering investigations concluded during the year only (in months)

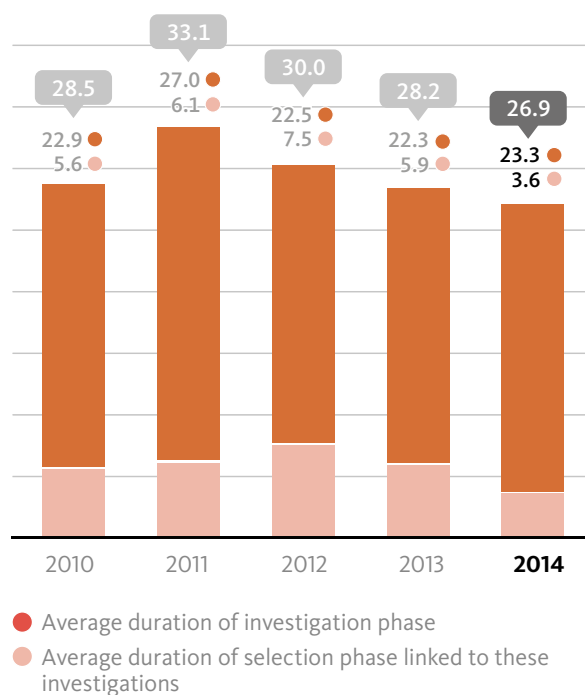
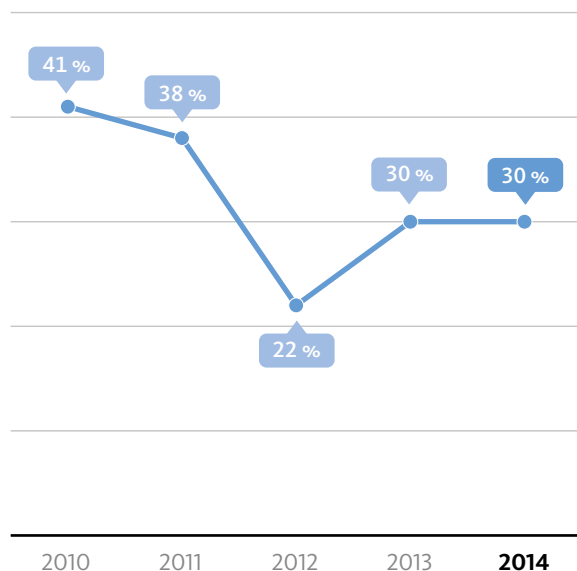


Figure 15: Percentage of ongoing investigations lasting more than 20 months



FOCUS OF INVESTIGATIVE ACTIVITY IN 2014

Altogether, 474 investigations were ongoing as of the end of 2014. Figure 16 presents a snapshot of the distribution by sector of investigative activity in 2014, showing that most of the investigations concern the area of Structural Funds.

OLAF concluded 40 internal investigations during 2014. In this report, in response to the interest expressed by stakeholders, OLAF is for the first time presenting the breakdown of these internal investigations by institution and body concerned.

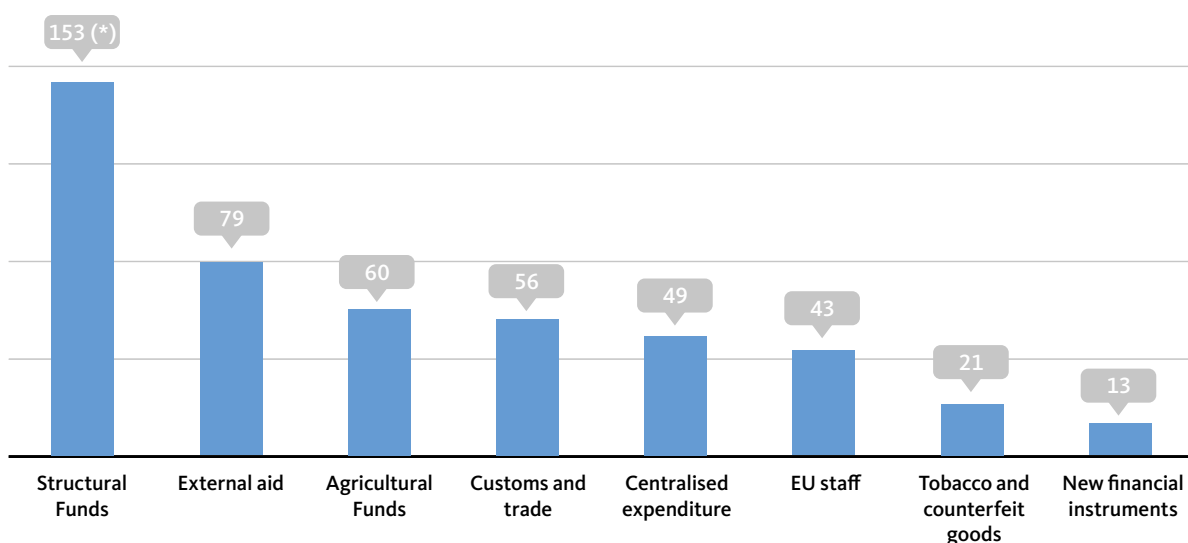
Figure 17: Investigations into EU staff and members of the institutions concluded in 2014

Agencies	10
European External Action Service	9
European Parliament	7
European Commission	7
European Economic and Social Committee	3
Council of the EU	1
European Court of Auditors	1
European Investment Bank	1
EU missions	1
Total	40

In 2014, 156 OLAF investigations were concluded into the use of EU funds managed in whole or in part at national or regional level, including funds managed by candidate or other non-EU countries.

Again, in this report, and in response to the interest expressed by stakeholders, OLAF is for the first time presenting detailed information by country on external

Figure 16: Ongoing investigations by sector at the end of 2014



(*) Of which 42 concerned the European Social Fund.

investigations involving Agricultural Funds, external aid, new financial instruments and Structural Funds. This gives an improved and more transparent view of the countries on which OLAF's investigative activity has focused.

Figure 18: Investigations into the use of EU funds managed in whole or in part at national or regional level concluded in 2014

Romania	36
Hungary	13
Bulgaria	11
Czech Republic	8
Italy	7
Spain	5
Greece, Slovakia	4
France, Germany, Lithuania, Moldova, Syria	3
Afghanistan, Congo (Democratic Republic), Kazakhstan, Mauritania, Morocco, Poland, Senegal, Serbia, Tunisia, Turkey	2
Albania, Belgium, Bosnia and Herzegovina, Cambodia, Cameroon, Croatia, Estonia, Ghana, Haiti, Ireland, Israel, Ivory Coast, Kosovo (*), Latvia, Lesotho, Malta, Namibia, Netherlands, Nigeria, Pakistan, Palestine (**), Paraguay, Peru, Philippines, Portugal, Saint Lucia, Saudi Arabia, Slovenia, Somalia, Thailand, the former Yugoslav Republic of Macedonia, United Kingdom, Vietnam	1
Total	156

Note: Only external investigations in the following reporting sectors are counted: Agricultural Funds, external aid, new financial instruments, Structural Funds.

- (*) This designation is without prejudice to positions on status and is in line with United Nations Security Council resolution 1244/1999 and the International Court of Justice Opinion on the Kosovo declaration of independence.
- (**) This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of the Member States on this issue.

A SPECIFIC AREA OF INVESTIGATIVE ACTIVITY ON THE REVENUE SIDE: THE FIGHT AGAINST TOBACCO SMUGGLING

Cigarette smuggling causes huge losses to the EU and Member States' budgets as a result of evaded customs duties and taxes. It undermines public health campaigns and violates the strict rules that the EU and Member States have introduced on the manufacturing, distribution and sale of cigarettes. OLAF investigates customs fraud as it is financially damaging to EU taxpayers and industry.

In the context of joint customs operations (JCOs), OLAF plays a key role in coordinating the work of several national customs authorities, exchanging information and acting together against internationally organised contraband. Due to the nature of these complex international operations, the outcome will vary from one year to the next.

Over the last 3 years, OLAF's investigative activities and the JCOs that it has coordinated have contributed to seizing more than 800 million cigarettes. More details on such JCOs are included in the chapter on case studies.

2.4. Coordination activities

OLAF AS CENTRAL POINT OF COORDINATION

In a coordination case, OLAF does not carry out investigative activities of its own but provides assistance and contributes to the investigations carried out by the relevant authorities in the Member States. This facilitates the collection and exchange of evidence and increases the efficiency of the investigations of the various authorities involved.

Figure 19: Number of cigarettes seized with the support of OLAF (rounded to million)

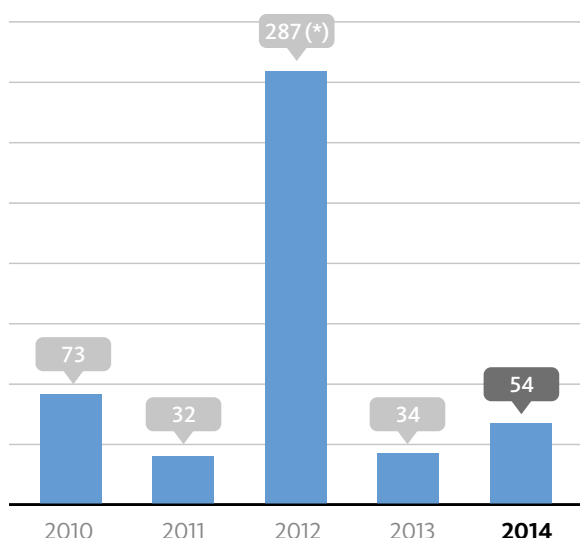
Year	2010	2011	2012	2013	2014
Coordination and investigation cases	212	156	156	281	168
JCOs	75	2	0	68	132
Total	287	158	156	349	300



In 2014, the number of coordination cases opened increased to 54, in comparison with 34 in 2013. This increase does not result from a policy shift, but is due to fluctuations in the need for OLAF's coordination support. As in 2013, most of the coordination cases in 2014 were opened in the tobacco and counterfeit goods sector, followed by the Structural Funds and the customs and trade sectors. The majority of coordination cases are linked to 'traditional own resources', which are customs duties and levies on imports from outside the EU.

In these sectors in particular, OLAF can bring added value to a coordination case because the Office holds information at European or international level, which national authorities may lack. In fighting tobacco smuggling, for example, OLAF can assist its partners by providing operational information on the transport of containers and can put an operational coordination centre with advanced ICT facilities in its Brussels headquarters at the disposal of its partners.

Figure 20: Coordination cases opened



(*) The figures for 2012 include 200 coordination cases, already previously under evaluation, opened as a result of the reorganisation of 1.2.2012.

2.5. OLAF's complaints system protects citizens' rights

It is OLAF's duty to carry out its investigations objectively, impartially and in accordance with general principles of law. To this end, the OLAF Regulation and the Guidelines on investigation procedures for OLAF staff (GIP) provide for the appropriate procedural guarantees in OLAF investigations, such as the right to comment on a summary of facts before OLAF draws up any conclusions implicating a person.

In January 2014, OLAF published on its internet site the modalities for persons involved in OLAF investigations to complain to the Director-General of OLAF about the respect of the procedural guarantees. Five complaints were filed under this procedure in the course of 2014, three of which were by the same person and in relation to two cases.

The possibility to make a complaint to the Director-General of OLAF is without prejudice to the citizen's right to lodge a complaint with the European Ombudsman. Indeed, in some cases, the same matter is raised anew with the European Ombudsman. In 2014, the Ombudsman concluded inquiries into seven complaints concerning OLAF that had been filed in previous years, either by a decision of the Ombudsman or by withdrawal of the complaint. Seven cases were pending by the end of 2014, of which three inquiries concerning public access to documents and two concerning procedural rights. Furthermore, in six other cases, rapid solutions could be found without opening of inquiry, following a suggestion by the European Ombudsman, which was accepted by OLAF.

The figures for 2014 are not unusual. Fewer than 10 complaints were lodged against OLAF each year between 2011 and 2013, with a total of 25 complaints during that period, and sometimes several complaints relating to the same case or put forward by the same person.

These statistics confirm that, despite the large number of investigations carried out by OLAF every year, the sensitive nature of OLAF's activities and the fact that OLAF deals with cases involving the integrity and reputation of natural persons, relatively few complaints based on procedural guarantees are filed against the Office.

3. OLAF recommendations

3.1. Recommendations issued in 2014

RECORD NUMBER OF RECOMMENDATIONS ISSUED; HIGHER PROPORTION OF INVESTIGATIONS CONCLUDED WITH RECOMMENDATIONS

The Director-General of OLAF issues recommendations for action to be taken by the relevant EU institutions, bodies, offices, agencies or authorities in Member States, based on the results of OLAF's investigations ⁽⁴⁾.

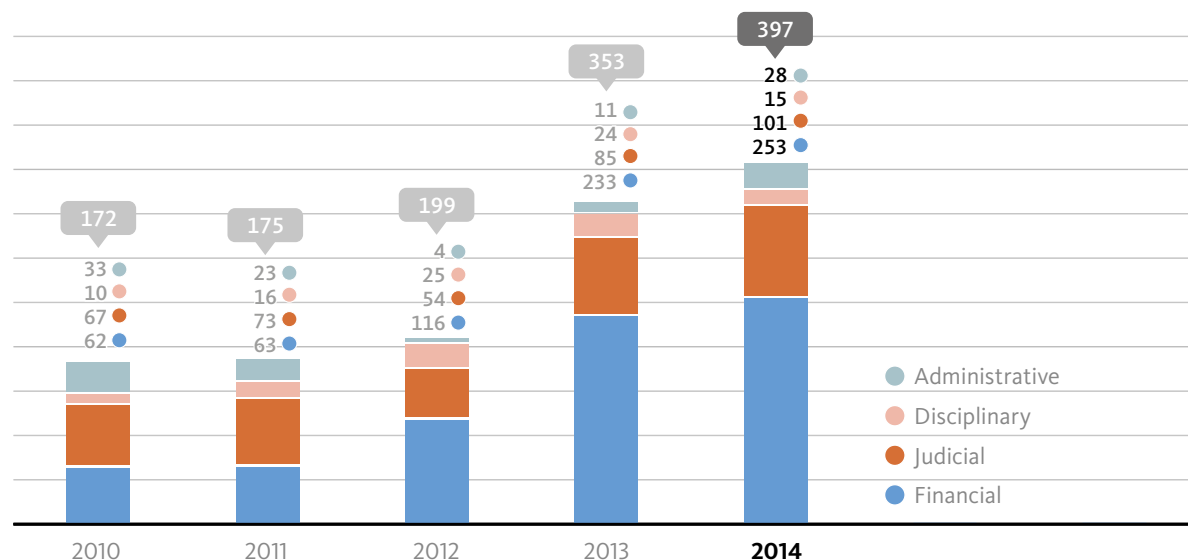
Figure 21: Percentage of investigations concluded with recommendations

2010	2011	2012	2013	2014
55 %	56 %	32 %	51 %	59 %

Recommendations may be of a financial, judicial, disciplinary or administrative nature.

- Financial recommendations are addressed to the EU institutions, bodies, offices or agencies providing or managing the EU funds, as well as to the competent authorities of Member States, and seek the recovery of the misused EU funds.
- Judicial recommendations are addressed to the national prosecution authorities, asking them to consider taking judicial actions.
- Disciplinary recommendations are addressed to the authority having disciplinary powers in the EU institution or body concerned, asking it to consider disciplinary action against its staff.
- Administrative recommendations are addressed to the EU institutions, bodies, organisations or agencies. They are related to a single case or to a group of comparable cases where weaknesses in administrative procedures or legislation need to be addressed to prevent fraud.

Figure 22: Recommendations issued



⁽⁴⁾ Article 11 of Regulation (EU, Euratom) No 883/2013.



Several recommendations may be issued in one single case. The results of OLAF's investigations may also be sent to the competent authorities in non-EU countries on the basis of legal arrangements in place.

Recommendations are the main outcome of OLAF's investigative activity. It is mainly through issuing these that the Office supports the work done by the EU institutions to ensure that:

- EU funding reaches the projects it was intended for or is recovered for the EU budget;
- any concerns regarding the conduct of EU staff and members of the EU institutions are promptly addressed.

More than 50% of investigations are closed with recommendations.

The proportion of investigations concluded with recommendations has increased steadily since 2012.

In 2014, OLAF issued a great number of recommendations, the highest in the last 5 years. Administrative, judicial and financial recommendations all increased in comparison with the previous year.

OLAF also recommended a record amount of financial recoveries for the EU budget — EUR 901 million, more than double the amount recommended for recovery in 2013. This is due to the conclusion of some significant investigations concerning the Structural Funds, external aid and the customs and trade sectors.

Figure 23: Amounts recommended by OLAF for financial recovery (million EUR)

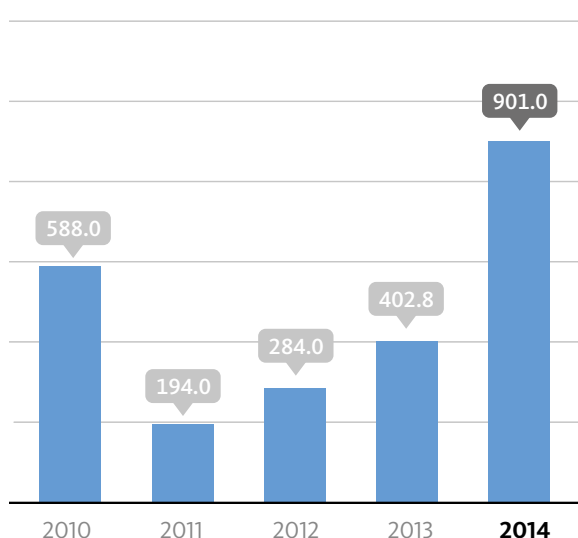


Figure 24: Amounts recommended by OLAF for financial recovery by sector (million EUR)

	2014
Structural Funds	476.5 (*)
External aid	174.0
Customs and trade	132.2
Agricultural Funds	75.9
New financial instruments	27.4
Centralised expenditure	13.0
Tobacco and counterfeit goods	1.5
EU staff	0.5
Total	901.0

(*) Of which EUR 5 million concerned the European Social Fund.

3.2. Implementation of recommendations

OLAF'S INVESTIGATIVE EFFORTS HAVE RESULTED IN HIGHER AMOUNTS RECOVERED FOR THE EU BUDGET

If, following an OLAF investigation, the Director-General of OLAF recommends that EU money should be recovered, the competent authorities must decide on the action to take to recover the funds. OLAF does not itself have the power to recover money.

In 2014, as a result of OLAF investigations, EUR 206.5 million was recovered for the EU budget. This amount is 76 % higher than that recovered in 2013. The highest sums were recovered in the customs and trade sectors (see Fig. 25).

The figures on amounts recovered broken down by sector in Figure 25 are those available at the time when this report went to press ⁽⁵⁾.

⁽⁵⁾ For expenditure sectors, recovery data was provided to OLAF by the relevant Commission departments and other EU institutions, bodies, offices and agencies. With regard to the customs (traditional own resources) sector, recovery data was extracted from the Ownres database, which Member States use to report fraud and irregularities above EUR 10 000 to the Commission.

Figure 25: Amounts recovered (*) by the relevant authorities following OLAF's recommendations (million EUR)

	2012	2013	2014
Customs and Trade	33.9	76.5	135.0
Agricultural Funds	14.3	3.2	43.0
Structural Funds	33.4	33.7	22.7 (**)
External aid	12.8	2.5	2.5
New financial instruments	0.003	0.3	2.2
EU staff	0.05	0.8	0.9
Centralised expenditure	0.04	0.0	0.2
Total	94.5	117.0	206.5

(*) In the context of this report, the term 'recovery' includes the results of recovery orders issued by the Commission or any other institution, body, office or agency, offsetting of debts, de-commitment of EU finances from projects or programmes, debt liability apportionment between the Commission and Member States in certain sectors and recoveries of EU funds (e.g. import duties) from economic operators by Member States and recoveries of administrative expenditures from officials and other servants of the EU institutions, bodies, offices and agencies. Not all of these recovery transactions are individually identifiable in the institutions' accounting systems.

(**) Of which EUR 7.1 million concerned the European Social Fund.

EU INSTITUTIONS HAVE TAKEN ACTION TO FOLLOW-UP ON OLAF'S INTERNAL INVESTIGATIONS

The disciplinary recommendations that are issued by OLAF concern misconduct of EU staff or members and are directed at the authority having disciplinary powers in the EU institution concerned. In its recommendations, OLAF does not specify the type of action that

should be taken. The appointing authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the appointing authority may join several recommendations resulting from different investigations into the same person concerned in one action and, subsequently, impose one single sanction. As the institution with most EU staff employed, the European Commission is the main recipient of disciplinary recommendations.

Figure 26: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2012 and 31 December 2014

Number of disciplinary recommendations	No decisions taken			Decisions taken		
	Reporting period (*)	No information	Ongoing administrative inquiry	Total	No case is made	Action taken
Agencies	6	2	1	3	1	2
Committee of the Regions	1			1	1	
Council of the European Union	2	1	1	0		
European Central Bank	2		1	1		1
European Commission	32	1	7	24	9	15
European Court of Auditors	1		1	0		
European Economic and Social Committee	2	1	1	0		
European External Action Service	6	1		5	1	4
European Investment Bank	3	2	1	0		
European Ombudsman	1			1	1	
European Parliament	9	5	1	3	2	1
Total	65	4	14	38	15	23

(*) When OLAF sends a disciplinary recommendation to an appointing authority, the competent authority has to report on the actions taken following the recommendation within 6 months. Reporting period means that these cases are still in this 6 months' period.



Figure 27: Sanctions imposed following OLAF's disciplinary recommendations

Removal from post	4
Termination of contract	3
Blacklisted from future employment	2
Downgrading	2
Deferment of advancement	2
Warning	7

OLAF'S JUDICIAL RECOMMENDATIONS ARE LEADING TO MORE INDICTMENTS

The results of actions taken by the national judiciaries following the receipt of judicial recommendations by OLAF between 1 January 2007 and 31 December 2014, in total and broken down by Member State, are set out in Figure 28.

While the indictment rate reported in 2014 remained almost the same compared with the rate reported in

2013, the number of total decisions taken by national authorities and the number of reported indictments rose considerably. For the period 2006–13, there were 261 decisions taken by the national authorities following receipt of OLAF's judicial recommendations, leading to 140 indictments. Figure 28 on the next page shows that in the period 2007–14, there were 306 decisions taken, leading to 161 indictments.

In 2014, OLAF undertook for the first time and in relation to a number of Member States only, a systematic legal analysis of decisions by which the national authorities concerned (mostly prosecution services, but sometimes the police or customs) had determined not to pursue cases following OLAF judicial recommendations. This analysis has already led to a number of corrections and updates compared to the data reported in 2013 ⁽⁶⁾. OLAF intends to develop this analysis over the coming years in order for the Office and its partners to learn from experience and to identify means of improving the rate of indictment and the capacity of Member States to prosecute fraud affecting the financial interests of the EU.



⁽⁶⁾ These corrections concerned in total 16 OLAF recommendations.

Figure 28: Actions taken by national judicial authorities following OLAF's recommendations issued between 1 January 2007 and 31 December 2014

Number of judicial recommendations	No decisions taken		Decisions taken			Rate of Indictment	
	Reporting period (*)	Ongoing criminal investigation	Total	Dismissal	Indictment		
Belgium	45	6	11	28	11	17	61 %
Bulgaria	30	3	5	22	10	12	55 %
Czech Republic	8	2	1	5	3	2	40 %
Denmark	4	-	2	2	2	-	0 %
Germany	29	4	1	24	11	13	54 %
Estonia	3	1	-	2	1	1	50 %
Ireland	3	2	1	0	-	-	0 %
Greece	23	3	9	11	-	11	100 %
Spain	28	5	5	18	9	9	50 %
France	24	4	1	19	7	12	63 %
Croatia	0	-	-	-	-	-	-
Italy	61	8	12	41	9	32	78 %
Cyprus	4	-	2	2	2	-	0 %
Latvia	2	1	-	1	1	-	0 %
Lithuania	8	2	-	6	4	2	33 %
Luxembourg	9	2	5	2	1	1	50 %
Hungary	13	9	2	2	1	1	50 %
Malta	5	-	1	4	-	4	100 %
Netherlands	16	2	1	13	7	6	46 %
Austria	7	1	1	5	2	3	60 %
Poland	14	1	1	12	3	9	75 %
Portugal	10	3	1	6	5	1	17 %
Romania	89	25	11	53	37	16	30 %
Slovenia	4	3	-	1	-	1	100 %
Slovakia	10	1	1	8	7	1	13 %
Finland	3	2	-	1	1	-	0 %
Sweden	4	1	1	2	-	2	100 %
United Kingdom	23	5	2	16	11	5	31 %
Total	479	96	77	306	145	161	53 %

(*) When OLAF sends a judicial recommendation to a Member State, the competent authority has to report on the actions taken following the recommendation within 12 months. Reporting period means these cases are still in this 12 months' period.



4. Case studies:

OLAF's work in practice in 2014

This chapter presents examples of OLAF's investigation and coordination cases concluded in 2014. Far from being an exhaustive list, these examples seek to illustrate different angles of OLAF's investigative activity or different key moments in the lifespan of a case.

Cases illustrating OLAF's investigations on the revenue side of the EU budget



Twenty-one tonnes of counterfeit and illicit pesticides seized in Poland thanks to OLAF information

In May 2014, OLAF received information that containers loaded with 21 tonnes of pesticides from China were being discharged in the port of Odesa (Ukraine). The goods were reloaded onto trucks destined for Poland. An investigation carried out by OLAF revealed that the importer was not registered to trade such products in Poland. OLAF decided to track and trace this shipment on its journey and informed the Polish customs authorities that the shipment containing suspected counterfeit and illicit pesticides would cross the Ukrainian–Polish border.

Based on OLAF's information, the Polish customs authorities intercepted the shipment at the customs checkpoint in Dorohusk. They discovered 10.5 tonnes of pesticides not authorised for the EU market and 10.5 tonnes of insecticides in cans without labels, but packed in boxes bearing brands of well-known pesticide producers. This infringed the intellectual property rights of the rights holders of registered trademarks in the EU. The Polish Plant Protection Authorities and the companies affected analysed the seized products. This analysis revealed that the products contained unregistered or illegal active ingredients that could potentially be dangerous for human health.

The Polish judicial authorities have started a criminal investigation.

OLAF's mandate includes investigations relating to counterfeit goods that enter the EU across its external borders (?). The trading of such products generates vast illicit profits and causes large losses of revenue. OLAF works closely with national law enforcement bodies and with rights holders in this field.

OLAF coordinates efforts to fight tobacco smuggling across the EU and in non-EU countries

For several years, OLAF had investigated suspicious activities that led to the discovery of a major cross-Europe cigarette smuggling network. OLAF cooperated in the criminal investigations, jointly organised by the competent Italian and German authorities. As part of this work, OLAF organised a coordination meeting in autumn 2013 involving German and Italian judicial and law enforcement authorities, and worked with Belgium, Lithuania, Hungary, Poland, Romania and Slovakia, as well as Moldova and Ukraine. The smuggling network produced cigarettes in the EU. It then simulated fictitious exports

(?) Article 36 of Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights.

or carried out real exports to non-EU countries and subsequently smuggled the cigarettes back into the EU, thus avoiding customs duties and taxes.

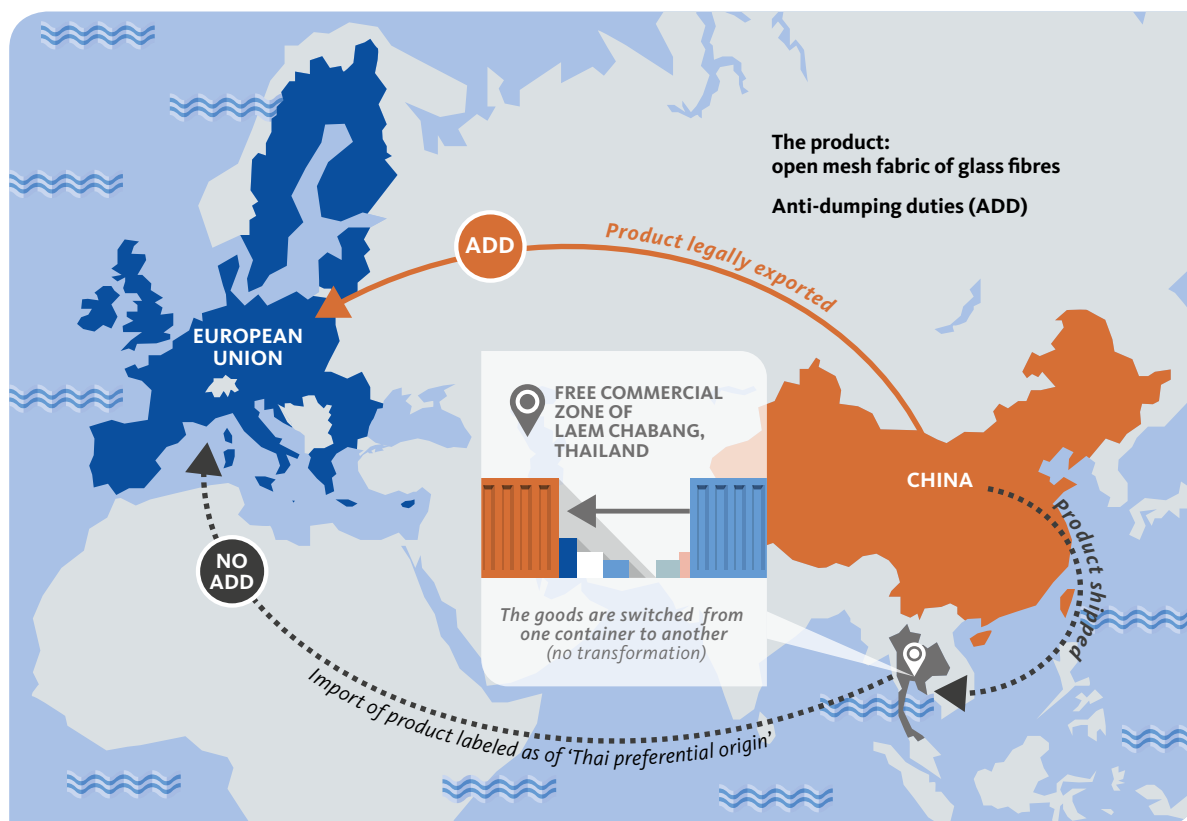
In November 2014, the network was dismantled through joint work by the Italian Agenzia delle Dogane and Guardia di Finanza and the German Zollkriminalamt Köln and Zollfahndungsamt Berlin. Prosecutors in Turin and Frankfurt/Oder also coordinated a search by law enforcement officials of an ostensibly legitimate cigarette factory that produced cigarettes destined in part for the illegal market. Investigations are continuing. More than 10 people have already been arrested. The estimated damage to the Italian budget alone is in excess of EUR 90 million. The final figures are likely to be much higher.

OLAF brings significant added value to operations like these, where contraband networks operate across borders and can only be countered by coordinated EU-wide efforts.

Investigation and international cooperation lead to the discovery of a complex trans-shipment fraud via Thailand

In 2011, the EU decided to impose anti-dumping duties (ADDs) on open-mesh fabrics of glass fibres due to Chinese companies dumping the product in the EU at prices lower than the product's normal value (i. e. the domestic prices or the cost of production). OLAF has a mandate to investigate cases in which EU importers evade such duties.

OLAF opened an investigation into the suspected trans-shipment of these products through Thailand, done to evade ADDs in particular. All Member States were asked to identify and collect information about such imports. The evidence was collected during joint OLAF/Member State operations carried out in Thailand in close cooperation with the Thai authorities. The facts that were established demonstrated that the Chinese goods had been trans-shipped in the free





commercial zone in the area of Laem Chabang. The goods were reloaded into new containers. They had not been subject to any processing or manufacturing activity in Thailand and therefore were not entitled to Thai origin, either preferential or non-preferential.

Certain imports had nevertheless been declared with Thai certificates of preferential origin on the basis of false information provided to the issuing authorities. Some of these imports were falsely declared under the classification of another product not subject to ADDs. The investigation also revealed that certain goods trans-shipped in Thailand had come from Malaysia.

The OLAF investigation established evidence that enabled 13 Member States to start recovery proceedings for a total of EUR 3 million in evaded ADDs and conventional customs duties. This case is an example of a comprehensive investigation in the customs area with the involvement of Member States, non-EU countries and companies. It required considerable investigative and multinational legal expertise that is available, at EU level, only in OLAF. This investigation is one of several that concern the fraudulent import of the same type of products originating in China and consigned from various non-EU countries.

Cases illustrating OLAF's investigations on the expenditure side of the EU budget

OLAF recommends multimillion euro recovery and judicial proceedings following the discovery of serious irregularities

OLAF concluded an investigation into alleged irregularities and fraud involving a large project for the development of maritime port facilities in a Spanish town. The project had received significant EU funding from the Cohesion Fund. OLAF had opened the investigation following the receipt of detailed information from public representatives and also from Commission services on possible serious wrongdoing in the awarding of the public tender contract for the works and also on problems related to the actual execution of the works concerned.

OLAF's findings in the case indicate that very serious irregularities were present and that fraud had probably been committed in the case. This includes, inter alia, breaches of the public procurement rules, provision of false information on the quantities and therefore costs of materials used and non-cooperation with OLAF in the course of the investigation.

OLAF concluded the case in 2014 with a financial recommendation to the Directorate-General for Regional and Urban Policy of the European Commission to recover the EUR 198 million of EU funds that had already been paid out for the project and also not to pay the further EUR 49 million that had been allocated to it. The combined financial impact of this case is therefore EUR 247 million.

OLAF also made a judicial recommendation in the case, asking the Spanish prosecution authorities to examine the serious matters uncovered. Judicial proceedings are now underway in Spain.

OLAF recommends EUR 1 million for financial recovery in EU-funded transport projects

In four EU-funded projects aimed at diverting goods away from road transport to less environmentally damaging forms of transport, a private shipping company received grants totalling several million euros. From audits and further checks, the Commission found that, contrary to the rules of the programme, the company persistently failed to record the actual loads carried, pretending to rely instead on transporters' estimates. The Commission notified OLAF of the matter.

In an on-the-spot check at the company, OLAF obtained electronic records relating to the running of the projects and analysed them. It found that the estimated loads that the company reported to the Commission were consistently biased and exceeded the amount of the actual loads. In addition, during sampling periods required by the Commission, among other manipulations, the company had dishonestly discarded light loads and systematically reported the most favourable figures from the weighing and the transport and board documents. As a result, the

average loads — and therefore the costs claims — had been overestimated.

OLAF recommended that the Commission recover approximately EUR 1 million, corresponding to the amount of the suspected fraud, plus penalties. It also brought the matter to the attention of the Italian judicial authorities.

OLAF discovers complex fraud involving medical equipment funded through the European Regional Development Fund

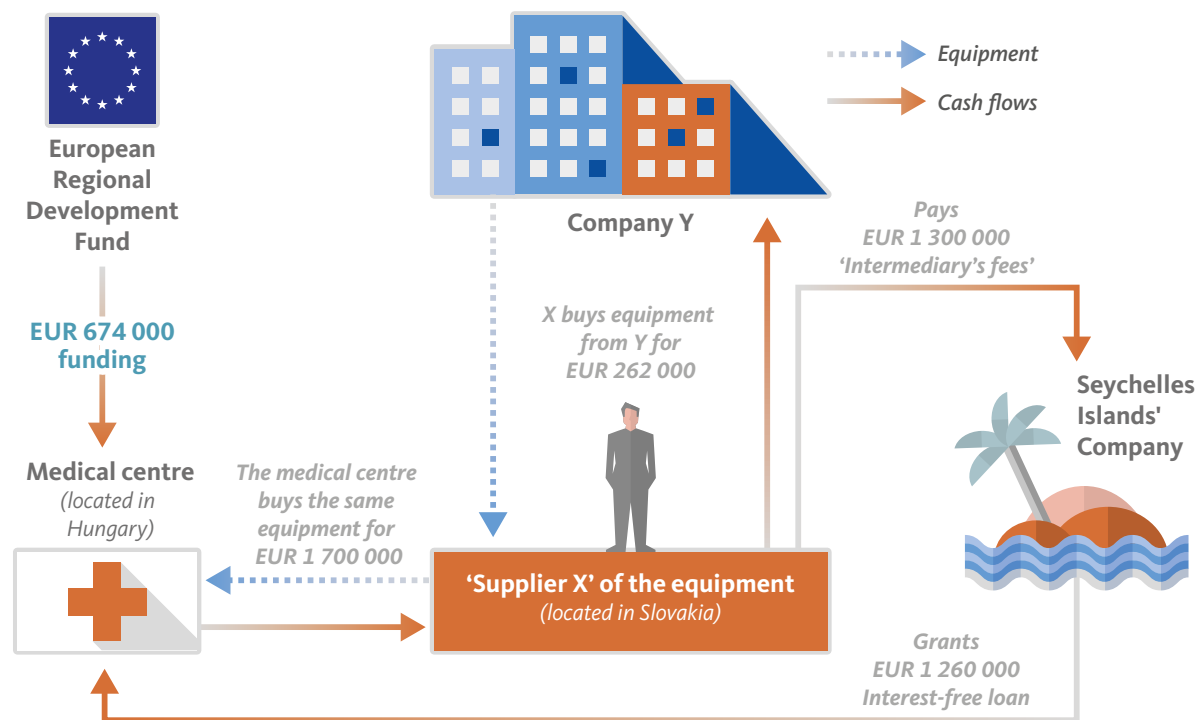
OLAF opened an investigation based on a series of investigative journalism articles on EU funding for the construction and the equipping of a medical centre in Hungary. The European Regional Development Fund (ERDF) provided EUR 674 000 for medical equipment for the centre.

The OLAF investigation revealed that the supplier of the equipment had purchased the medical devices

for EUR 262 000 from a company in Slovakia. Subsequently, the supplier sold the equipment to the centre for EUR 1.7 million, and this was the amount declared on the application for EU funding. The supplier then paid EUR 1.3 million of the sale price in 'intermediary fees' to a company registered in the Seychelles. In return, the latter provided an interest free loan of EUR 1.26 million to the medical centre.

By doing this, the supplier and the medical centre quadrupled the declared prices of the medical devices and appear to have defrauded the EU budget and circumvented the obligation on the medical centre to provide a financial contribution. The OLAF investigation also revealed that much of the equipment was not used at all and other equipment was found to be located at sites outside disadvantaged regions, in breach of the objectives of the programme governing the project.

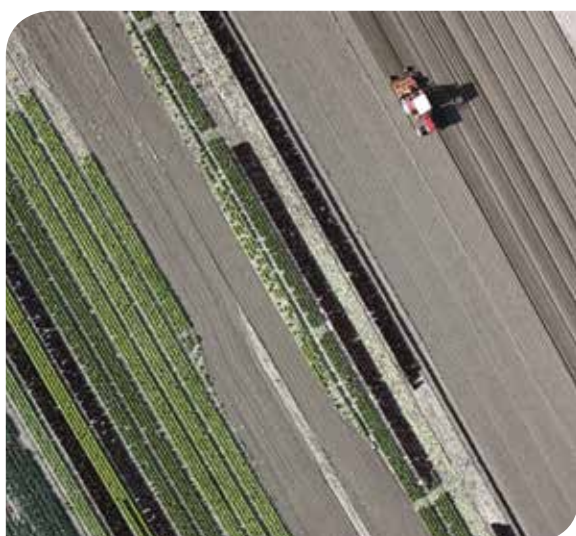
In 2014, OLAF recommended to the Commission and the Hungarian authorities that they make arrangements for the full recovery of the ERDF subsidy and the national funding provided for the centre. OLAF also made recommendations to the Hungarian judicial authorities.



Implementation of judicial recommendations in a case regarding fraudulent use of Agriculture and Rural Development Funds

Authorities in Bulgaria sent information on two companies to OLAF, both beneficiaries of 'Special accession programme for agriculture and rural development' (Sapard) funding. OLAF acquired further information and decided to open a criminal assistance case in 2010 (according to OLAF's previous legislative framework), as well as an external investigation.

OLAF's investigators subsequently extended their investigation to cover another eight companies that received Sapard funding and that were linked to each other. Evidence on the other beneficiary companies that took part in a tendering process for the supply of machinery was acquired through on-the-spot checks and inspections carried out at company premises in Germany, Spain, Italy, the Netherlands, Slovakia, Sweden and the United Kingdom. OLAF requested cooperation from some Member States, which carried out checks and inspections at the premises of companies involved in supplying machinery. The investigation revealed that many tendering processes relating to the supply of machinery had been manipulated and that the supplies had been provided at substantially inflated prices. The findings allowed OLAF to discover fraud amounting to EUR 7.6 million. National judicial authorities were kept informed throughout the investigation. Following OLAF's recommendations in 2014, national proceedings against some of the businesses involved were launched.



Cases illustrating OLAF's investigations into staff and members of EU bodies

Internal investigation uncovers corruption and conflict of interest

The Commission's Directorate-General for Development and Cooperation informed OLAF of potential corruption and a possible conflict of interest involving a contract agent in an EU delegation in South America. The allegation related to a forecast for a land-use planning project.

The contract agent allegedly made unauthorised contact with a German company in the period between the publication of the project and its launch, offered his assistance in facilitating the awarding of the contract for this project to the firm and made reference to 'consultancy services' offered by his wife's company. The German company turned down the offer, so no financial impact or damage occurred. The company informed the EU delegation and provided supporting documents.

OLAF interviewed the contract agent and searched his office. He admitted to contacting the company to help his wife acquire a client for her consultancy firm. His wife submitted a written statement on a voluntary basis, in which she mainly confirmed the contract agent's statements regarding his assistance in helping her acquire a new client.

OLAF's evaluation concluded that this behaviour might constitute a criminal offence and was in breach of the contract agent's statutory obligations. In September 2013, OLAF issued a recommendation to the judicial authorities in Germany and made a recommendation to the European Commission for further disciplinary proceedings. Judicial proceedings are ongoing and, throughout 2014, OLAF has provided additional information to the relevant national prosecutor.



Internal investigation leads to judicial proceedings and financial recovery

OLAF received information from an EU institution that one of its members had been filing claims for the reimbursement of his travel expenses based on supporting documents that seemed to have been manipulated.

OLAF opened an internal investigation and analysed the reimbursement claims. Two on-the-spot checks were carried out in travel agencies that had provided travel services to the member. The aim was to compare the tickets that the member had submitted to his institution as supporting documents with the documentation stored by the travel-service providers.

OLAF established that the ticket receipts had been forged with help from an employee of one of the travel agencies. This enabled the member to claim and receive reimbursement for travel that was higher than the costs actually incurred. It was established that between October 2006 and July 2013, over EUR 182 000 was wrongly refunded to this member.

The institution ceased reimbursement to this member, following OLAF's suggestion for precautionary measures, thus preventing the unjustified payment of a further EUR 50 000. Following OLAF's judicial recommendations, the relevant national judicial authorities informed OLAF in July 2014 that a criminal investigation was in progress. OLAF also recommended that the institution launch procedures to recover the undue payments. In November 2014, the institution informed OLAF that the full amount had been recovered. The institution also introduced improved control mechanisms to mitigate the risk of future damage to the EU budget.



Joint customs operations carried out in 2014

In 2014, OLAF coordinated and facilitated seven joint customs operations (JCOs) by providing intelligence and technical and/or financial support.

The anti-fraud information system (AFIS) platform ensured secure access and exchange of information for all participants in these JCOs.

Operation Replica targeted the import of counterfeit goods by sea. It led to the seizure of over 1.2 million counterfeit goods and 130 million cigarettes. OLAF coordinated the operation, which involved all the EU Member States, Norway, Switzerland, 11 international partners, Interpol, Europol and the World Customs Organisation. During the operational phase, coordination was supported by a team of 11 liaison officers. They came from the EU Member States and, for the



first time, from China, and worked from OLAF's operational headquarters.

Operation Snake specifically targeted the undervaluation of imported goods, which causes huge losses to public budgets every year. Over a 1-month period, OLAF and the participating customs authorities found more than 1 500 containers where the declared customs value was heavily undervalued, preventing estimated losses of over EUR 80 million in customs duties. The operational phase of Operation Snake took place from February to March 2014 and was coordinated by OLAF and the Anti-Smuggling Bureau of the General Administration of China Customs. It involved the customs administrations of all EU Member States, as well as those of China.

Operation Ermis was carried out in March 2014. Customs authorities performed intensified controls and exchanged intelligence on parcels coming into the EU from non-EU countries via mail. During the operation, over 70 000 counterfeit items were seized in 634 different raids. The goods varied in nature from mobile phones, sunglasses and small vehicle spare parts to medicine and pharmaceutical products. Most goods were found to come from the Far East. Operation Ermis followed up on previous operations coordinated by OLAF (Operations Fake, Sirocco, Diabolo I and Diabolo II), which aimed to curb the smuggling of counterfeit goods. Operation Ermis was carried out by the Greek Customs Administration and OLAF, and involved customs experts from the Commission, Member States, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey.

Operation Athena IV mainly aimed to detect undeclared cash to the value of EUR 10 000 or more to prevent money laundering within the territory of the European Union. The operational activities focused

on accelerating the exchange of operational information in cases where natural persons were discovered with undeclared cash or where there was a suspicion of undeclared cash. During the operation, the national contact points produced 349 reports, as a result of which more than EUR 1.2 million in cash was detained and seized. The operation was a continuation of the previous Operations Athena I, II and III and involved the EU Member States.

Operation Warehouse II also took place in 2014 and was a successor to Operation Warehouse, which had been successfully co-organised in 2013 by OLAF and the Customs Department under the Ministry of Finance of Lithuania. It aimed to combat smuggling and tax fraud related to high-excite goods, tobacco products and alcohol originating from non-EU countries and moving under customs duties and tax suspension regimes through multiple Member States. Operation Warehouse II was jointly organised by the European Commission/OLAF and the Italian Customs and Monopolies Agency.

Operation Icare was a joint regional customs operation relating to maritime surveillance and aimed to detect illicit trafficking of sensitive goods by sea, in the Atlantic area. It was coordinated by French customs services and included the participation of the customs authorities of Germany, Ireland, Spain, Italy, the Netherlands, Portugal and the United Kingdom.

Operation Isis 2014 was a joint maritime operation carried out by Spanish, French and Italian customs services and aimed to fight the illicit trafficking of sensitive goods in the Mediterranean Sea.

5. Focus on OLAF's staff

OLAF's ability to fulfil its mandate relies on the wealth of professional backgrounds, expertise and commitment of its 421 staff members ⁽⁸⁾. This is why, in the last few years, OLAF has made considerable efforts to improve and modernise its human resources management. OLAF has diversified its talent pool, is offering its experts continual training which is specifically tailored to the Office's needs and keeps encouraging equal opportunities. In this report, OLAF has chosen to present a specific chapter focusing on its staff.

EXPERTS WITH VARIED BACKGROUNDS BOOST THE FIGHT AGAINST FRAUD IN EUROPE

Fighting against fraud and protecting the EU's financial interests require a strong knowledge of the Member States' legislation and organisation. OLAF's staff come from 27 EU Member States, enriching the organisation with in-depth knowledge of national anti-fraud legal proceedings and a very wide range of language skills.

A small part of that staff consists of seconded national experts (SNEs), of which 16 were working in OLAF at the end of 2014. These experts help the Office to stay abreast with the latest developments in their home-countries as far as fraud patterns, investigative techniques and anti-fraud policy are concerned.

The ever-changing environment in which OLAF is operating requires the Office to work continuously on the development of its next generation of investigators and anti-fraud experts. Consequently, OLAF organised a specialised competition for operational digital forensic examiners in 2014 and plans a competition for fraud investigators for early 2016.

OLAF PROVIDES INTERNAL AND EXTERNAL TRAINING ON A CONTINUOUS BASIS

Internal training programmes make it possible for the most experienced members of the team to share expertise and knowledge with junior team members. In 2014, the main focus remained on investigative training. Throughout the year, experienced investigators conducted several sessions on interviewing techniques, evi-

dence gathering, on-the-spot checks, report writing and inspection of premises. In addition, all new investigators that arrive at OLAF participate in a general introductory session on OLAF's investigative activity.

OLAF also hired external experts to provide training on country profiles. These included presentations on the general legal setting of criminal investigations in the respective countries, explanations of relevant infringement cases and presentations of OLAF's national counterparts in criminal and administrative investigations. OLAF's forensic experts and operational analysts also regularly participate in specialised external training sessions. They share their knowledge by training OLAF's staff on the use of open sources.

In order to strengthen management skills, a management training programme was developed in 2014. In addition, team building for all staff was promoted through various actions (team events, lunchtime debates, an additional welcome day for newcomers, etc.). The importance of ethics in OLAF was addressed by establishing and distributing a new ethics and conduct guide ⁽⁹⁾ and making training on ethics and conduct in OLAF mandatory for all staff.

OLAF PROMOTES EFFECTIVE EQUAL OPPORTUNITIES

Over a number of years, OLAF has worked to improve the gender balance of staff and ensure effective equal opportunities.

In 2014, the percentage of female investigators and case handlers, i.e. staff working on OLAF's core activities, increased from 25 % to 35 %.

OLAF's efforts to improve gender equality have also resulted in a sharp increase in the number of female managers. The number of female middle managers has multiplied by 3 between 2013 and 2014, currently reaching 29% of the total middle managers from only 11% in 2013. As far as senior management is concerned, out of four directors at OLAF, three are women.

⁽⁸⁾ Posts filled on 31 December 2014.

⁽⁹⁾ Published in May 2014.



Figure 29: OLAF's staff by nationality (2014)

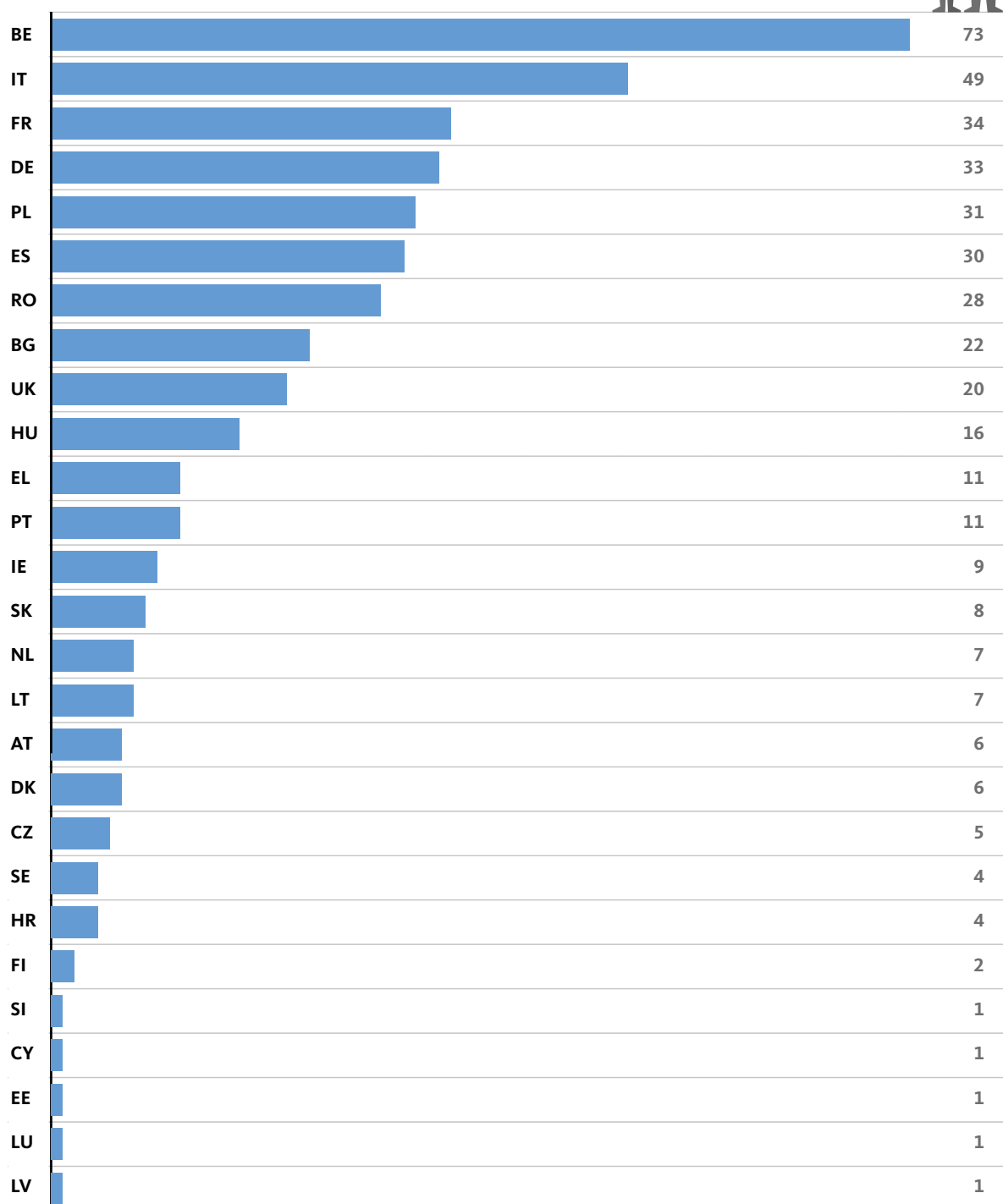
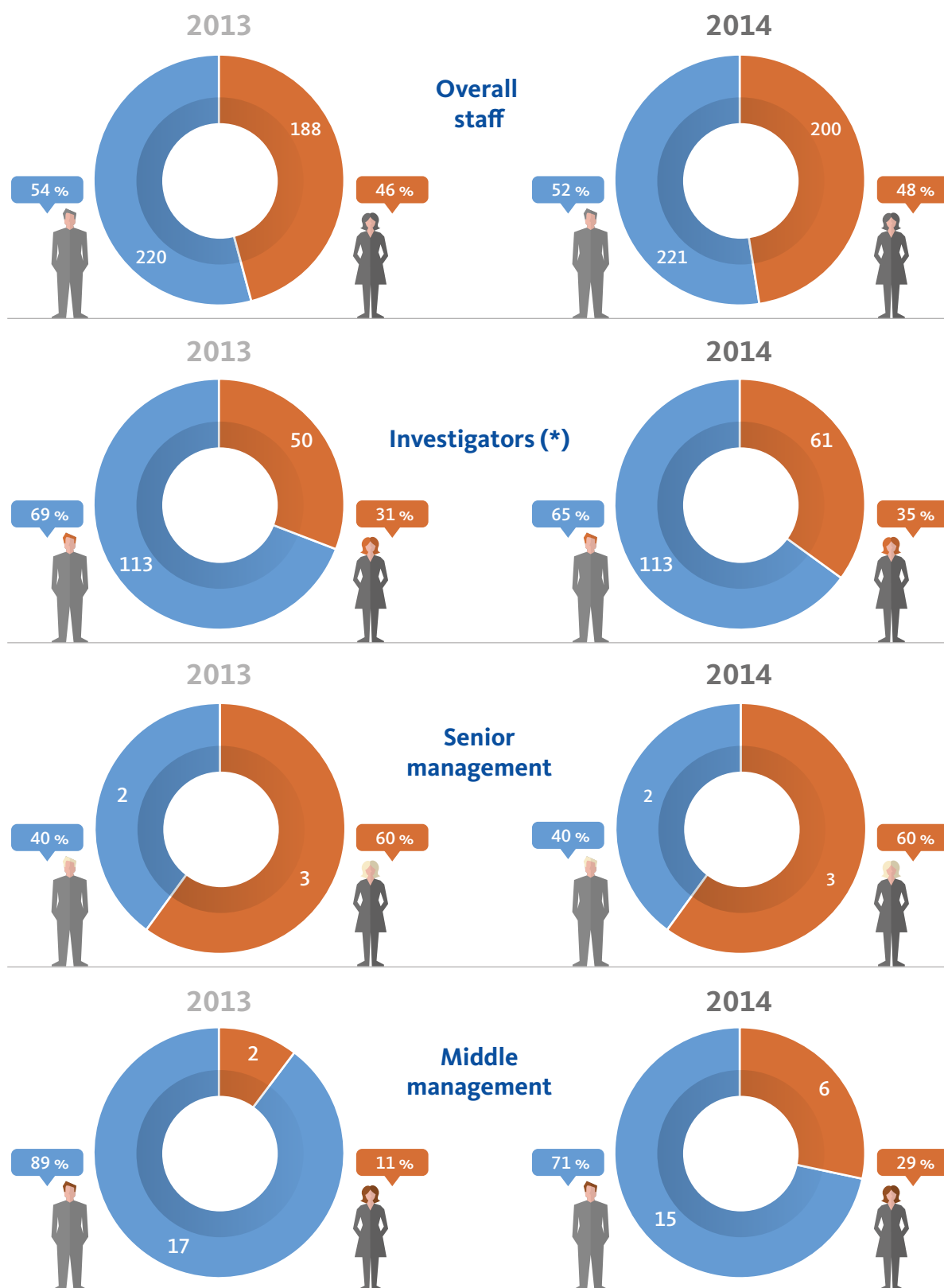


Figure 30: Gender balance in OLAF



(*) Investigators also include heads of unit, deputy heads of unit, team leaders, senior experts or assistants, case handlers, legal reviewers and intelligence analysts in units doing investigations, their selection and review, and operational analysis and digital forensics.



Meeting OLAF's staff

AMIRA

Agricultural and Structural Funds investigator

Amira first joined OLAF as a trainee in 2004 following her studies in law, with specialisation in comparative criminal law, at the Universities of Strasbourg, Bologna and Nancy. Prior to joining, she worked as a legal assistant for the Court of First Instance in Strasbourg. In 2005, Amira joined OLAF's Policy unit as a coordinator and liaised with the Member States and different Commission teams on cross-cutting issues.

Three years later, she moved to an investigative unit where her legal training and language skills — in addition to her native Hungarian, Amira is fluent in English, French and Italian — were greatly needed. She was very enthusiastic about moving to what she describes as 'OLAF's core business'. Initially, Amira dealt with external aid cases where OLAF is responsible for investigating alleged fraudulent or illegal activities, since these cases fall mostly under the Commission's direct management. Currently, Amira works on shared management funds where the EU and Member States are jointly responsible for the management and control of expenditure.

'Each case is different, so you have to be an expert in many different things or at least find the right expertise', she explains, as some cases can be very technical. She recently worked with a colleague from the Directorate-General for Research and Innovation on a case involving a software development project. While she enjoys dealing with a wide range of subjects, the lawyer in her most appreciates finding the correct legal basis for action in each case. She takes pride when the judicial authorities convict fraudsters based on the findings of her investigations.

In addition to investigative missions, office work and being a mother of three, Amira is also interested in martial arts. After having learnt different disciplines she became a Krav Maga instructor and is delighted to share her knowledge with her EU colleagues.

ALINA

OLAF's spokesperson

Alina became the OLAF spokesperson in mid-2013, bringing a great deal of expertise in law, communications and public relations. Her first stint in the EU institutions was during her studies, as an intern in the European Parliament, when she had the opportunity to work on political communication and to delve into interinstitutional negotiations. Following the completion of her law studies, she worked for several years in the private sector on government relations and public affairs, notably in the field of intellectual property and telecommunications, which she describes as 'an extremely valuable experience to understand the real economy, the way companies and markets operate and to acquire solid work culture'.

In 2007, she joined the Directorate-General for Competition as a case handler and policy officer, putting to good use the law degrees she acquired at the University of Leicester, the Université Robert Schuman (Strasbourg) and the College of Europe (Bruges). She then moved to the Communications and Interinstitutional Relations unit, working on communicating the benefits of competition policy.

In her current job as spokesperson, she explains, 'there is no typical day and that is quite fun. As a spokesperson you are in the frontline, liaising with journalists, stakeholders and quite often with regular EU citizens. There is a lot of interest in our anti-fraud work in Member States because fraud cases usually have a national dimension. Every time I answer a question, I feel I have helped others understand the value of our work, especially in the current economic climate.' Her fluency in five EU languages certainly facilitates such exchanges.

Alina and her team have engaged in more proactive communications in recent years, informing the public of the importance of OLAF's work.



HANS

Policy officer in the Fraud Prevention, Reporting and Analysis unit

Curiosity is one of the main drivers of Hans, a seconded national expert from the Netherlands working in OLAF. His curiosity proved instrumental in his career as an auditor in the Dutch civil service, a job that he says 'is often about asking the right questions'.

He studied public administration at the Erasmus University in Rotterdam and worked as an auditor for a Dutch municipal administration before moving on to internal auditing at the Dutch Ministry of Justice. He then provided training for auditors in Bosnia and Herzegovina, Moldova and Romania in twinning programmes supported by the EU.

There his interest in Europe grew, so when a vacancy came up in the Fraud Prevention unit in OLAF, he got approval to apply for this position and came out as the best candidate. His home ministry will benefit from his experience at OLAF when he finishes his secondment and returns to The Hague.

Together with his colleagues, Hans is responsible for identifying 'red flags' — fraud indicators — and responding with the right policy tools, information material and training. By its very

nature, this is teamwork. 'When analysing fraud cases you need to rely on the investigators to identify patterns and you then need to rely on Commission services, like the Directorate-General for Regional and Urban Policy, to share this information with practitioners in Member States', he explains.

The Commission's work can sometimes be a balancing act. 'Take OLAF's mission of protecting EU's financial interests and hence its taxpayers', he says. 'It can easily result in more rules and regulations. However, with the latest developments in anti-fraud tools, we are better able to strike a balance and keep the administrative burden to a minimum'.

GWENN

Assistant to the Director of the Policy Directorate

Gwenn started working for OLAF in 2005 'by chance', she says, 'but I became quickly committed to OLAF. Its work and mission motivate me, having always been attracted to the idea of the European construction'.

During her studies at the Law University of Rennes (France) and the Institute for European Studies in Brussels, she specialised in European

law. This helped her in her first post as a trainee in the European Commission's delegation in Washington DC. After brief experiences in the European Commission and the European Parliament, Gwenn worked in the private sector, in a high-tech company and in a law firm.

Her interest in the European public service led her back to OLAF. She started in the Customs team, discovering many aspects of the investigative work. This experience was very useful when she moved to the position of coordinator for parliamentary questions. Over the following years, Gwenn used her strong communication skills and in-depth knowledge of OLAF's various projects to draft answers to parliamentary questions. From 2007, she also took on a project on cooperation with African authorities. She took part in the creation of a network of contacts and in negotiating administrative cooperation arrangements.

In 2012, she became the assistant to the director in charge of the Policy Directorate: 'As the right hand of the director my tasks are varied, as I work on many cross-cutting issues, such as the management plan, and I assist the director in the management of the directorate. A personal touch is important, and I try to have a human, direct and simple approach, always result-oriented. I know everyone in our directorate and I do my best to support newcomers' integration'.

Always interested in other cultures, Gwenn dances Argentinian tango in her free time.

SALVATORE

Head of Sector for tobacco

Salvatore joined OLAF's predecessor, UCLAF, in 1996. He saw it change from a unit of 60 people to a service of more than 400 investigators, lawyers, policymakers and support staff.

Salvatore is one of OLAF's most knowledgeable experts in the fight against tobacco smuggling and had already worked in this area in the Italian Guardia di Finanza. For several years, he also served as a military helicopter pilot of the Guardia di Finanza. In the mid 1990s, Salvatore investigated violations of the UN embargo against Serbia, where cigarette smuggling from the Montenegrin coast to Italy was frequent.

At OLAF, Salvatore has been involved in coordinating major cross-border anti-smuggling operations in an ever-changing smuggling landscape. From the inspection of containers in northern ports to the shady routes used by smugglers in the Mediterranean and illegal factories on the EU's eastern border, Salvatore has seen it all. Together with his team he uses this expertise every day to investigate and coordinate cases to fight tobacco smuggling, an illegal activity that deprives the EU and national budgets of substantial revenues each year. In one of the latest cases, Salvatore helped Greek customs officers to seize over 20 million cigarettes.

CVETELINA

Head of the Centralised Expenditure and External Aid Sector in the Selection and Review unit

After a career as a case handler in the Bulgarian Competition Protection Commission and a head of department in Bulgaria's Supreme Judicial Council, Cvetelina joined OLAF as an investigator in 2006. Prior to that, she studied law at St Kliment Ohridsky University in Sofia and at King's College London. The work experience in her home country equipped her well for what was needed in OLAF, as she had already acquired investigative experience and was an expert in the Bulgarian judicial anti-corruption commission.

At OLAF, she initially worked mostly on cases involving Bulgaria's pre-accession funds, but her proficiency in Russian proved valuable on cases in former Soviet countries. As an investigator, she finds it interesting to learn about situations and meet people she otherwise never would. Cvetelina sees investigation almost as an art. 'In order to be a good investigator, you need to put your mind and soul to work.' Investigative work brings her a lot of satisfaction, as it provides her with opportunities to learn with each new situation and makes a tangible difference to protecting EU taxpayers' money.

Since 2012 Cvetelina has worked in the Selection and Review unit, where she deals with the selection of cases and the organisational aspects of her sector. 'Having been a lawyer, this was a logical path and the links with investigations are still present', she says. However, she finds it hard to pass cases to her colleagues in the Investigative

units 'just when it gets interesting'. She interrupted her flying lessons during a busy period at work last year, but she is determined to continue.

PAUL

Leader of the expenditure analyst team

Paul joined OLAF in 2003 and was recruited as a temporary agent. A former Belgian police officer, he worked as an analyst for the Belgian judiciary, and later for Europol. He and most of his team members have a background in operational and strategic analysis of law enforcement. Their 'clients' are OLAF's investigators or national judicial authorities in cases of international cooperation. The members of the team combine their skills and experience with advanced software tools to exploit complex and high-volume digital case data.

Analytical findings can often be enriched with information from a selection of specialised sources. This information is put together into analytical reports outlining the newly discovered intelligence and evidence, and these are given to investigators. In response to the growing amount, complexity and diversity of digital data, the team has invested in developing far-reaching automated text-mining capabilities that are leading to a higher detection rate for fraud and corruption cases.

OLAF's operational analysts are pleased to have assisted in many important cases over the years and to have helped recover significant amounts of EU money.



6. Policies to combat fraud

In addition to its investigative work, OLAF contributes to developing EU anti-fraud policy. The Office is engaged in the drafting and negotiation of legislative proposals concerning the protection of the EU's financial interests against fraud and corruption. Thanks to its anti-fraud expertise, OLAF can support the EU institutions in building a legal framework that offers improved protection to the EU budget.

In 2014, when the new European Commission took office, OLAF was placed under the responsibility of Ms. Kristalina Georgieva, Vice-President in charge of Budget and Human Resources. While OLAF remains fully independent in its investigative function, it actively contributes to the Vice-President's initiatives to counter fraud and corruption and to ensure that EU taxpayers' money is put to good use to create jobs and growth in Europe.

6.1. OLAF's cooperation with its partners

In a context where fraud cases are increasingly transnational, OLAF is making significant efforts to strengthen cooperation with its EU and international partners. Cooperation is essential in facilitating the sharing of information on cases of suspected fraud, in promoting operational assistance among partners and in monitoring the implementation of OLAF recommendations by their addressees.

COOPERATION WITH EU INSTITUTIONS AND BODIES

Over recent years, OLAF has reinforced its cooperation with EU institutions by entering into formal administrative arrangements. These are based on the applicable legal framework, in particular on the OLAF Regulation. Arrangements were signed with the European Parliament in July 2013. Discussions with other institutions continued in 2014, leading to the signature of new administrative arrangements with the European Commission and with the European External Action Service in early 2015. These provide for faster, easier and more transparent cooperation procedures and information

exchange, while fully respecting OLAF's independence in its investigative function. Progress achieved in 2014 with the European Central Bank, the European Economic and Social Committee and the European Investment Bank is also expected to serve as a basis for the conclusion of such arrangements in 2015. OLAF has invited the Council of the European Union and the European Court of Auditors to negotiate similar arrangements and both have responded favourably.

OLAF participates in the EU policy cycle for organised and serious international crime in COSI, the Council's Committee on Operational Cooperation on Internal Security, organised by Member States and Europol. Europol actively participates in joint customs operations organised by OLAF and Member States. In addition, OLAF and Europol continue to work towards a new practical arrangement, which would further improve their cooperation.

Similarly, OLAF cooperates with Eurojust on specific cases where prosecution services may need to be involved from an early stage in OLAF's investigations. In 2014, OLAF and Eurojust worked together on four such cases (which correspond to four cases registered in OLAF and five cases registered in Eurojust). OLAF and Eurojust organised three coordination meetings in 2014, and a joint training session for OLAF and Eurojust staff was held in February 2015.

ANNUAL EXCHANGE OF VIEWS WITH THE EU INSTITUTIONS

The OLAF Regulation provides for an annual exchange of views at political level between the European Parliament, the Council, the Commission and the Director-General of OLAF, with the participation of the OLAF Supervisory Committee. Representatives of the Court of Auditors, Eurojust and/or Europol may be invited to attend on an ad hoc basis⁽¹⁰⁾. This exchange of views may cover, inter alia, strategic priorities for investigation policies, the effectiveness of OLAF's work and relations between OLAF and other Institutions and authorities in the EU, its Member States or other countries.

⁽¹⁰⁾ See Article 16 of Regulation (EU, Euratom) No 883/2013.

These discussions must not, however, interfere with the conduct of OLAF's independent investigations.

The first exchange of views took place in April 2014. Discussions focussed on OLAF's new investigative procedures, including procedural guarantees, OLAF's investigation policy priorities, the (then) new working arrangements between OLAF and its Supervisory Committee and the designation of Anti-Fraud Coordination Services (AFCOS) in the Member States.

COOPERATION WITH MEMBER STATES

Under the OLAF Regulation, all Member States are required to designate an AFCOS to facilitate effective cooperation and exchange of information with OLAF. By the end of 2014, all Member States had designated an AFCOS. A first meeting of the new AFCOS subgroup under the Advisory Committee for the Coordination of Fraud Prevention (Cocolaf) was held in October 2014. Building on the AFCOS example and with the participation of several AFCOS, OLAF also organised a seminar in September 2014 in Bulgaria aimed at supporting candidate and potential candidate countries to consolidate their anti-fraud efforts.

COOPERATION WITH COUNTRIES OUTSIDE OF THE EU AND WITH INTERNATIONAL ORGANISATIONS

OLAF has stepped up its collaboration with authorities in countries outside the EU, as well as with international organisations and international financial institutions. In 2014, OLAF signed new administrative arrangements with the World Bank, the UN Development Programme, the UN Office of Internal Oversight Services and the Global Fund to Fight AIDS, Tuberculosis and Malaria. Such arrangements are very useful for OLAF, as these organisations are major partners of the EU in the field of development assistance and either implement EU funds or co-finance projects together with the EU.

As part of its work on promoting anti-fraud policies worldwide, OLAF is actively involved in a number of international networks and organisations, often as a founding member of such bodies.

Thus, OLAF is a founding member of the European Partners against Corruption/European Contact-Point Network against Corruption (EPAC/EACN), a twin network of over 80 police oversight bodies and anti-cor-

ruption authorities from Member States of the Council of Europe and the EU. In 2014, OLAF's Director-General was re-elected EPAC/EACN President.

OLAF is also a founding member of the Economic Crime Agencies Network (ECAN), a worldwide network of heads of law enforcement agencies working on economic crimes, and of the Conference of International Investigators (CII), a platform for investigators from over 40 international organisations who meet annually. In 2014, OLAF hosted the 15th edition of the CII.

OLAF is also a member of the International Association of Anti-Corruption Authorities (IAACA).

Furthermore, in 2014, OLAF organised the first regional operational training course in Senegal. It was financed through the Technical Cooperation Facility (TCF-COM) managed by the Directorate-General for International Cooperation and Development. This is part of OLAF's continued involvement on external aid, in cooperation with the aforementioned DG. The training course was hosted by the president of the National Anti-Fraud and Anti-Corruption Office in Senegal. The national authorities of Benin, Côte d'Ivoire, the Congo Democratic Republic, Morocco, Senegal and Tunisia took part, as well as a representative of the African Development Bank.

ADVANCING A SOUND ANTI-FRAUD POLICY IN EUROPE

In 2014, OLAF contributed to a number of legislative proposals to further develop the EU's anti-fraud policy.

In the customs field, OLAF supported the Commission's initiatives to improve risk assessment and information exchange. One of the main tools for detecting customs-related fraud is risk assessment. This requires the analysis of large volumes of data in order to create risk profiles that identify suspicious consignments. OLAF as the Commission lead service has prepared a legislative proposal to rectify a number of technical difficulties that limited the effectiveness of such risk profiling. It is planned that the revised legal framework, involving amendment to Regulation (EC) No 515/97 ⁽¹⁾, will become applicable in mid-2016.

⁽¹⁾ Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters.



Throughout 2014, negotiations continued in the European Parliament and the Council on the draft regulation on setting up the European Public Prosecutor's Office (EPPO) ⁽¹²⁾ and on the draft directive on the fight against fraud to the EU's financial interests by means of criminal law (PIF directive) ⁽¹³⁾. Although the objective of better protecting EU finances enjoys wide support, discussions have shown that there is significant disagreement on the practical ways to achieve this objective. To enhance the understanding of the Commission's concept of the EPPO, OLAF dedicated the 12th annual conference of fraud prosecutors in October 2014 to discussing the EPPO project with practitioners. The Council's decision to set up the EPPO with a college structure was also discussed. On the draft PIF directive, the European Parliament adopted its report in first reading in April 2014. The negotiations entered the trilogue stage in October 2014, in which the European Parliament and the Council are attempting to reconcile their diverging views on this proposal.



6.2. Fraud prevention and detection activities

Within the framework of the Commission's anti-fraud strategy ⁽¹⁴⁾, OLAF also supports the Commission services in their work to raise awareness about fraud issues and develop appropriate anti-fraud training. The first report on the implementation of the strategy was published as an annex to the 2013 'Report on the protection of the financial interests of the EU' ⁽¹⁵⁾.

⁽¹²⁾ COM(2013) 534 final.

⁽¹³⁾ COM(2012) 363 final.

⁽¹⁴⁾ COM(2011) 376 final.

⁽¹⁵⁾ COM(2014) 474 final.

In 2014, OLAF organised a conference on the fight against fraud in the area of cohesion policy in Athens. It also contributed to a Commission seminar series on anti-fraud and anti-corruption in the area of European Structural and Investment Funds. In this context, OLAF ran a workshop on fraud prevention tools and guidance available to Member State authorities.

Two guidance documents were developed in 2014. One focused on the role of Member States' auditors in fraud prevention and detection; the other aimed to help Member States set out or further develop their national anti-fraud strategies for European Structural and Investment Funds.

In 2014, OLAF prepared and negotiated the four draft delegated and implementing regulations, which are required to set out the working arrangements for reporting irregularities during the 2014–20 programming period for structural actions. Their adoption is planned for 2015.

6.3. Financial support

Figure 31: OLAF's budget for expenditure programmes in 2014

Hercule programme	EUR 13.7 million
Anti-Fraud Information System (AFIS)	EUR 6.4 million
Pericles programme	EUR 0.9 million

HERCULE PROGRAMME

The Hercule programme offers funding for projects that aim to prevent and fight fraud, corruption and any other illegal activities that affect the EU's financial interests, including cigarette smuggling and counterfeiting. In February 2014, the Parliament and the Council adopted the Hercule III programme ⁽¹⁶⁾ for 2014–20 with an overall budget of over EUR 100 million. It is implemented based on annual work programmes.

⁽¹⁶⁾ Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC.

The annual work programme for 2014 was adopted in May ⁽¹⁷⁾. It made EUR 13.7 million available for funding technical assistance and training projects to strengthen the capacity of customs and police forces in the Member States. In 2014, several projects funded under the 2013 budget were also launched, including technical assistance projects, training projects and conferences.

Conferences and seminars enabled staff from law enforcement agencies and non-governmental organisations/non-profit organisations from different Member States and non-EU countries to share information on best practices in the fight against irregularities, corruption and fraud. The Commission funded two digital forensic training sessions for staff of law enforcement agencies responsible for securing evidence from devices (PCs, mobile phones, etc.) seized or investigated during OLAF's investigations.

The Hercule programme funded external databases that provide, inter alia, information on vessel movements and cargo, and details of companies. Member States have access to these databases.

Eucrim journal

Eucrim is a periodical publication that serves as a Europe-wide forum for European criminal law and intends to encourage discussion among practitioners and academics. The magazine is also a forum for the Network of the Associations for European Criminal Law and for the Protection of Financial Interests of the EU. Eucrim is issued four times a year and is available in paper and electronic versions ⁽¹⁸⁾. The project is funded by OLAF under the Hercule programme.

ANTI-FRAUD INFORMATION SYSTEM

The Anti-Fraud Information System (AFIS) is a set of anti-fraud applications operated by OLAF under a common technical infrastructure that ensures the timely and secure exchange of fraud-related information between national and EU administrations. It encompasses two major areas: mutual assistance in customs matters and irregularities management on the expenditure side of the budget. All EU Member States and numerous non-EU countries, as well as the European Commission, Eurojust, Europol and some international organisations, have access to specific AFIS applications. The programme budget for 2014 was EUR 6.4 million.

PERICLES PROGRAMME

Until the end of 2014, OLAF managed the Pericles 2020 programme on behalf of the European Commission. Pericles 2020 is an exchange, assistance and training programme for the protection of the euro against counterfeiting. The amount allocated to the programme in 2014 was EUR 924 200. The overall budget for the Pericles programme for 2014–20 amounts to EUR 7.3 million. From 2015, the Pericles programme and the protection of the euro were moved under the responsibility of the Directorate-General for Economic and Financial Affairs.

⁽¹⁷⁾ C(2014) 3391 final.

⁽¹⁸⁾ <http://www.mpicc.de/eucrim>.



7. Supervisory Committee

The Supervisory Committee's mandate is to monitor OLAF's investigative function in order to reinforce the Office's independence as outlined in the OLAF Regulation. The Committee delivers opinions and recommendations to OLAF's Director-General. It may deliver these on its own initiative, at the request of the Director-General or at the request of an EU institution, body, office or agency, without however interfering with investigations in progress. The Committee furthermore adopts reports on its own activities and on the results of the investigations of OLAF ⁽¹⁹⁾.

The Supervisory Committee is composed of five members, appointed by the common agreement of the European Parliament, the Council and the Commission. In carrying out their duties, the members must not take instructions from any government, institution, body, office or agency.

The Supervisory Committee is composed of Mr Tuomas Pöysti (member since March 2013), who was elected as Chairman in November 2014, Mr Herbert Bösch (member since January 2012), Mr Johan Denolf (member since January 2012), Ms Catherine Pignon (member since January 2012) and Mr Dimitrios Zimianitis (member since February 2014). According to the OLAF Regulation, the term of office is 5 years, non-renewable. To preserve the Supervisory Committee's experience, three and two members are to be replaced alternately. In late 2013, in line with the OLAF Regulation, the president of the European Parliament drew by lot two of the current Committee members whose mandate is to end upon expiry of the first 36 months of their term in office. The European Parliament, the Council and the Commission are expected to agree on a new reserve list of candidates to allow for the replacement.

On 14 January 2014, OLAF and its Supervisory Committee signed new working arrangements. The text is available on the OLAF website.

The working arrangements set out:

- ▶ the general information that OLAF provides to the Supervisory Committee on its investigative activities;
- ▶ an agreed methodology for providing extensive information on OLAF's investigations, while fully respect-

ing the rules concerning the confidentiality of information and personal data contained in the case files;

- ▶ a time frame for the provision of this information, taking into account the Supervisory Committee's need to have regular and reliable information on OLAF's investigative activities, while reducing the burden of continuous reporting for OLAF.

In 2014, OLAF invested considerable efforts and resources to support the Supervisory Committee in its monitoring function by implementing the agreed working arrangements and providing the Committee with the information that it had requested. During the year, OLAF replied positively to all the Committee's requests for full access to cases in OLAF's case management system and granted the Committee full access to 119 cases. In accordance with the OLAF Regulation, OLAF transmitted to the Supervisory Committee 658 reports on cases lasting more than 12 months and informed the Committee of 376 recommendations issued as a result of OLAF's investigations. The Office also provided the Committee with 343 reports containing specific case-related data, as foreseen by the working arrangements. In addition, OLAF replied to the opinions issued by the Committee during 2014, namely Opinion 2/2013 on establishing an internal OLAF procedure for complaints, Opinion 1/2014 on OLAF investigation policy priorities, Opinion 2/2014 on case selection in OLAF and Opinion 3/2014 on OLAF's preliminary draft budget for 2015. The Office also assessed the implementation of 57 recommendations issued by the Committee between 2012 and 2014 and replied to the Committee's report on the implementation by OLAF of the Supervisory Committee's recommendations.

As part of an evolving process, the working arrangements are being revised to better serve the needs expressed by the Supervisory Committee and to further improve the efficiency and effectiveness of the working relationship between OLAF and the Committee.

In accordance with the OLAF Regulation, OLAF provides the Supervisory Committee with its secretariat and its budget. In September 2013, the secretariat was increased to eight staff members. Despite cuts in the financial and human resources of OLAF, as in other Commission services, the budget allocated to the Supervisory Committee and the number of staff in its secretariat have not been reduced.

⁽¹⁹⁾ http://ec.europa.eu/anti_fraud/about-us/supervisory-committee/index_en.htm.

8. Data protection

The protection of personal data is key to a successful investigation because it is a crucial element in safeguarding the rights of individuals concerned by investigations. Since OLAF was set up as an independent body, it has appointed its own data protection officer (DPO) who ensures that OLAF implements the requirements of Regulation (EC) No 45/2001 on the protection of personal data ⁽²⁰⁾, including recommendations of the European Data Protection Supervisor (EDPS).

The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media.

OLAF is committed to guaranteeing the implementation of data protection requirements by staff in their daily work. To this end, OLAF's investigators are guided by the *Instructions to staff on data protection* ⁽²¹⁾, adopted by the Director-General of OLAF in April 2013. In early 2014, all OLAF investigators participated in mandatory training on respecting data protection requirements in the course of investigations.

KEY FIGURES ABOUT OLAF'S ACTIVITIES IN 2014

During 2014, OLAF received a total of 17 requests for access to data subjects' personal data, which also included one request for erasure and one objection. It granted access to each request, refused the request for erasure and rejected the objection.

Two new complaints were filed in 2014, and the two filed in previous years were still ongoing.

These figures should be seen against the fact that 1 400 cases have been opened since 1 January 2009, involving nearly 4 000 relevant data subjects (informants, whistle-blowers, witnesses and people concerned).

⁽²⁰⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community Institutions and bodies and on the free movement of such data.

⁽²¹⁾ http://ec.europa.eu/anti_fraud/olaf-and-you/data-protection/guidelines/index_en.htm.

DATA PROTECTION TRAINING FOR OLAF'S INVESTIGATORS

In early 2014, the DPO and assistant DPO offered training on the practical implementation of data protection requirements for OLAF's investigators. The training session, which was obligatory for all OLAF's investigators, was intended to ensure that:

- ▶ all relevant data subjects are identified in the case management system and that their right of information and other rights (access, rectification, blocking, erasure, objection, etc.) are respected;
- ▶ all deferrals of data subjects' rights are recorded and reviewed every 6 months during the course of the investigation and every year after the investigation is concluded;
- ▶ all transfers of personal data to non-EU countries and international organisations are recorded in the register of transfers; and
- ▶ the requirements of data quality (purpose limitation, necessity, proportionality, fair and lawful processing, etc.) are respected in all processing of personal data.

The training was repeated for newcomers in November 2014, and will become a regular part of newcomers' training.

DATA PROTECTION PAGES ON OLAF'S EUROPA WEBSITE

The Office has comprehensive information available on its Europa website concerning data protection at OLAF. A button on OLAF's homepage leads directly to the data protection pages, from which it is possible to view:

- ▶ the register of OLAF's personal data processing operations;
- ▶ the privacy statements for all OLAF's personal data processing operations;
- ▶ the legal framework for data protection at OLAF (including an up-to-date summary of EU case-law addressing data protection issues);
- ▶ OLAF's Instructions to staff on data protection; and
- ▶ documentation concerning the role and functions of the DPO.

The information is regularly updated.



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The **OLAF** report **2015**

The Fraud Notification System (FNS) is a web-based tool available to any person who seeks to pass on information concerning potential corruption and fraud.

http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

Europe Direct is a service to help you find answers to your questions about the European Union.

Freephone number (*):

00 800 6 7 8 9 10 11

(*) Certain mobile telephone operators do not allow access to 00 800 numbers or these calls may be billed.

More information on the European Union is available on the Internet (<http://europa.eu>).

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The **OLAF** report **2015**

**Sixteenth report of the
European Anti-Fraud Office,
1 January to 31 December 2015**

DISCLAIMER:

OLAF's report features case studies for illustrative purposes only. In particular, the fact that OLAF presents such case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

Communicating with OLAF

<http://olaf.europa.eu>

Reporting fraud to OLAF

http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

Complaining about an OLAF investigation

http://ec.europa.eu/anti-fraud/olaf-and-you/complaints-olaf-investigations_en

Requesting information on OLAF

http://ec.europa.eu/anti-fraud/contacts/general-enquiries_en

Visiting OLAF

http://ec.europa.eu/anti-fraud/contacts/request-visit_en

Media: http://ec.europa.eu/anti-fraud/contacts/media-enquiries_en

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Executive Summary

Four years after its reorganisation in 2012, OLAF has reached “cruising altitude,” improving its effectiveness across all activity areas. Compared to the years preceding the restructuring, OLAF has increased the number of concluded investigations by 93 %, while also delivering 83 % more recommendations. The more efficient processing of incoming information of potential investigative interest - the selection process - has also led to the opening of 86 % more investigations than before 2012. These increases in productivity were achieved despite a decrease in staff and a change in investigative procedures. Regulation 883/2013 ⁽¹⁾ introduced additional investigative requirements and more stringent internal controls which could have led to longer investigations. However, the average duration of OLAF investigations has decreased by 18 % in the last four-year period.

In 2015, OLAF recorded 1372 incoming items of information. The flow of information seems to have stabilised, a testament to the positive cooperation the Office has established with its partners, as well as to its efforts to inform European citizens of the need to report fraud. OLAF's better allocation of resources has led to a faster, more efficient selection process. The Office reduced the average duration of its selections to 1.7 months in 2015. In this Report, OLAF is presenting examples illustrating the considerations which determine whether the Office will open an investigation.

In 2015, OLAF opened 219 new investigations. It concluded 304 investigations, which represents a new record for the Office. As in previous years, the Structural and Social Funds sector continued to be the largest single area of OLAF's investigative activity.

Through its recommendations, OLAF creates the conditions for inappropriately spent EU funds to be recovered to the EU budget. In 2015, the Office issued 364 recommendations to the relevant EU and national authorities and recommended the financial recovery of EUR 888 million.

For the first time, the Report presents a comparison between the financial recommendations issued by OLAF and the financial impact of irregularities detected and reported by Member States. Our analysis shows the important contribution OLAF investigations are making in ensuring that EU money serves its intended goals.

In addition to its investigation and coordination cases, in 2015 OLAF organised several Joint Customs Operations (JCOs). These operations are coordinated and targeted actions of a limited duration with the aim of combating the smuggling of sensitive goods and fraud in certain risky areas and/or on identified trade routes.

OLAF has progressed in its efforts to fight the illicit trade in tobacco products, helping national authorities seize 619 million cigarette sticks in 2015.

Thanks to its anti-fraud expertise, OLAF was also able to support the EU institutions in building a legal framework that offers improved protection to the EU budget. In particular, throughout 2015 OLAF took an active role in the on-going negotiations on the European Commission proposal for the establishment of the European Public Prosecutor's Office (EPPO). OLAF believes the EPPO would streamline the process of identifying fraudsters and bringing them to justice more swiftly. The EPPO would significantly reduce the current fragmentation of national law enforcement efforts to protect the EU budget, thus strengthening the fight against fraud in the European Union.

⁽¹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.



Foreword

It is with great pleasure that I introduce this edition of the annual report of the European Anti-Fraud Office (OLAF). In 2015, OLAF maintained its strong investigative performance, closing a record number of investigations, even if faced with diminishing staff numbers. The Office particularly focused on reducing its backlog of cases older than 20 months, significantly decreasing the number of long-lasting investigations in its portfolio.

Once more, Structural and Social Funds proved to be the single largest area of OLAF's investigative work, and one where its added value was also most visible. In 2015, of the total EUR 888.1 million recommended for financial recovery, EUR 624 million were in the areas of Structural and Social Funds alone.

OLAF is also celebrating a milestone of sorts - it is four years since our reorganisation in 2012, and we believe we have a lot to show for. When embarking on the journey of rethinking the way the Office functioned, efficiency and optimal use of resources were our main goals. We wanted to serve European citizens better, contributing to an increased protection of the EU's financial interests. Four years on, we can now see that our work has paid off. Compared to the period before the reorganisation, the Office has made significant efficiency gains in all areas. Despite increasing legal constraints, we have assessed more items of incoming information and have opened and concluded more investigations faster than ever.

OLAF owes these excellent results to its committed staff members and to the continued cooperation with both Member States and with institutional partners. However, despite some encouraging signs we have received from countries concentrating increasingly on the fight against fraud, there is still a lot of work that remains to be done. To ensure that European money reaches projects that create jobs, growth and wellbeing in Europe and beyond, awareness among citizens of the fight against fraud and the political will to tackle this major problem are both paramount. OLAF will continue supporting European countries in developing their own national anti-fraud strategies and encouraging them to report any instance of fraud they might encounter, knowing their concerns will always be treated with the utmost care and consideration.

There are, however, limits to how much we can contribute to safeguarding the EU budget. We are increasingly faced with transnational cases of fraud, requiring more powers and more capacity than OLAF currently has. What we need and what we are working towards is a European Public Prosecutor's Office, a body which can both investigate fraud and prosecute inside and across Member States.

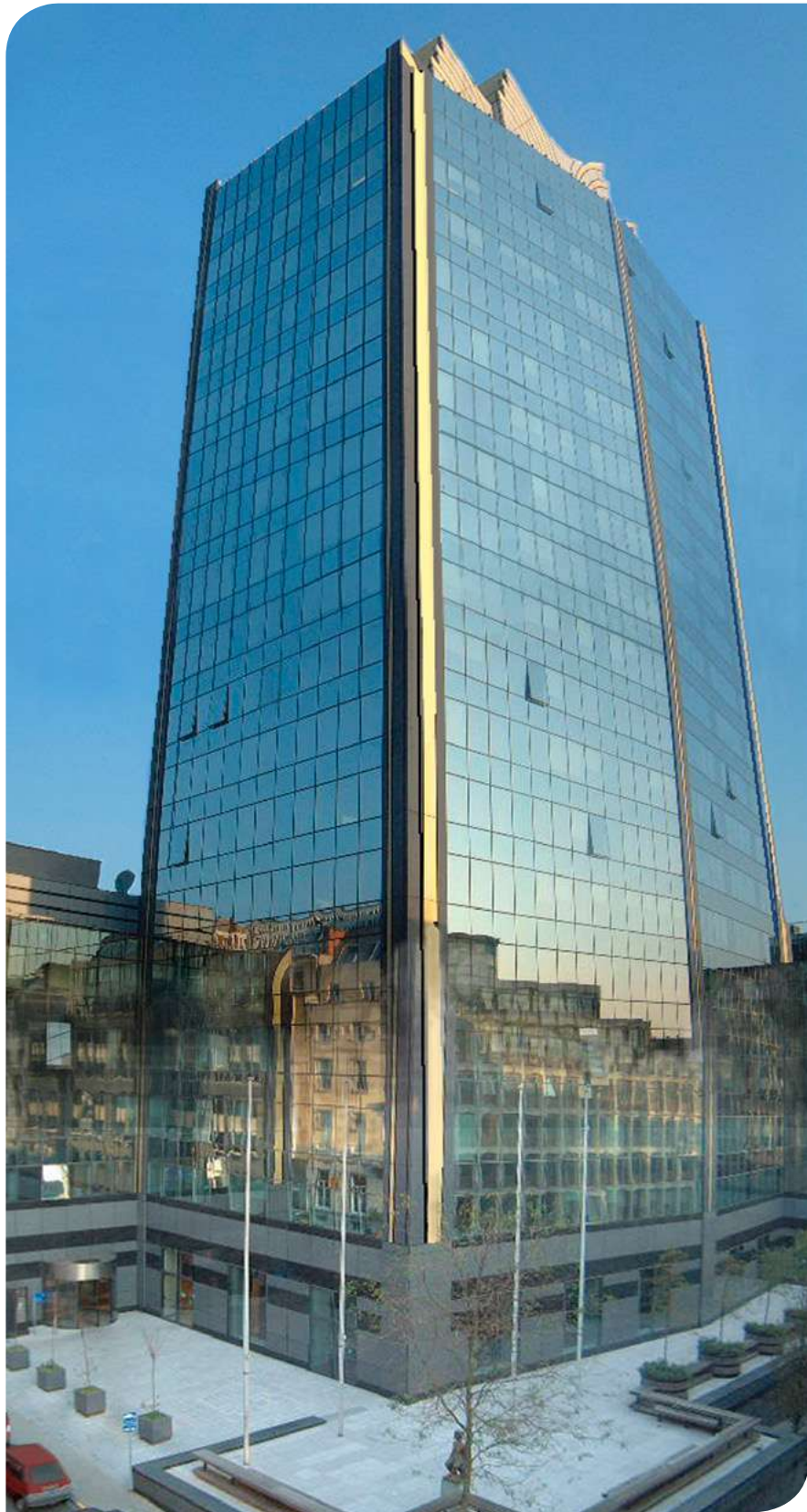
I would like to, once again, take the opportunity to thank our staff for their excellent work and dedication throughout the past year. OLAF's success is their accomplishment, and they can be truly proud of what they have achieved.

Giovanni Kessler
Director-General of OLAF



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The seat of the European Anti-Fraud Office, in Brussels.



1. Mission and mandate



OLAF Mission: Detect, investigate and work towards stopping fraud with European Union funds.

MANDATE

OLAF's mandate is:

- ▶ to conduct independent investigations into fraud, corruption and irregularities involving EU funds so as to ensure that EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- ▶ to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- ▶ to develop EU policies to counter fraud.

COMPETENCES

OLAF can investigate matters relating to fraud, corruption and other offences affecting EU financial interests concerning:

- ▶ all EU expenditure: the main spending categories are Structural Funds, agricultural policy and rural development funds, direct expenditure and external aid;
- ▶ some areas of EU revenue, mainly customs duties.
- ▶ OLAF can also open investigations into suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission and, as such, under the responsibility of Vice-President Kristalina Georgieva. However, in its investigative mandate, OLAF acts in full independence.

WHAT WE DO

OLAF's investigative work involves:

- ▶ assessing incoming information to determine whether there are sufficient grounds for opening an investigation;
- ▶ conducting administrative investigations, where appropriate, in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- ▶ supporting the investigations of national authorities;
- ▶ recommending necessary actions that should be taken by the relevant EU or national authorities;
- ▶ monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud, and better tailor the support we provide to relevant national authorities.

Responsibilities for much of EU spending are shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The detection, investigation and prosecution of fraud against the EU budget can therefore only be conducted by OLAF in cooperation with a wide range of partners, at national, European and international level.

OLAF cases frequently concern:

- corruption in public procurement procedures involving EU finance;
- double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made;
- cross-border procurement fraud;
- subsidy fraud in different forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes. Examples include the delivery of the same piece of research to several funding authorities within or beyond EU borders, plagiarism – the copying of research which has already been undertaken by others, and the deliberate gross disrespect of the conditions of financial assistance.

Case study

OLAF helps misled donors recover lost funds

OLAF received an allegation through its Fraud Notification System that a beneficiary domiciled in a Member State and active in an African country had deliberately misled several foreign donors in order to make a fraudulent profit on the financing of an ecological project. The grant from the EU alone was EUR 2 million.

Acting in close cooperation with the investigation services of other donors, OLAF established that the beneficiary had indeed systematically provided false information to all donors, and had in particular claimed payment of the same costs from different donors.

OLAF recommended the recovery of the whole EU grant and the prosecution of those responsible. OLAF also provided the other donors with information which should enable them to recover their money.

Customs revenue is often threatened by false declarations of the description of goods, their origin or value. Revenue is also threatened by straightforward smuggling - for example by concealing goods which are of high value, goods of illegal origin or counterfeit products.

Smugglers seek out weak points in the national customs controls which protect the EU's external borders, such as frontier crossings, airports, seaports and inland customs clearance offices, in order to abuse the opportunities offered by the single market. The import of counterfeit goods endangers consumers, damages legitimate business and trade, and reduces tax receipts. The illicit trade in tobacco, in particular, is linked to many forms of serious international organised crime including money laundering, narcotics trafficking and terrorist financing, and has enormous financial and social costs.

Case study

OLAF investigation leads to closure of illegal shampoo factories

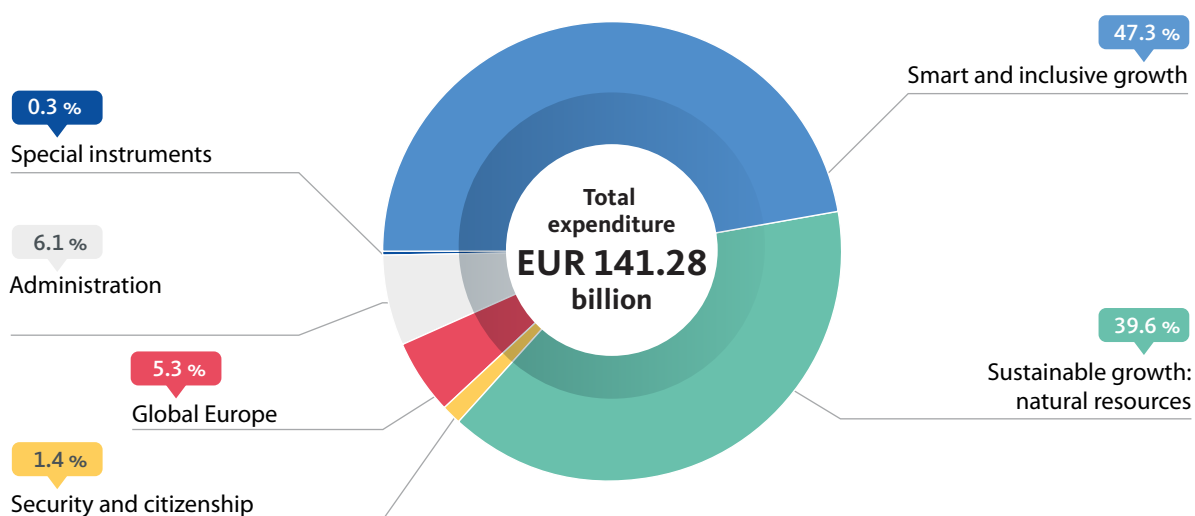
During 2014 and 2015, OLAF investigated the trafficking of counterfeit shampoo in the EU, in cooperation with the authorities of several Member States. One criminal organisation is thought to have imported around 50 containers of counterfeit shampoo over a six month period. Several million bottles manufactured in China and smuggled via Dubai and Singapore were seized by national authorities in France, Germany, the Netherlands, Italy and Spain. In addition, these investigations led to the closure of two illegal factories in Spain which were manufacturing similar counterfeit shampoo from materials imported from China or procured locally. Together, these illegal plants had a capacity of half a million bottles per month. In financial terms, the VAT loss alone to national budgets was at least EUR 3 million, in addition to the other revenue lost from black market trading. For the consumer, the trade in this counterfeit shampoo meant at best the purchase of an inadequate product, since the "shampoo" did not contain the essential active component of the genuine product. At worst, the consumer risked adverse health consequences since some of the counterfeit product contained a cosmetic ingredient which is banned in the EU.



EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, allowances, travel and relocation expenses, social security and health entitlements. They may also be at risk from corrupt activity by members and staff in procurement procedures, and from other forms of

corruption such as attempts to illicitly influence decision-making and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business, which also makes investigations more complex.

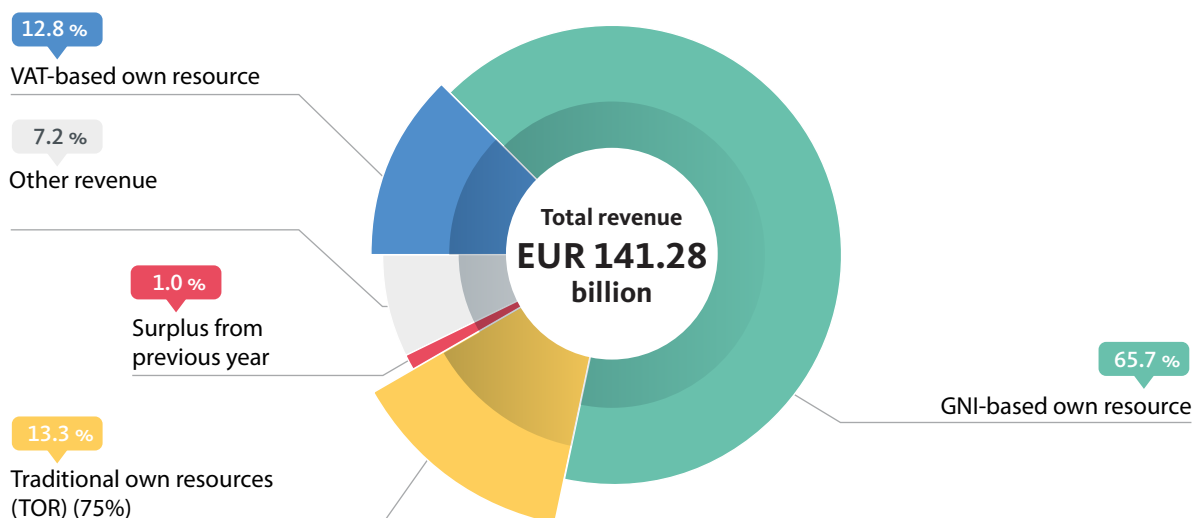
Figure 1: EU expenditure in 2015



Source: OJ L48, 24.2.2016, p. 13

Disclaimer: these amounts are still subject to reliability checks by the European Court of Auditors.

Figure 2: EU revenue in 2015

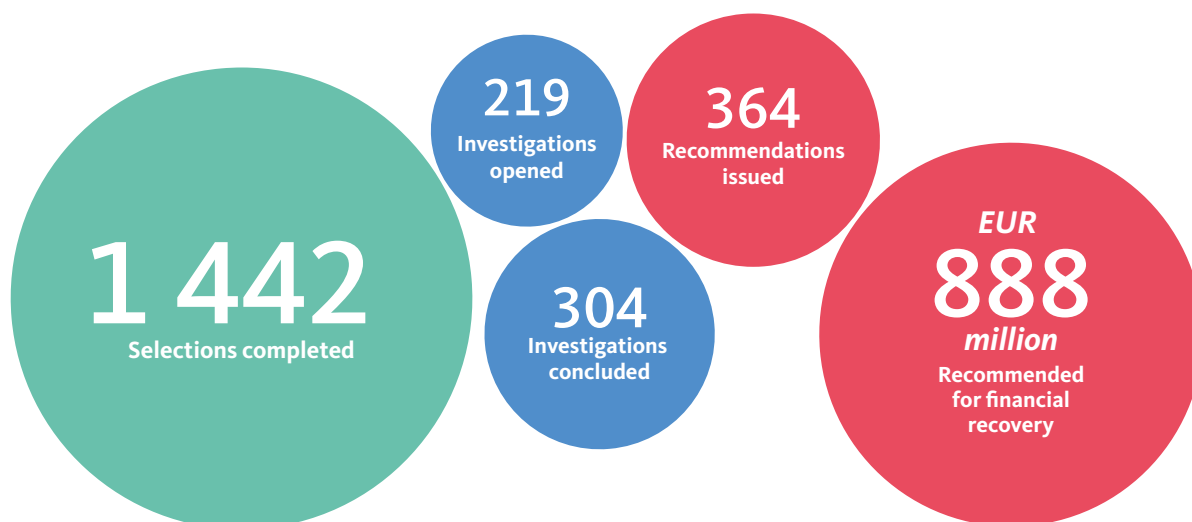


Source: OJ L48, 24.2.2016, p. 14

Disclaimer: these amounts are still subject to reliability checks by the European Court of Auditors.

2. Investigative activity

Figure 3: OLAF's investigative work in 2015



With 304 investigations concluded, 2015 proved to be yet another excellent year for OLAF. Following its reorganisation in 2012, the Office has now reached “cruising altitude,” its work is consistently effective and timely. The numbers speak for themselves – the Office assessed more items of information than in 2014 and took less time to do so. Moreover, OLAF opened a high number of new investigations and recommended more than EUR 888 million for financial recovery. These results are detailed in the following chapters, along with supporting graphs.

2.1. A successful reorganisation

As four years have passed since OLAF's internal reorganisation of 2012, it is now possible to have an overview of the effects that this has had on OLAF's performance. The results are as clear as they are impressive – the Office has, in effect, doubled its capacity, and the gains in efficiency are reflected across all areas of OLAF's work. Comparing the period before the reorganisation (2008-2011) with the period after (2012-2015), we can see that OLAF has increased the number of investigations it has concluded by 93%. The number of new investigations has also significantly improved, with 86% more investigations opened post-reorganisation. Consequently, OLAF delivered 83% more recommendations after 2012. OLAF completed 57% more

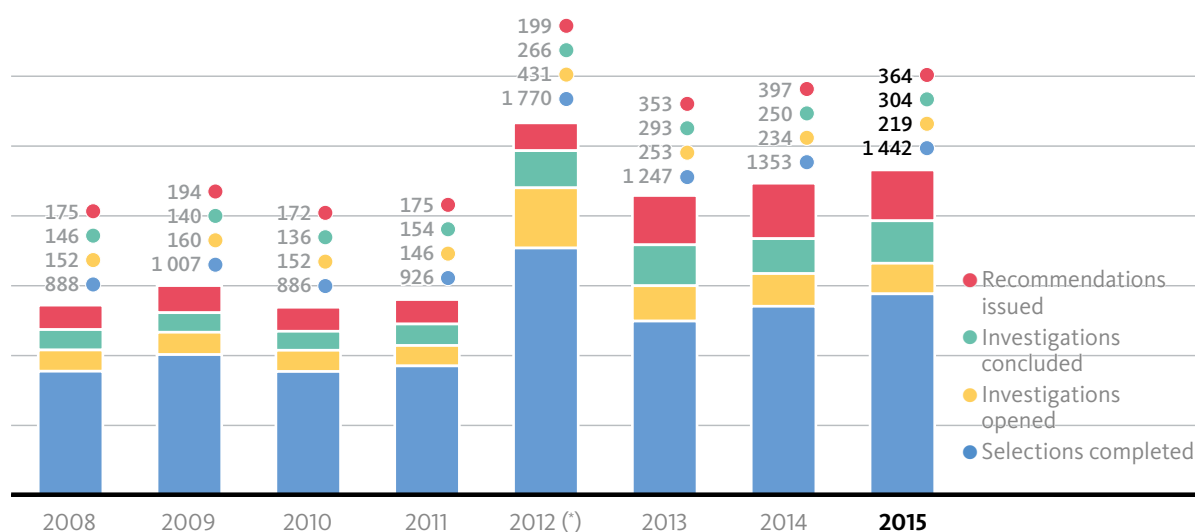
selections after the reorganisation, and has done so faster, providing sources with a prompt answer, even if the case was eventually dismissed. Indeed, compared to 2008, OLAF has almost doubled the number of cases it assesses in a year, while reducing the selection time by more than 60%.

The numbers are particularly good as the gains in efficiency have been achieved despite a decrease in staff and a change in OLAF's investigative procedures. Regulation 883/2013 ⁽²⁾, which provides for both additional investigative requirements and more stringent internal controls, has led to more complex investigation and selection processes. The additional requirements should have naturally led to longer investigations. Still, the average duration of investigations, including the selection phase, has decreased in the past four-year period by 18%, which is equivalent to 4.7 months. Since its reorganisation, the Office has consistently worked better, faster and has used fewer resources to do so.

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.



Figure 4: OLAF in 2015: a record number of concluded investigations



(*) The figures for 2012 include 219 investigation cases, already under evaluation, opened as a result of the reorganisation of 1.2.2012.

Figure 5: Impact of OLAF's reorganisation of 2012

	2008-2011	2012-2015	Before/After reorganisation
Number of selections completed	3 707	5 812	+ 57 %
Number of investigations opened	610	1 137	+ 86 %
Number of investigations concluded	576	1 113	+ 93 %
Number of recommendations issued	716	1 313	+ 83 %
Average duration of investigations (concluded and on-going) including the selection phase (in months)	26.6	21.9	- 18 %

2.2. The selection phase

OLAF DEVELOPS A FASTER, MORE EFFICIENT SELECTION PROCESS

OLAF's investigative work starts with the selection procedure. OLAF assesses all incoming information in order to determine whether it meets the criteria for opening an investigation. This selection procedure is carried out by the Selection and Review Unit, which reports directly to the Director-General.

The first issue is whether the matter falls within OLAF's legal competence: if the matter lies outside OLAF's competence, it may be appropriate for OLAF to pass the information to another body, for example to a national judicial authority if the allegation relates purely to fraud against national finance. If the matter falls within OLAF's competence, it is assessed further.

The second issue is then whether there is sufficient suspicion of fraud or irregularities to open an investigation, given the information available, the reliability of the source and the credibility of the allegations.

If sufficient suspicion is established, the third issue is whether it is appropriate to open an investigation in the light of the following interrelated criteria: proportionality, efficient use of investigative resources and subsidiarity. Whether an investigation falls within the Investigation Policy Priorities of OLAF is a determining factor in favour of opening at this stage.

The Selection and Review Unit submits an Opinion to the Director-General. The Director-General may decide to open an investigation, to open a coordination case – in which OLAF may coordinate or assist other authorities without undertaking investigative acts itself – or to dismiss the case.

The following examples illustrate some of the considerations which determine whether OLAF will open an

investigation. They are hypothetical but are based on OLAF's experience.

1 *An anonymous correspondent alleges systematic violations of procurement procedures for infrastructure funded partly by the EU in a Member State. He claims that named national senior officials are linked to the company which has won important contracts and that the local judicial authorities have taken no action on complaints.*

Although the informant is anonymous, his communication to OLAF is well structured and coherent. OLAF's checks in open sources and Commission databases confirm that his knowledge of the details of projects is accurate, suggesting that he may have inside access. Furthermore, open source searches reveal local press reports alleging illicit influence on the projects. Contacts with OLAF's main partner in the Member State confirm that the local authorities are not investigating the matter.

OLAF opens an investigation.

2 *An informant alleges that a named beneficiary of EU funds has made false declarations in order to obtain a subsidy. OLAF checks confirm that the beneficiary has indeed obtained the subsidy in question and that the allegations appear credible. However, OLAF's contacts with authorities in the Member State in question reveal that a national criminal investigation is already well advanced.*

OLAF does not open an investigation since it would not represent effective use of OLAF resources.

3 *A company which has failed to win a tender published by an EU institution alleges misconduct in the procurement procedure. The allegations are general in character and seem to rely on hearsay, though they target named officials. Initial checks in open sources and the institution's databases do not reveal any apparent grounds for concern. Checks of OLAF's own records confirm that the complainant has made many such complaints in the past, none of which were substantiated.*

OLAF does not open an investigation since there are not sufficient grounds for suspicion given the lack of specific information and the doubtful reliability of the source.

4 *OLAF receives information suggesting that staff members of an EU delegation in a developing country have infringed the EU staff regulations in various respects to favour the interests of family and friends. The information is well substantiated and seems to reflect a recurrent issue at the location.*

Although at first sight the financial consequences to the EU appear negligible, there is a reputational risk and potential for fraud. OLAF is the only body with the investigative powers and resources to establish the facts. OLAF opens an investigation.

Figure 6: OLAF has completed more selections in a shorter time.

	2008	2009	2010	2011	2012	2013	2014	2015
Number of selections completed	888	1 007	886	926	1 770	1 247	1 353	1 442
Average duration (in months) of selection phase	5.0	5.8	6.3	6.8	1.4	1.8	2.0	1.7

OLAF's flow of incoming information seems to have stabilised, reflecting the positive cooperation OLAF has established with its partner institutions and other public authorities, together with its efforts to inform European citizens of the need to report fraud. OLAF recorded 1372 incoming items of information in 2015 and completed 1442 selections. There was a marked reduction in the average duration of selections, from 2.0 months in 2014 to 1.7 months in 2015, with more than 90% of selections completed within two months. OLAF's procedures, together with a better allocation of resources, have led to a faster, more efficient selection process.

OLAF's performance remained strong in 2015, with the Office closing 304 investigations, a new record. OLAF concentrated particularly on finalising investigations older than 20 months, significantly decreasing the percentage of long-lasting investigations in its portfolio. During the last years, OLAF has aimed to have less than 30% of its investigations last more than 20 months. Due to the sustained efforts of investigators and continuous monitoring by managers, OLAF now has the lowest number of investigations lasting more than 20 months in the past three years, and has significantly reduced the percentage of long-lasting investigations compared to its pre-reorganisation period, from 38% in 2011 to 22% in 2015 (*Figure 7*).

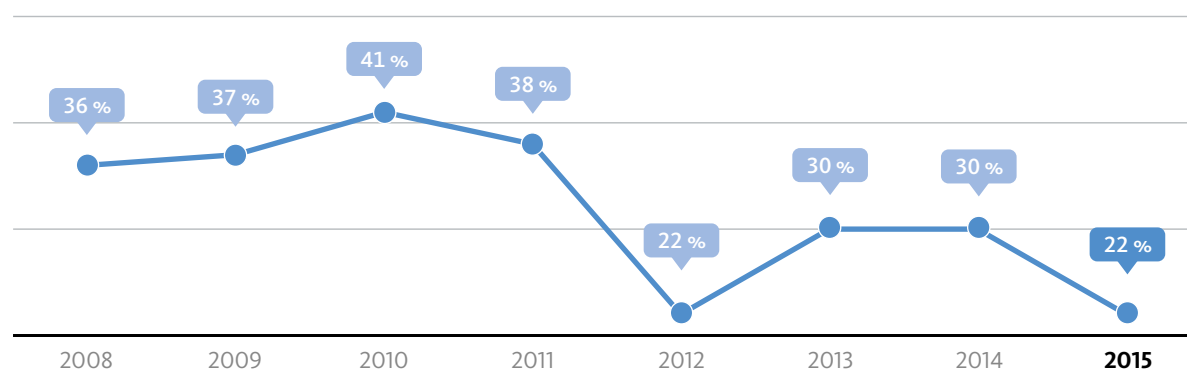
2.3. The investigation phase

OLAF CLOSES A RECORD NUMBER OF INVESTIGATIONS

On opening, investigations are allocated to the relevant investigation unit. Occasionally, the scope of an investigation may necessitate allocation to an ad hoc Special Investigation Team made up of staff from more than one unit.

OLAF also opened 219 new investigations in 2015, a particularly high number achieved against the backdrop of a decrease in investigative staff. Moreover, in terms of the average duration of investigations, OLAF's performance in 2015 has remained relatively stable compared to the previous year. This is confirmed by two different indicators.

The first indicator (*Figure 8*) looks at both the duration of the investigations concluded during the year and the duration of the investigations that were on-going at the end of the year. This gives a complete picture of OLAF's

Figure 7: Percentage of ongoing investigations lasting more than 20 months

investigative performance, since it captures all investigations that have remained open for long periods of time.

The second indicator (*Figure 9*) reflects only the duration of investigations concluded during the year. The slight increase in the duration of closed cases is due to the effort

OLAF has undertaken in 2015 to conclude older investigations lasting more than 20 months.

In 2015, the Structural Funds sector continued to be the largest single area of OLAF's investigative activity, followed by external aid and centralised expenditure.

Figure 8: Average duration of closed and on-going investigations (in months)

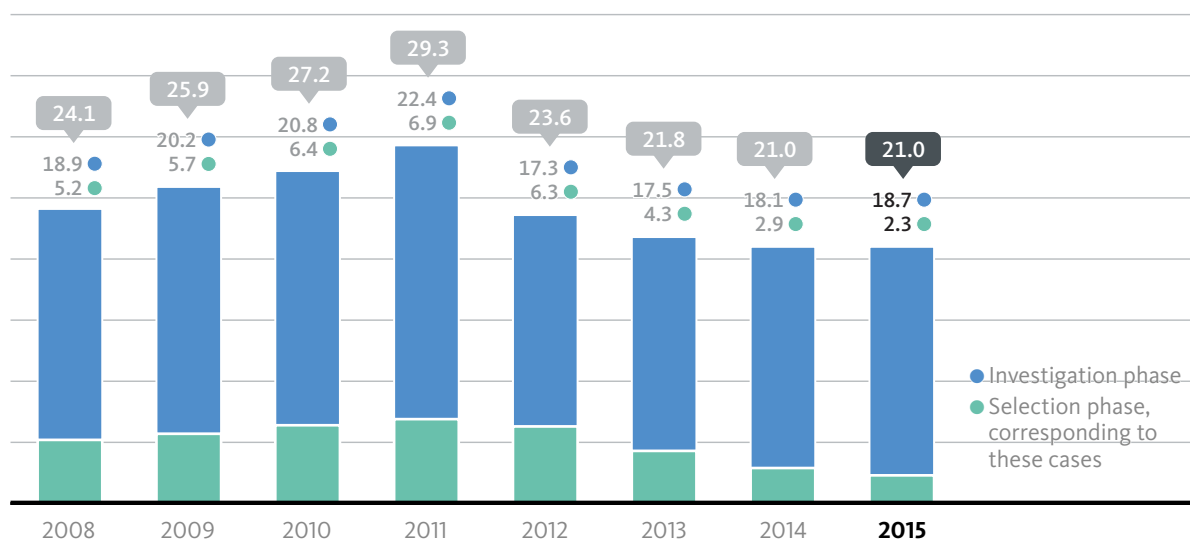


Figure 9: Average duration of closed investigations only (in months)

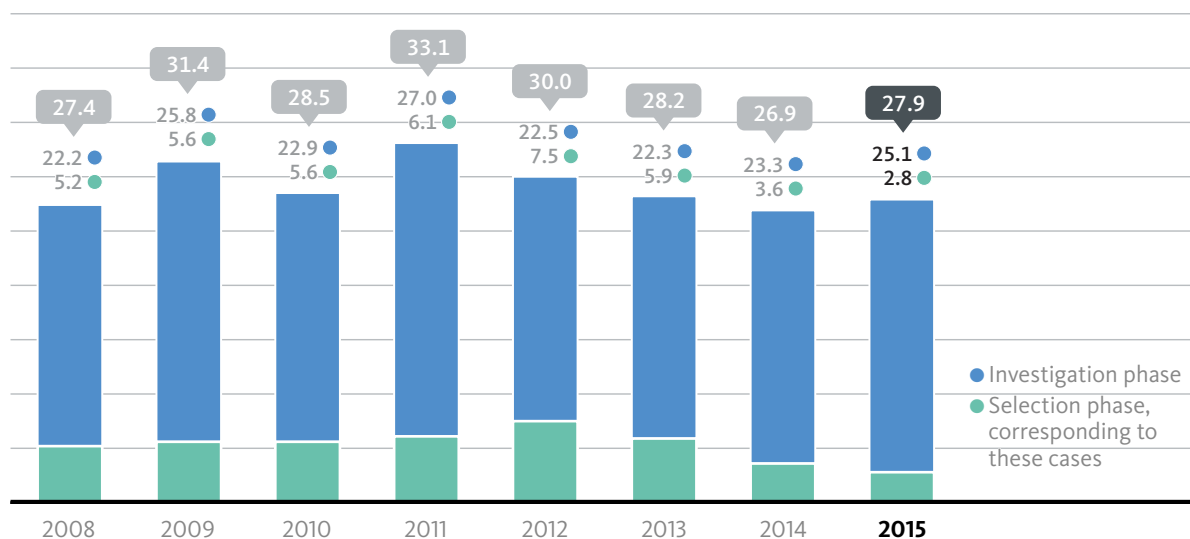
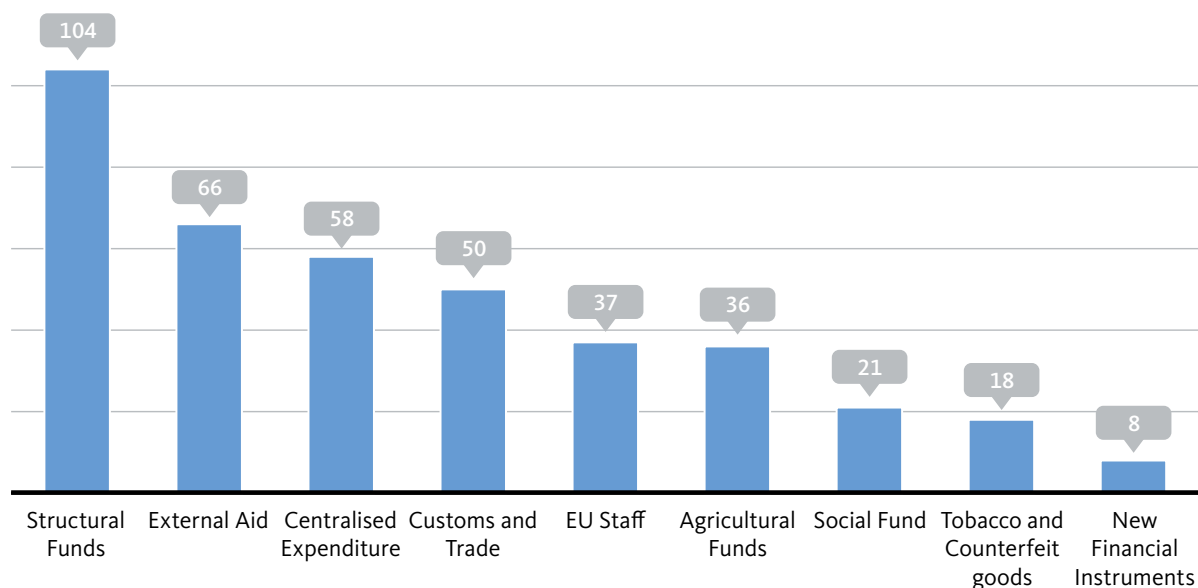




Figure 10: On-going investigations at the end of 2015, divided by sector



Case study

OLAF investigation reveals manipulation of procurement procedures

OLAF investigated fraud allegations concerning the modernisation of a refrigeration plant for fruit and vegetables in Bulgaria, which had received EUR 1.3 million from the European Agricultural Fund for Rural Development (EAFRD). The initial information came from the Directorate- General for Agriculture and Rural Development of the European Commission and suggested there had been manipulation of the procurement procedure for machinery.

OLAF's analysis of documentation subsequently obtained from the Bulgarian Paying Agency confirmed this initial suspicion and pointed also to the fraudulent inflation of prices and misappropriation of EU funds. OLAF carried out on-the-spot checks with the assistance of national investigative authorities, in order to verify the elements of the commercial transactions and the origin of the machinery in question.

The investigation confirmed the allegations and pointed to financial damage to the EU budget, leading to the finding that the entire project was ineligible for EU funding. The fraud scheme uncovered by OLAF was the following: the Bulgarian beneficiary plant was owned by an Italian company, managed by an Italian citizen. The same Italian citizen was also the

beneficial owner and manager of the company which won the procurement procedure for the machinery. The winning tenderer was in fact a shell company which simply sold on finished equipment, thus acting as a mere intermediary. The manipulated procurement procedure resulted in a supply to the beneficiary at a substantially inflated price. Following OLAF's recommendations, criminal proceedings are in course in Italy and Bulgaria.





Figure 11: Cigarettes seized with the support of OLAF (rounded to million sticks)

Year	2011	2012	2013	2014	2015
Coordination and investigation cases	156	156	281	168	602
Joint Customs Operations (JCOs)	2	0	68	132	17
Total	158	156	349	300	619

OLAF has also supported the investigations of national authorities, in what we call coordination cases. However, in such cases OLAF has only limited powers and does not carry out investigative activities. The added value of OLAF's involvement relates to its capacity to coordinate multiple law enforcement agencies from different Member States, which increases the ability of these national authorities to successfully deal with cases of transnational crime.

Not all OLAF operational work takes the form of investigations or coordination cases. In the course of its efforts to counter the illicit trade in tobacco, OLAF receives information notably through its AFIS system ⁽³⁾

about suspicious transit movements and dispatches this information to the national services, which are best able to use it, often in real time ⁽⁴⁾. In addition, the Joint Customs Operations (JCOs), which OLAF organises with Member States and non-EU countries, also led to the seizure of smuggled goods. In 2015, 17 million cigarette sticks were seized during JCOs alone. OLAF estimates the total quantity of cigarettes seized as a result of its overall activities during the year at 619 million cigarette sticks.

⁽³⁾ The Anti-Fraud Information System (AFIS) is an umbrella term for a set of anti-fraud applications operated by OLAF under a common technical infrastructure aiming at the timely and secure exchange of fraud-related information between the

competent national and EU authorities, as well as the storage and the analysis of relevant data. AFIS encompasses two major areas, Mutual Assistance in Customs matters and Irregularities Management on the expenditure side of the EU budget.

⁽⁴⁾ The legal base for this activity is Regulation 515/1997 on mutual administrative assistance.

Joint Customs Operations (JCOs) in 2015

In 2015, OLAF led three JCOs by providing intelligence, technical and financial support.

JCO Sasha targeted the smuggling of chemical drug precursors and the disruption of organised crime networks behind the transport of these illegal chemicals by sea and air. Almost all Member States participated in this action in the autumn of 2015, which was organised together with, and on the initiative of the French customs service and supported by Europol.

JCO Baltica was led by the Polish customs administration and OLAF, with the involvement of six Member States (Finland, Estonia, Latvia, Lithuania, Poland and Sweden) and Europol. The operation focused on the problem of illegal tobacco products coming from non-EU countries

such as Belarus and Russia. Over 13 million cigarettes were seized during the operation.

JCO Romoluk II was co-organised by OLAF and Romanian customs, targeting commercial and non-commercial consignments entering the EU on the Romanian border with Ukraine and Moldova via road and rail. As the aim of this JCO was not only to increase the number of seizures and disrupt criminal networks, but also to improve and increase the exchange of information and the level of cooperation between the services involved, the operation was carried out together with EUBAM, Frontex, Europol, Ukrainian and Moldovan customs and border police. This JCO led to 81 seizures, with a total of 3.74 million cigarettes.

2.4. Recommendations

OLAF RECOMMENDS EUR 888 MILLION FOR FINANCIAL RECOVERY

Once an OLAF investigation has been closed, the Final Report and any recommendations issued by the Director-General of OLAF are forwarded to the competent authorities in Member States or in EU institutions and bodies, which are responsible for subsequent actions.

Through its recommendations, the Office creates the conditions for EU funds inappropriately spent to be recovered to the EU budget. OLAF also works to make sure any concerns regarding the conduct of EU staff and members of the EU institutions are promptly addressed. OLAF recommendations may be of a financial, judicial, disciplinary or administrative nature:

- Financial recommendations are addressed to the EU institutions, bodies or agencies providing or managing the EU funds, as well as to the competent authorities of Member States. The aim of financial recommendations is to seek the recovery of the defrauded EU funds or to prevent additional amounts from being disbursed.
- Judicial recommendations are addressed to the national prosecution authorities, asking them to consider taking judicial action.

- Disciplinary recommendations are addressed to the particular authorities with disciplinary powers in the EU institution or body concerned, asking them to consider disciplinary action against a specific staff member.
- Administrative recommendations are addressed to the EU institutions, bodies, organisations or agencies where weaknesses in administrative procedures, related to one or more cases, need to be addressed in order to prevent fraud.

In 2015, OLAF issued 364 recommendations. While most recommendations were of a financial nature, OLAF slightly increased the number of disciplinary and administrative recommendations compared to 2014.

The Office once again recommended a very large amount for financial recovery, more than EUR 888 million. While slightly lower than in 2014, the amount is still more than double that of 2013. The Structural and Social Funds sectors provided the bulk of the amounts recommended, with more than EUR 624 million, followed by the customs and trade area, and external aid. OLAF monitors these actions in order to take account of lessons learnt and to assess its own performance. Since OLAF Regulation 883/2013 came into effect on 1 October 2013, Member States have a statutory duty to report to OLAF on the actions they have taken as a result of OLAF recommendations.

Figure 12: Recommendations issued

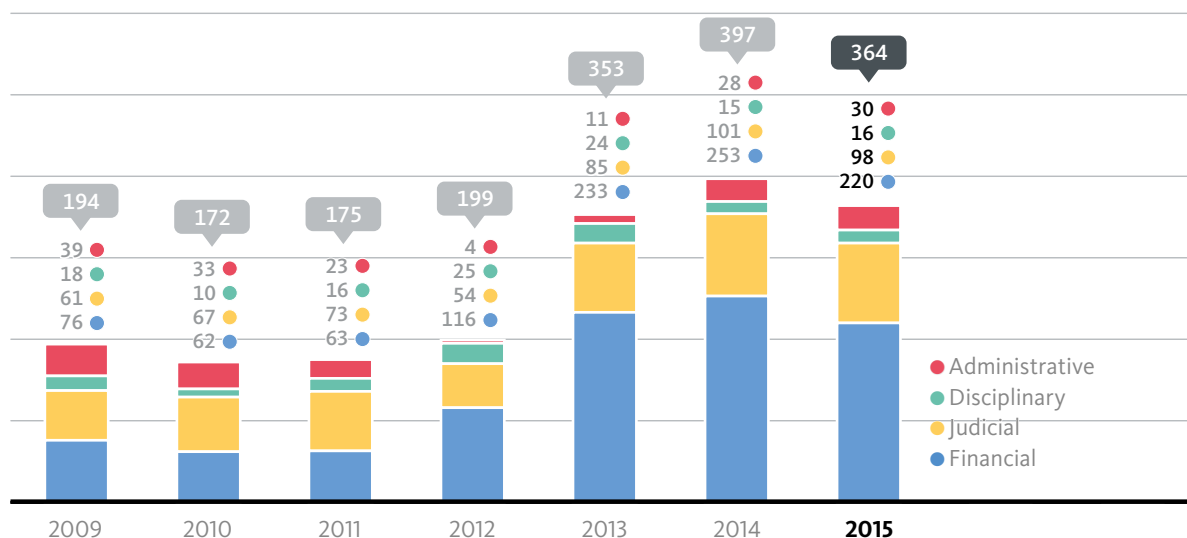


Figure 13: Amounts recommended by OLAF for financial recovery (million EUR)

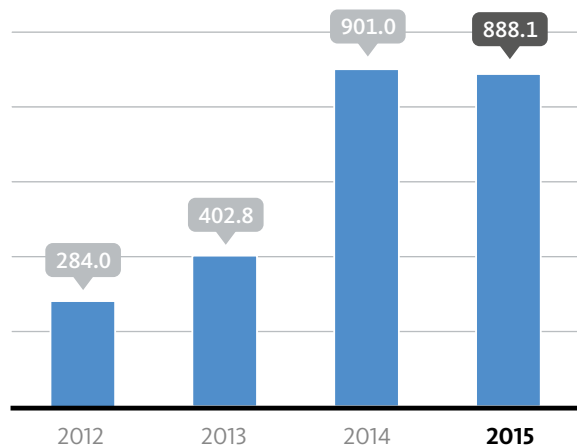


Figure 14: Amounts recommended by OLAF for financial recovery in 2015, divided by sector (million EUR)

Reporting sector	Amount recommended
Structural & Social Funds	624.0
Customs and Trade	97.9
External Aid	76.1
Centralised Expenditure	42.0
Agricultural Funds	36.8
New Financial Instruments	10.4
EU Staff	0.9
Total	888.1



Case study

OLAF recommends EUR 50 million recovery in anti-dumping case

In June 2013, the EU imposed an anti-dumping duty on solar modules produced in China. Initial indications that this duty was being evaded by misdescription of origin emerged within weeks. OLAF opened investigations in December 2013 into fraudulent transshipment via Japan (misdescription of Japanese origin) and in March 2014 into fraudulent transshipment via Malaysia (misdescription of Malaysian origin). OLAF requested assistance from Japanese and Malaysian authorities and conducted investigations jointly with several Member States. OLAF has so far recommended the recovery of over EUR 50 million and has advised several Member States to use the results of OLAF's investigations in criminal proceedings.



2.5. Complaints on OLAF's investigative activity

Persons affected by an OLAF investigation may address a complaint directly to OLAF. The possibility to make a complaint to the Director-General of OLAF is without prejudice to the citizen's right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the European Courts.

In 2015, there were four complaints under the established procedures allowing persons involved in OLAF investigations to alert the Director-General about issues relating to the handling of the procedural guarantees.

The European Ombudsman opened inquiries in relation to three complaints involving OLAF in 2015, one of which was already closed in the course of the year. In this case, which concerned the handling of initial information, the Ombudsman concluded that the Office had appropriately considered whether to open an investigation and had dealt properly with the information. The two other inquiries were pending by the end of the reporting period. In two further cases, rapid solutions could be found without the opening of inquiries, following suggestions by the Ombudsman which were accepted by OLAF.

Issues related to OLAF investigations were also raised before the European Courts in a very limited number of cases. Usually, this occurs in the context of litigation against measures taken by the Commission or

other institutions, bodies or agencies based on OLAF recommendations, such as financial recovery or disciplinary procedures.

Despite the large number of investigations carried out by OLAF every year, the sensitive nature of its activities and the fact that OLAF deals with cases involving the integrity and reputation of natural persons, the low number of complaints confirm that OLAF consistently respects procedural guarantees.

OLAF's compliance with the requirements of Regulation 45/2001⁽⁵⁾ is further scrutinised by the European Data Protection Supervisor (EDPS) in the context of complaints filed by data subjects.

In 2015, five complaints were filed with the EDPS, three of which have already been closed. In two, the EDPS confirmed that OLAF respected its legal obligations. In the third case, which raised questions concerning OLAF's procedures for digital forensic re-acquisition⁽⁶⁾, the EDPS considered that OLAF respected its obligations as regards the re-acquisition itself but failed to inform the complainant about the re-acquisition in a timely manner. The other two complaints were still being processed by the EDPS at the end of the reporting period.

In 2015, the EDPS issued three decisions relating to complaints filed in the previous years. In two cases, OLAF agreed to provide additional information to the complainant. In the third case, OLAF implemented an EDPS recommendation on updating its privacy statement.

⁽⁵⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

⁽⁶⁾ Forensic re-acquisition is the procedure by which a digital forensic image, which OLAF already possesses having acquired it for a specified investigation, is subsequently examined in the context of a different investigation.

3. OLAF's partners in the fight against fraud



Mr Yu Guangzhou, Minister, General Administration of China Customs and Mr Giovanni Kessler, Director-General of the European Anti-Fraud Office, sign a Strategic Administrative Cooperation Arrangement in the presence of China's Premier Mr. Li Keqiang, of the President of the European Commission, Mr. Jean-Claude Juncker and of the President of the European Council, Mr. Donald Tusk.

OLAF works in partnership with the EU institutions, bodies and agencies, as well as with many administrative, judicial, police and customs authorities in the Member States. OLAF also cooperates closely with international organisations and control authorities in non-EU countries.

The Member States are responsible for the management of 80% of EU expenditure and for the collection of the majority all of the EU's revenue from "own resources." Only Member State authorities have law enforcement powers.

Regulation 883/2013 requires all Member States to set up Anti-Fraud Coordination Services (AFCOS). The role of the AFCOS is "to facilitate effective cooperation and exchange of information, including information of an operational nature" with OLAF. However, the legislation is general in nature, so there are considerable differences among the national Coordination Services in terms of relative size and powers. Some have limited coordinating roles, while others have full investigative powers. OLAF organises an annual meeting of AFCOS to facilitate mutual understanding and to exchange views and best practices. Furthermore, OLAF assists

national authorities in improving their capacity to identify and prevent fraud against EU funds, providing them with training and practical tools to identify signs of fraud ("red flags").

OLAF also cooperates with the equivalent anti-fraud agencies of the United Nations, the World Bank and other international organisations. This work is facilitated by Administrative Cooperation Arrangements. In 2015 OLAF signed five new Arrangements with international organisations ⁽⁷⁾. OLAF is a member of several anti-fraud and anti-corruption bodies, such as the European Partners against Corruption/ European Contact-Point-Network against Corruption, the Economic Crime Agencies Network and the International Association of Anti-Corruption Agencies.

OLAF also works with Europol and Eurojust in order to facilitate cooperation and synergies between investigations at national and EU level: in 2015, OLAF and

⁽⁷⁾ The European Bank for Reconstruction and Development, the Inter-American Development Bank, the Organisation for Economic Cooperation and Development, the World Food Programme and the UN Office for Project Services.

Europol continued the process of reviewing the existing working arrangements. In its work with Eurojust, the emphasis was on identifying cases of common interest.

In the areas of customs and trade fraud, OLAF has developed close relationships with the authorities of a number of non-EU countries, which are important trade partners with the EU. In 2015 OLAF strengthened cooperation with China through the signature of a Strategic Administrative Cooperation Arrangement and of an Action Plan on undervaluation. OLAF has liaison officers in China and Ukraine.

OLAF also establishes, on a continuous or ad hoc basis as appropriate, relationships with non-EU country authorities, which are necessary to investigate fraud against the EU budget (mainly EU funds spent on external aid). In 2015, OLAF concluded Administrative Arrangements with partner authorities in Angola, Moldova and Senegal ⁽⁸⁾.

The EU institutions, agencies and bodies are directly responsible for the expenditure of about 20% of the EU budget and employ about 33,000 staff members. Administrative arrangements between OLAF and EU institutions are important because they provide a structured framework for cooperation – particularly in relation to internal investigations, they facilitate the timely exchange of information, and they reflect OLAF's investigative independence. Arrangements with the European Commission and the European External Action Service were signed in January 2015, and with the Economic and Social Committee and the European Investment Bank in early 2016 after concluding negotiations in 2015. Moreover, significant progress was made in 2015 in discussions with the European Central Bank and the Council.

While OLAF has the power to investigate allegations of fraud against the EU Budget within EU bodies, and also other allegations of serious misconduct involving Members of staff of EU institutions and bodies, the recovery of funds and the initiation and conduct of disciplinary proceedings are the responsibility of the EU institution or body concerned. Criminal proceedings against Members or employees can only be undertaken by a Member State which has jurisdiction over the individual in question.



It follows that OLAF can only succeed in its mission if it maximises its capacity to engage and leverage the contribution of all of its partners in the fight against fraud to the EU budget, at all stages of the investigation or coordination cases.

Inter-institutional exchange of views on OLAF's investigative policies

The Regulation governing OLAF foresees an annual exchange of views at political level between the Parliament, the Council, the Commission and the Director-General of OLAF, with the participation of the OLAF Supervisory Committee. The second annual exchange took place on 28 September 2015. The discussions focused on OLAF's Investigation Policy Priorities and on the conclusions drawn by the European institutions from the 2014 OLAF Report and the Supervisory Committee's Activity Report for 2014.

⁽⁸⁾ The Office of the Inspector General of Angola, the National Anti-Corruption Centre of Moldova, and the National Anti-corruption and Anti-fraud Office of Senegal.

3.1. Sources of information

One indication of the level of engagement of Member States is the number of items of information about possible fraud or misconduct forwarded to OLAF, especially when the information comes from an official body. Member States' authorities are encouraged to send such information to OLAF in particular in those cases where OLAF's involvement is of added value, for example in complex cross-border cases.

In 2015, Member States collectively provided 65 items of information, which represents only two-thirds of the

information that they had provided in 2014. Indeed, 11 Member States provided half or fewer items of information than they had in 2014 and only three Member States provided more.

There are reasons why this number varies among Member States - not just differences in the number of inhabitants, but also in the level and nature of EU expenditure in certain Member States. The presence of EU institutions on the territory of some Member States may also lead to the recording of relatively more information from those particular Member States. While OLAF supports Member States to develop their own

Figure 15: Incoming information by source

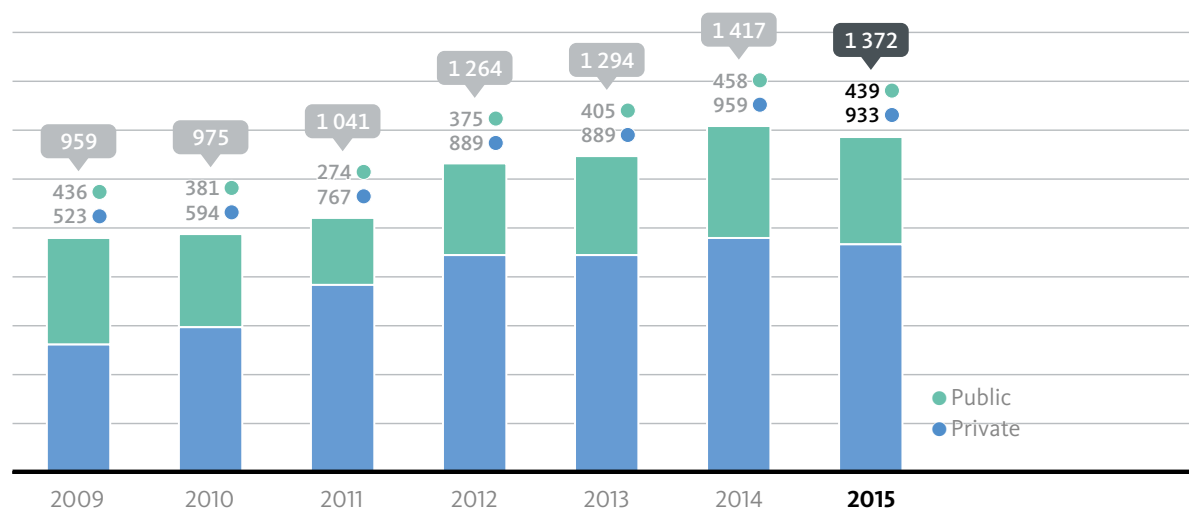
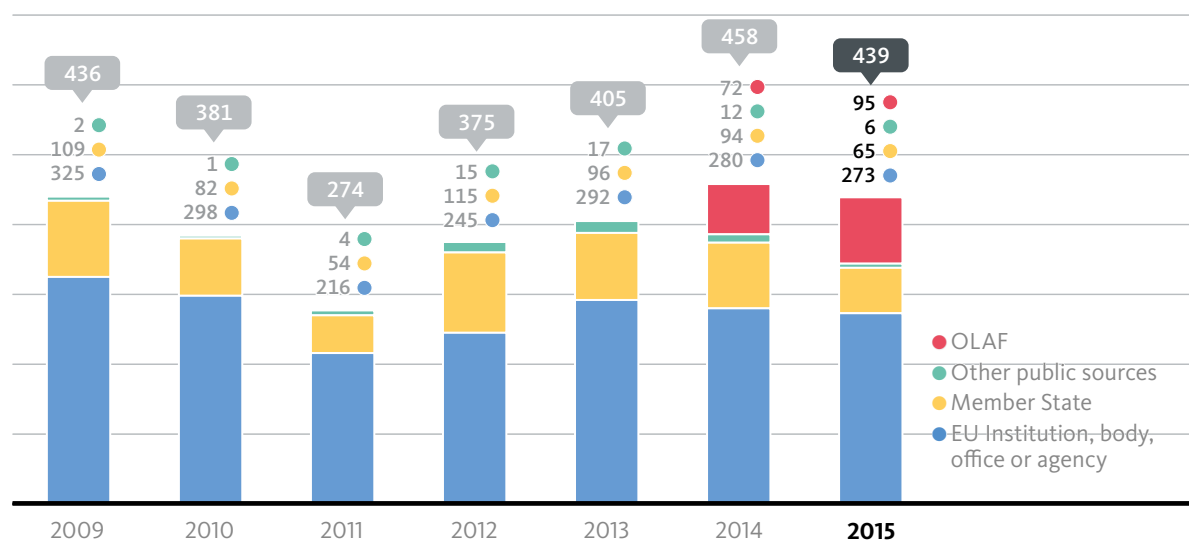


Figure 16: Incoming information from public sources



Note: The items of information now marked as OLAF were previously counted under the EU Institution, body, office or agency heading.



anti-fraud strategies and encourages them to provide the Office with any information on fraud cases affecting the EU's financial interests, some national authorities forward very little information to OLAF.

Figure 17: Incoming information from Member States in 2015

Member State	Public source	Private source	Total
Austria	0	6	6
Belgium	8	20	28
Bulgaria	2	32	34
Croatia	4	3	7
Cyprus	0	1	1
Czech Republic	2	10	12
Denmark	0	3	3
Estonia	0	1	1
Finland	0	2	2
France	2	13	15
Germany	5	29	34
Greece	3	13	16
Hungary	1	20	21
Ireland	0	8	8
Italy	12	28	40
Latvia	0	6	6
Lithuania	1	4	5
Luxembourg	0	2	2
Malta	0	1	1
Netherlands	1	7	8
Poland	6	18	24
Portugal	2	2	4
Romania	11	38	49
Slovakia	0	11	11
Slovenia	0	5	5
Spain	3	17	20
Sweden	1	4	5
United Kingdom	1	11	12
Total	65	315	380

Most of the incoming information sent to OLAF by Member States comes from private sources. However, information from private sources tends to be less reliable than information from official sources, since it often relates to matters which are outside OLAF's remit. Private information is nevertheless an essential source for the opening of OLAF investigations. Again, there are marked differences in the quantity of information provided by private sources in different Member States and it is not always easy to determine where the informant is resident. The figures therefore need to be interpreted with caution. They are, however, of some interest as indications of the level of awareness of the existence of OLAF, of citizens' concerns about fraud and corruption in public life, and of citizens' perception of the importance of protecting EU funds.

Most of the allegations of fraud or serious misconduct that OLAF received from public sources were submitted by EU institutions, bodies, offices or agencies. This was virtually the same in 2015, with 273 items, a testament to the successful implementation of anti-fraud strategies within the European Commission. However, information from employees of EU institutions and bodies, which was forwarded to OLAF on their own initiative rather than through official channels, increased to 95 items in 2015.

While the Office received slightly fewer items of incoming information than in 2014, the largest amount of incoming information was, once again, related to the Structural Funds sector.

3.2. Partnership in investigations

COOPERATION WITH THE AUTHORITIES OF MEMBER STATES

During its investigation process, OLAF works closely with partner services in the Member States and elsewhere, and with any EU bodies concerned.

In 2015, OLAF concluded 199 investigations into the use of EU funds managed in whole or in part at national or regional level. These included 23 Member States and 26 non-EU countries and territories. These investigations covered the sectors of Structural and Social Funds, agricultural funds, new financial instruments and external aid.

Figure 18: Investigations into the use of EU funds managed in whole or in part at national or regional level concluded in 2015

		<i>Concluded with recommendations</i>
Romania	45	22
Bulgaria	19	12
Hungary	17	14
Greece	13	4
Slovakia	11	5
Italy	9	4
Poland	8	5
Netherlands	6	1
Germany, Moldova, Spain	15 (5 per country)	8
France, Guyana, Portugal, Turkey	16 (4 per country)	9
Serbia	3	1
Armenia, Croatia, Czech Republic, Ethiopia	8 (2 per country)	5
Afghanistan, Austria, Bangladesh, Belgium, Bosnia and Herzegovina, Cameroon, Congo (Brazzaville), Congo (Democratic Republic), Cyprus, Eritrea, Estonia, Georgia, Honduras, Kosovo, Latvia, Liberia, Libya, Lithuania, Mali, Malta, Nigeria, Pakistan, Russian Federation, Saint Lucia, Sierra Leone, Sri Lanka, Sweden, Ukraine, United Kingdom	29 (1 per country)	16
Total	199	106

OLAF's overall caseload in Bulgaria and Romania includes a large number of related investigations involving the misuse of funds from the Special Accession Programme for Agriculture and Rural Development (SAPARD). SAPARD funds supported the efforts of the two Eastern European countries in the pre-accession period to prepare for their participation in the common agricultural policy and the single market.

For this particular line of funding, national authorities in Romania and Bulgaria requested OLAF to open separate

investigations for each project concerned. This approach has led to a relatively heavy caseload concerning Bulgaria and Romania, which has also had an impact on the number of cases concluded with recommendations. As detailed in the table below, most of the SAPARD investigations were closed with recommendations; in the case of Romania, 83% of the investigations into cases involving SAPARD funds were concluded with recommendations, while in Bulgaria, this figure was 100%.

Figure 19: Investigations concluded in Romania and Bulgaria in 2015, separated into SAPARD and non-SAPARD cases

		<i>Concluded with recommendations</i>
Romania – SAPARD	12	10
Romania – EXCLUDING SAPARD	33	12
Bulgaria – SAPARD	2	2
Bulgaria – EXCLUDING SAPARD	17	10



COOPERATION WITH EU INSTITUTIONS AND BODIES

OLAF concluded 40 internal investigations during 2015. The OLAF Report for 2014 contained for the first time a breakdown of these internal investigations by the institution and body concerned, in response to the interest expressed by stakeholders. *Figure 20* sets out this information for 2015. The overall number of internal investigations concluded is the same as last year but includes slightly more investigations in the European Parliament and the European Commission and fewer elsewhere.



Case study

OLAF investigation prevents loss of EUR 4.3 million

OLAF investigated the misuse of EU funding for a manufacturing project in Hungary. The investigation showed that the supplier of machinery – the Pacific subsidiary of an Asian company – was de facto under the control of the Hungarian beneficiary. Prices had been fraudulently inflated and the machinery funded was not new and had been embellished with false serial numbers. OLAF's in-house forensic analysis team examined electronic data seized during on-the-spot checks and found evidence of the real nature of the beneficiary's relationship with the supplier. The Italian authorities contributed to the success of the investigation by establishing the true origin of the machinery. The Hungarian authorities are in the process of recovering some EUR 2.2 million and have not disbursed a further EUR 2.1 million that had been earmarked for the project. National judicial proceedings are ongoing.



Figure 20: Investigations into EU staff and members of the institutions concluded in 2015

		Concluded with recommendations
European Parliament	12	6
European Commission	11	5
European External Action Service	8	3
Agencies	5	3
Court of Justice	1	1
Council of the EU	1	1
Other EU bodies	2	0
Total	40	19



3.3. Judicial monitoring

Figure 22 summarises the actions taken by national judicial authorities following OLAF's judicial recommendations between 2008 and 2015. Due to the length of time judicial proceedings can take, especially where complex investigations are involved, OLAF measures these results over a seven-year rolling period. The outcome for the last seven years confirms the results from the previous period, namely that around half of the cases submitted by OLAF to national judicial authorities lead to indictments. There are significant differences between the indictment rates in individual Member States and, in the case of some Member States, between the indictment rates recorded from one rolling period to the next.

As previously explained, OLAF's overall caseload in Bulgaria and Romania includes a large number of investigations involving the misuse of SAPARD funds. However, SAPARD-related cases have led to a relatively low rate of judicial indictment. This was mainly due to the widespread use of consultants and agents in preparing aid applications and tender documents, which raised doubts at judicial level about the fraudulent intent of the beneficiaries. In both countries, the indictment rate of non-SAPARD cases is higher.

In 2014, OLAF undertook an analysis of the decisions by which national authorities in a number of Member States determined not to pursue cases following OLAF judicial

recommendations. In 2015, this exercise was repeated in relation to a further group of Member States. While it is not for OLAF to question the validity of national prosecutors' decisions to dismiss individual cases on grounds such as the inadequacy of evidence, OLAF's analysis confirms the argument in support of the Commission's 2013 proposal for a European Public Prosecutor's Office (EPPO) ⁽⁹⁾. Thus, like the impact assessment accompanying that proposal, this analysis identifies a tendency among some national prosecutors not to consider cases where the damage is to EU interests with the same level of priority as where national interests are concerned. This different approach might be due to the greater difficulty of investigating European fraud cases, justifying a decision not to investigate them because of low public interest, given the length of time involved and the low probability of a positive outcome. The analysis will continue in the coming years, to help OLAF and its national partners develop a better understanding of how to improve the indictment rate and the capacity of Member States to prosecute fraud affecting the financial interests of the EU. At the same time, the establishment of an EPPO should gradually help resolve these problems and better protect the EU budget.

⁽⁹⁾ Proposed by the Commission in 2013, COM(2013) 534 final. See in particular the Impact Assessment accompanying the proposal SWD(2013) 274 final, pp 19- 20, http://ec.europa.eu/justice/criminal/files/eppo_impact_assessment_en.pdf.



Figure 21: Judicial recommendations and indictment rate in Romania and Bulgaria, separated into SAPARD and non-SAPARD cases (2008-2015)

	Number of judicial recommendations	Indictment rate
Romania – SAPARD	65	20 %
Romania – EXCLUDING SAPARD	35	50 %
Bulgaria – SAPARD	8	20 %
Bulgaria – EXCLUDING SAPARD	29	69 %

Figure 22: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2008 and 31 December 2015 (*)

Number of judicial recommendations by Member State	No decision taken by JA		Decision taken by JA			Indictment Rate
	Reporting period (**)	On-going	Total	Dismissed	Indictment	
Austria	7	1	6	3	3	50 %
Belgium	45	5	32	15	17	53 %
Bulgaria	37	8	21	9	12	57 %
Croatia	1	1	0			NA
Cyprus	4		4	3	1	25 %
Czech Republic	9	1	6	4	2	33 %
Denmark	4		3	2	1	33 %
Estonia	3		3	2	1	33 %
Finland	4	3	1	1		0 %
France	20	2	13	6	7	54 %
Germany	36	9	24	12	12	50 %
Greece	22	4	10	1	9	90 %
Hungary	22	4	4	3	1	25 %
Ireland	3		2	2		0 %
Italy	60	7	39	11	28	72 %
Latvia	5	2	1	1		0 %
Lithuania	8	1	7	4	3	43 %
Luxembourg	10	1	3	2	1	33 %
Malta	6		4		4	100 %
Netherlands	15	6	6	5	1	17 %
Poland	17	4	13	2	11	85 %
Portugal	14	2	6	6		0 %
Romania	100	16	67	48	19	28 %
Slovakia	14	3	8	7	1	13 %
Slovenia	4		1		1	100 %
Spain	26	5	15	10	5	33 %
Sweden	4		2	1	1	50 %
United Kingdom	27	10	16	9	7	44 %
Grand Total	527	94	317	169	148	47 %
Grand Total without SAPARD	454	92	263	126	137	52 %

(*) This includes updated figures resulting from the monitoring exercise conducted in 2015.

(**) When OLAF sends a judicial recommendation to a Member State, the competent authority has to report on the actions taken following the recommendation within 12 months. 'Reporting period' means these cases are still in this 12 month period.

3.4. Disciplinary monitoring

Figure 24 summarises the actions taken by the disciplinary authorities of EU institutions and other bodies in the years 2013-2015 as a result of OLAF investigations and recommendations. OLAF measures these results over a three-year rolling period, to take account of the length of time which some disciplinary proceedings can take.

Figure 23 lists the sanctions imposed following OLAF's disciplinary recommendations issued between 2013 and 2015. These can go from warning or reprimand to removal from post.

Figure 23: Sanctions imposed following OLAF's disciplinary recommendations issued between 1 January 2013 and 31 December 2015 (*)

Deferment of advancement or downgrading	2
Removal from post	6
Warning or reprimand	12

(*) The appointing authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the appointing authority may join several recommendations resulting from different investigations into the same person concerned in one action and, subsequently, impose one single sanction.

Figure 24: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2013 and 31 December 2015 (*)

Main recipient	Total	No decision taken		Decision taken		
		Reporting period (**)	Ongoing	Total	No case is made	Action taken
Agencies	8		1	7	4	3
Committee of the Regions	1			1	1	
Council of the European Union	1		1	0		
Court of Justice	1			1		1
European Commission	28	6	5	17	7	10
European Economic and Social Committee	2			2	1	1
European External Action Service	4	1	3	0		
European Investment Bank	2			2		2
European Parliament	11	4	5	2	1	1
Total	58	11	15	32	14	18

(*) This includes updated figures resulting from the monitoring exercise conducted in 2015.

(**) When OLAF sends a disciplinary recommendation to an appointing authority, the competent authority has to report on the actions taken following the recommendation within 6 months. 'Reporting period' means that these cases are still in this 6 month period.

3.5. Financial monitoring

OLAF INVESTIGATIONS LEAD TO HIGH AMOUNTS RECOMMENDED FOR RECOVERY TO THE EU BUDGET

As Member States are responsible for most of EU spending, as well as manage the collection of the majority of the EU's customs revenue, their activities represent the first line of defence against any attempt to defraud the EU budget.

Therefore, under sectoral regulations, Member States are obliged to report to the European Commission any irregularity or suspicion of fraud ⁽¹⁰⁾ they encounter exceeding EUR 10,000. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU financial interests.

⁽¹⁰⁾ A case can be defined as fraud only after a definitive sentence is issued by a competent judicial authority. This can take a few years following the detection and reporting of the case to the Commission.



Figure 25: Member State/OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2013-2015

Member State	Traditional Own Resources (TOR)			
	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities (*) N	Financial impact as % of TOR collected %	Investigations closed with recommendations N	Financial recommendations as % of TOR collected %
Austria	216	2.00 %	6	0.10 %
Belgium	574	0.80 %	17	0.80 %
Bulgaria	87	6.10 %	14	2.30 %
Croatia	32	1.50 %	0	0.00 %
Cyprus	30	2.10 %	5	0.10 %
Czech Republic	212	2.30 %	13	1.40 %
Denmark	204	1.20 %	12	0.80 %
Estonia	20	1.90 %	6	0.50 %
Finland	210	1.10 %	5	0.20 %
France	1 151	2.00 %	15	0.20 %
Germany	5 362	2.30 %	26	0.30 %
Greece	130	3.70 %	9	0.20 %
Hungary	155	1.10 %	8	0.60 %
Ireland	83	0.70 %	4	0.10 %
Italy	581	1.70 %	22	0.30 %
Latvia	77	4.70 %	8	3.30 %
Lithuania	142	2.60 %	7	1.80 %
Luxembourg	0	0.00 %	0	0.00 %
Malta	12	1.50 %	1	0.10 %
Netherlands	1 286	2.40 %	28	0.90 %
Poland	448	1.30 %	18	1.50 %
Portugal	107	1.70 %	10	0.90 %
Romania	248	4.70 %	18	2.90 %
Slovakia	51	1.10 %	7	0.50 %
Slovenia	44	0.90 %	10	0.30 %
Spain	1 114	2.20 %	18	0.70 %
Sweden	210	1.00 %	9	0.40 %
United Kingdom	3 334	6.30 %	26	0.40 %
Total	16 120	2.70 %	322	0.50 %

(*) Please see the 'Report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests — Fight against fraud 2014 Annual Report' (COM(2015) 386 final and the Commission Working Staff 'Statistical evaluation of irregularities reported in 2014' (SWD(2015) 186 final) and the other Reports and documents related to previous years at <https://ec.europa.eu/anti-fraud/about-us/reports/communities-reports>."

Figure 26: Member State/OLAF detection of irregularities and their financial impact in the areas of Structural Funds and Agriculture for the period 2013-2015

Shared Management: Structural Funds and Agriculture				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	218	0.30 %	1	0.03 %
Belgium	249	0.60 %	1	0.03 %
Bulgaria	513	1.50 %	34	0.66 %
Croatia	5	0.20 %	1	0.00 %
Cyprus	69	0.60 %	0	0.00 %
Czech Republic	2 788	6.10 %	4	0.09 %
Denmark	165	0.20 %	0	0.00 %
Estonia	303	1.20 %	0	0.00 %
Finland	97	0.10 %	0	0.00 %
France	726	0.40 %	5	0.01 %
Germany	1 308	0.40 %	5	0.11 %
Greece	841	1.90 %	7	0.33 %
Hungary	1 876	0.90 %	29	3.51 %
Ireland	1 182	4.00 %	0	0.00 %
Italy	2 240	1.70 %	8	0.28 %
Latvia	379	2.70 %	1	0.01 %
Lithuania	777	2.30 %	3	0.09 %
Luxembourg	1	0.20 %	0	0.00 %
Malta	67	0.70 %	1	0.70 %
Netherlands	698	2.70 %	1	0.00 %
Poland	3 268	1.30 %	5	0.01 %
Portugal	1 161	1.10 %	5	0.22 %
Romania	3 606	3.40 %	90	0.58 %
Slovakia	976	15.40 %	10	3.97 %
Slovenia	203	2.30 %	0	0.00 %
Spain	6 853	3.00 %	4	0.66 %
Sweden	213	0.30 %	0	0.00 %
United Kingdom	2 111	1.00 %	0	0.00 %
Total	32 893	1.90 %	215	0.42 %



In parallel with the Member States, OLAF gathers data on the number of investigations it has conducted which have led to financial recommendations. On the basis of both internal information and data provided by Member States, OLAF has conducted an analysis in the field of Traditional Own Resources (TOR). The analysis provided an overview of the number of fraudulent and non-fraudulent irregularities detected by national authorities throughout the EU. They are shown as a percentage of the total TOR that authorities have collected for the years 2013-2015. Alongside the results by national authorities, the results obtained by OLAF during the same period are also published ⁽¹¹⁾.

OLAF analysts have also looked at similar data in the two main areas of shared management, namely Structural Funds and Agriculture, and the financial impact of irregularities as a percentage of the total payments for the years 2012-2014 ⁽¹²⁾. In our analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States.

Figure 25 shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources between 2013 and 2015 and the percentage that their financial impact represents in terms of the total TOR collected by Member States. OLAF results are shown alongside those of national authorities.

Figure 26 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management, namely Structural Funds and Agriculture, between 2013-2015 and their financial

impact expressed as a percentage of the total payments for the years 2012-14, divided by Member State. OLAF results are shown alongside those of national authorities.

Our analysis shows the important contribution OLAF investigations are making in helping recover EU funds that have been defrauded. In terms of Traditional Own Resources, OLAF financial recommendations would represent 15.6 % to 18.5 % ⁽¹³⁾ of the entire financial impact of investigative and control activities in the Member States. The numbers are even higher in the shared management areas, where the financial impact of the activities of all Member States together accounts for 1.9% of payments, while OLAF alone recommended the recovery of 0.42% of payments.

Despite its limited resources and lack of law enforcement powers, OLAF is consistently making a big difference in ensuring EU money can serve its intended goals.

3.6. Financial recoveries

While OLAF in itself does not have the power to recover funds, as this is the task of competent national authorities and EU bodies, in 2015 as a result of OLAF investigations, EUR 187.3 million was recovered to the EU budget. This amount is 10.2% lower than the sum recovered in 2014, namely EUR 206.4 million, while recoveries in 2013 amounted to EUR 117 million. It is important to note that there is no correlation between amounts recommended in a year and the amounts recovered in that year. Amounts recovered often related to cases closed in previous years.

⁽¹¹⁾ Results by the Member States and OLAF may partially overlap. OLAF results are extracted from the Case Management System, and represent the total sum of financial recommendations issued at the end of the investigations. Data concerning Member States is extracted from the Irregularity Management System (IMS) for the two expenditure areas and from the OWNRES system for TOR. Data used in this report need to be considered as provisional as final data are published in the 'Report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests — Fight against fraud - 2015' which will be published in July 2016.

⁽¹²⁾ The financial impact of irregularities detected between 2013 – 2015 is compared with payments disbursed between 2012-2014 as, in the area of expenditure, investigations are very rarely related to payments disbursed in the same fiscal year.

⁽¹³⁾ The range has been calculated assuming, for the lower limit, that OLAF results are not included in those reported by the Member States, while for the highest limit, the assumption is the opposite - that OLAF results are fully included in those reported by the Member States.

4. Developing anti-fraud policies

In addition to its investigative work, OLAF contributes to developing EU anti-fraud policies. The Office is engaged in the drafting and negotiation of legislative proposals concerning the protection of the EU's financial interests against fraud and corruption. Thanks to its anti-fraud expertise, OLAF can support the EU institutions in building a legal framework that offers improved protection to the EU budget.

As part of its policy work, in 2015 OLAF has taken an active role in furthering the initiatives below.

4.1. The legislative anti-fraud framework

The negotiations on the European Commission proposal for a Regulation on the establishment of the European Public Prosecutor's Office (EPPO) ⁽¹⁴⁾ continued in 2015. The Council discussed the proposal under the Presidencies of Latvia and Luxembourg and examined the first half of the Regulation dealing in particular with the structure of the EPPO, its competence and powers of investigation. The Council departed from the Commission proposal by expressing its preference for an EPPO with a collegial structure and shared competence between the EPPO and the Member States for offences affecting the financial interests of the EU. The Parliament issued a resolution in 2015 ⁽¹⁵⁾ calling in particular for an independent and efficient EPPO. Negotiations are expected to continue throughout 2016.

In 2015, the European co-legislators also pursued the negotiation on the proposed Directive on the fight against fraud to the EU's financial interests by means of criminal law ("PIF directive") ⁽¹⁶⁾. Trilogue meetings that had started in 2014 continued during the first half of 2015. The Parliament and the Council were close to an agreement on almost all issues previously discussed, but negotiations stalled due to a disagreement on the question of whether or not to include VAT fraud in the

scope of the Directive. Following a judgment of the European Court of Justice of 8 September 2015 ⁽¹⁷⁾, the negotiations have been re-launched.

The amendment of *Council Regulation (EC) 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters*, proposed by the Commission in 2013, was adopted by the co-legislators on 9 September 2015 ⁽¹⁸⁾. This amendment improves the current framework for detecting and investigating customs fraud at EU and national level, in particular through the creation of centralised databases containing information on container movements and on the goods entering, leaving and transiting the EU. This will strengthen the analytical capabilities of both OLAF and national customs authorities.

In May 2015, the Commission presented two proposals for Council Decisions on the conclusion on behalf of the European Union of a Protocol to Eliminate Illicit Trade in Tobacco to the World Health Organisation's Framework Convention on Tobacco Control (the so-called FCTC Protocol). This Protocol is set to be the cornerstone of the EU's future policy to combat cross-border cigarette smuggling. The Commission has also begun to promote accession to the Protocol to key non-EU countries. The legislative process continues. The final adoption of this protocol is foreseen for 2016, and Member States are expected to ratify it.

Throughout the reporting period, the Commission also implemented the 2013 strategy to step up the fight against cigarette smuggling, in close cooperation with national customs authorities. Several new initiatives were undertaken in this context, such as the creation of a dedicated laboratory for the independent analysis of seized tobacco products.

In 2015, the Commission adopted the package of four Delegated and four Implementing Regulations on the

⁽¹⁴⁾ COM(2013) 534 final.

⁽¹⁵⁾ P8_TA-PROV(2015)0173.

⁽¹⁶⁾ COM(2012)363.

⁽¹⁷⁾ Case C-105/14, «Taricco». The court concluded that the current EU legal instrument protecting the EU's financial interests, namely the PIF Convention which the PIF Directive should replace, covers VAT fraud.

⁽¹⁸⁾ Council and Parliament Regulation (EU) 2015/1525EU - OJ L243, 18.9.2015.



Reporting of Irregularity provisions in the area of shared management for the Multi-annual Financial Framework 2014-2020. The acts entered into force in November 2015 ⁽¹⁹⁾. The objective is to improve the quality and consistency of the information related to fraud received from Member States whilst imposing a minimal administrative burden on national authorities. An important element of the revised Financial Regulation is the establishment of a new Early Detection and Exclusion System which entered into force in 2016.

Institutional support to the development of fraud prevention activities

In 2015, OLAF maintained its coordination role and support function for the implementation by the Commission services of the 2011 Commission Anti-Fraud Strategy (CAFS). OLAF plays an advisory role through the Commission Fraud Prevention and Detection Network, guidance notes and training sessions. OLAF has also regular meetings and training sessions on fraud prevention with the other EU institutions, bodies and agencies.

OLAF also steers and chairs the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), composed of representatives of Member States' authorities. COCOLAF deals with horizontal questions relating to the general policy of fraud prevention and the protection of EU financial interests. An important achievement of COCOLAF and its subgroups is the adoption of two guidance documents: "National Anti-fraud Strategy in practice: preparatory phase" and "Identifying conflicts of interests in the agricultural sector - A practical guide for funds managers".

⁽¹⁹⁾ OJ L 293, 10.11.2015

4.2. Financial support for improving Member States' capacities to fight fraud

OLAF is responsible for the management of the Hercule III Programme ⁽²⁰⁾, which supports actions and projects that aim to protect the financial interests of the European Union. The Programme has a budget of more than EUR 100 million for the period 2014-2020. It is implemented on the basis of annual work programmes setting out the budget and the funding priorities for a given year. The annual work programme for 2015 made available a budget of EUR 14 million for the purchase of, for example, specialised technical equipment by law enforcement agencies in the Member States, such as customs authorities. The Hercule Programme also supported conferences, seminars and training events attended by members of national administrations, law enforcement agencies and NGOs in order to strengthen mutual cooperation in the protection of the EU's financial interests.

In 2015, the Commission adopted a Report ⁽²¹⁾ on the achievement of the objectives of the Hercule II programme (2007-2013), based on the results of an independent evaluation. The evaluation found that the support granted to Member States led to better transnational and multidisciplinary cooperation between authorities and strengthened the operational and investigative capacity of its main beneficiaries.

In order to protect the EU funds disbursed in Ukraine, particularly following the adoption of the financial support package ⁽²²⁾, and to support the country's law enforcement capacity, the European Commission and OLAF are evaluating the possibility of setting up, together with the Ukrainian authorities, an EU-Ukraine Joint Investigative Body. The Investigative Body would be mandated to carry out criminal investigations against fraud and corruption occurring in Ukraine and affecting aid granted by the EU.

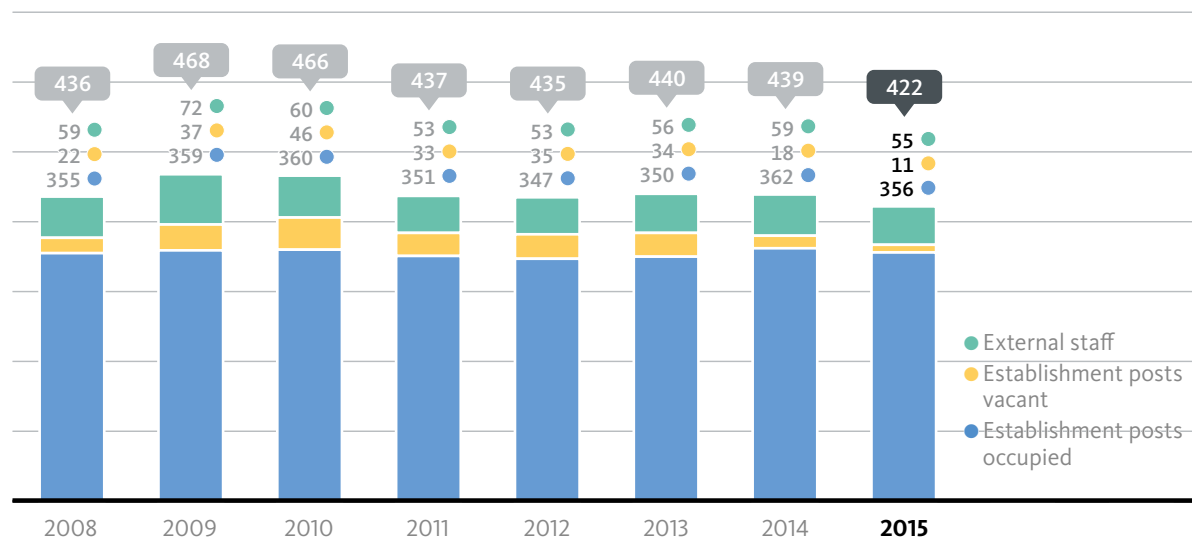
⁽²⁰⁾ Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC, OJ L 84, 20.3.2014, p. 6–13.

⁽²¹⁾ COM(2015)221 final of 27 May 2015.

⁽²²⁾ On 5 March 2014, the Commission adopted a financial support package for Ukraine with an initial volume of EUR 11 billion (see: http://europa.eu/rapid/press-release_MEMO-14-159_en.htm).

5. Staff and budget

Figure 27: Number and breakdown of OLAF staff from 2008 to 2015 (*)



(*) These staff figures include filled and vacant posts

The number of OLAF's staff has declined in 2015 by 4%, and is set to do so further in the coming years, in the context of the general reductions in staff numbers and budgets in the EU public service.

At the end of 2015, the total number ⁽²³⁾ of staff members in OLAF stood at 422.

Despite the cuts, OLAF managed to maintain the relative share of staff allocated to the fight against fraud at 78% and to anti-fraud policy work at 12%. The remaining 10% were allocated to overhead functions such as HR, finance and ICT.

So far OLAF has coped with the combination of a structural increase in workload and reduction in staff numbers through efficiency gains. Indeed, a number of organisational changes were introduced since 2012 to streamline support functions and processes, improve the distribution of responsibilities and competences, and reduce non-core activities, overheads and administrative burdens. These changes have improved

the efficiency of investigations, despite the additional notification duties and legality checks imposed by Regulation 883/2013. On 1 October 2015, OLAF abolished one unit from the Investigation Support Directorate in order to create an additional investigation unit to handle the increasing complexity of investigations in the Structural Funds sector.

OLAF increasingly requires staff with a wide range of skills, training and professional backgrounds. Also, OLAF needs to be able to function and investigate in all EU languages. OLAF's staff profile in 2015 met the necessary standards. However, the challenges which OLAF faces in maintaining its current level of professional expertise go beyond the budgetary restrictions outlined above. OLAF will have to renew its ageing workforce, as investigative staff recruited from national services in the early days of the Office retire, and will have to manage the increasing demand from other Commission services and EU bodies for staff with the skills and background of OLAF professionals.

⁽²³⁾ Officials, temporary agents, contract agents, seconded national experts and interim staff employed on 31/12/2015; excluding trainees and intramuros staff



To address these HR issues and ensure the continued development of OLAF staff, the OLAF HR Strategic Plan in 2015 includes:

- preparation of a specialist open competition to recruit investigators, scheduled for the second half of 2016. This follows the successful open competitions in 2014 in the fields of digital and operational intelligence analysis, which are proving a

useful means for OLAF to maintain its investigative capacity in these crucial support functions;

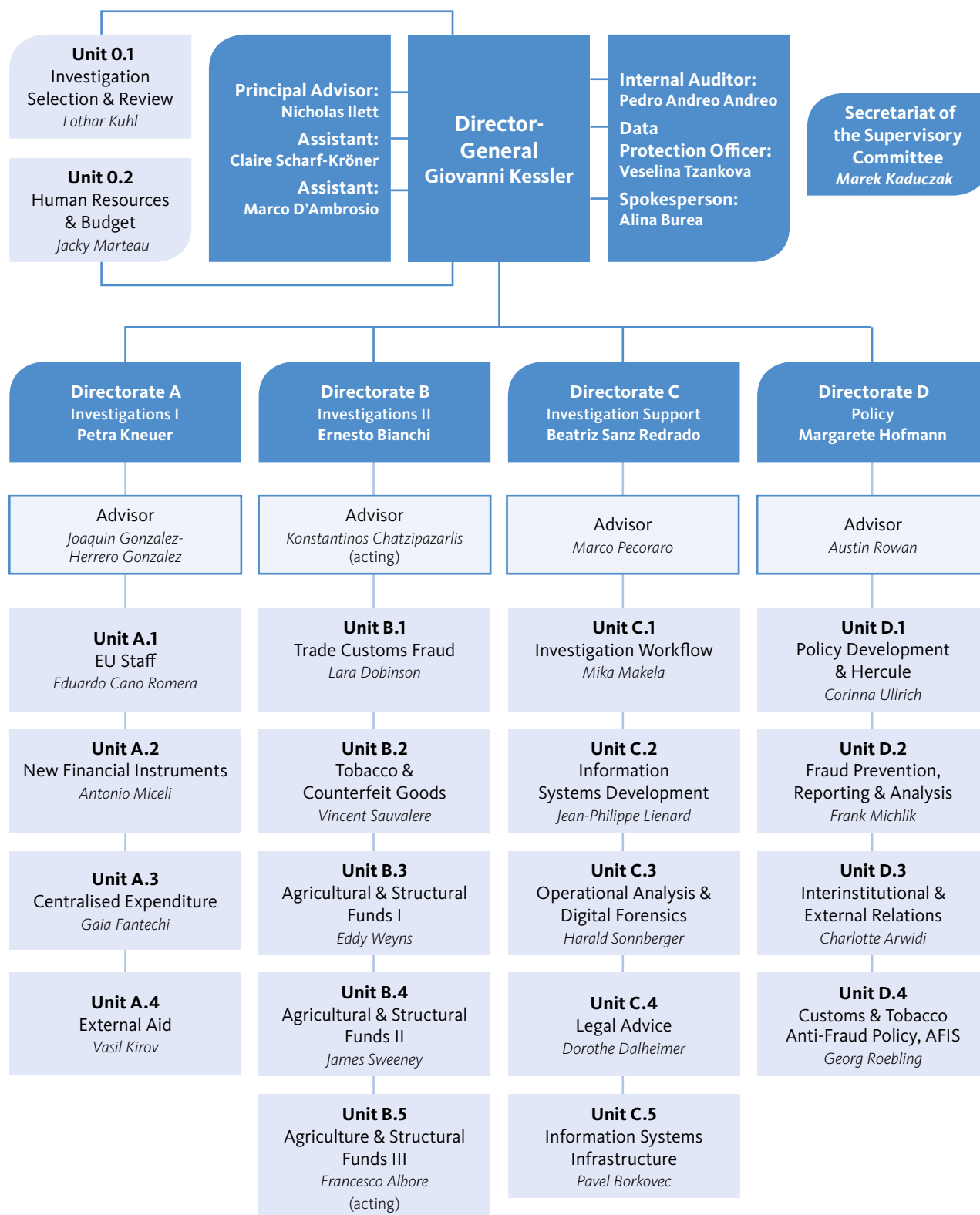
- reducing the vacancy rate for statutory posts by almost 50% compared to 2008 and from 4.7 % in 2014 to 3 % by the end of 2015;
- improving investigation-related training, both in-house and external;
- increasing continuous learning and internal communication.

Figure 28: OLAF's administrative budget in 2015 (million EUR)

EU staff	39
Infrastructure	6.5
ICT	5.3
External agents (contract staff, seconded national experts and interims)	2.6
Missions	1.7
Anti-fraud measures	1.7
Training, meetings and committees	0.9
Total	57.7



Figure 29: Organisational chart (as of 14 March 2016)



6. Data protection

The protection of personal data is key to a successful investigation because it is a crucial element in safeguarding the rights of individuals involved at any step of an investigation. Since OLAF was set up as an independent body, it has appointed its own data protection officer (DPO) who ensures that OLAF implements the requirements of Regulation 45/2001 on the protection of personal data, including recommendations of the European Data Protection Supervisor (EDPS). The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media.

More than 2300 relevant data subjects have been listed in the numerous cases opened by OLAF between 2011-2015. By year end of 2015, privacy statements had been sent to 76% of them, and deferred in 5% of the cases because that was the appropriate and necessary measure to safeguard the investigation.



IDCP authorisation

In 2015, OLAF received the authorisation of the European Data Protection Supervisor (EDPS) for its Investigation Data Cross-Checking Platform (IDCP). The IDCP is an innovative system which aims to further international cooperation in the fight against fraud by creating a database to support the exchange of investigative information. The database will contain a subset of data from investigative files of OLAF and its selected international partners. Taking full account of the recommendations of the EDPS, the system will automatically cross-reference newly uploaded information with data already in the system, looking for matches. Specific procedural arrangements concerning the functioning of the system will be signed by all partners to the IDCP before they will be allowed to use the system.

In 2015, OLAF entered several new Administrative Cooperation Arrangements (ACAs) which cover transfers of personal data with partners in non-EU countries and international organisations. Data protection clauses, based on a model established in consultation with the EDPS, were included in all of these ACAs. A total of 149 transfers of personal data were made during 2015 to non-EU countries or international organisations.

During 2015, OLAF received a total of 8 requests from data subjects for access to their personal data, which also included one request for rectification. OLAF granted access in response to each request, but refused the request for rectification, as the personal data concerned were based on subjective personal assessments, information or opinions provided by others, which by definition cannot be factually wrong. Requests for rectification of personal data only apply to objective and factual data.

7. Supervisory Committee

The Supervisory Committee of OLAF is a body of five outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. The Committee delivers Opinions to the Director-General of OLAF and reports to the EU institutions.

The Supervisory Committee members are appointed by the common agreement of the European Parliament, the Council and the Commission. The mandate of the current Supervisory Committee started in 2012. In accordance with Regulation 883/2013, to preserve the experience within the Committee, the Members are alternately replaced, two of them after three years of mandate, and the remaining ones after five years. As such, the European institutions are expected to establish a new list of Members, as well as a reserve list for the Supervisory Committee, in the course of 2016.

The Director-General of OLAF keeps the Supervisory Committee regularly informed of the Office's activities, implementation of its investigative function, and action taken by way of follow-up to investigations. In 2015, in accordance with the Regulation 883/2013 and the working arrangements between OLAF and the Supervisory Committee, OLAF transmitted to the Committee 622 documents with information on cases lasting more than 12 months. OLAF informed the Committee of 370

recommendations issued as a result of OLAF's investigations and a further 88 instances in which information was transmitted to judicial authorities of the Member States. The Committee also had full access to more than 100 case files in OLAF's case management system.

In 2015, the Supervisory Committee delivered four Opinions to the Director-General: namely, the *Control of the duration of investigations conducted by the European Anti-Fraud Office*; *OLAF external reporting on the duration of investigations*; *OLAF's Preliminary Draft Budget for 2016*, *Legality Check and Review in OLAF* ⁽²⁴⁾. The Supervisory Committee also issued a *Report on the opening of cases in OLAF in 2012*.

In its Opinions, the Supervisory Committee has issued a number of recommendations to the Director-General. The methodology for their implementation and reporting thereon are currently under discussion.

Details of the Committee's work can be found in its annual activity report. This report and OLAF's responses, as well as other information, are publicly available on OLAF's website.

⁽²⁴⁾ On 19 April 2016, the Supervisory Committee also transmitted to the institutions their Opinion 3/2015 - OLAF Draft Investigation Policy Priorities for the year 2016.



8. Towards a truly European space of justice

The data presented in this Annual Report suggest that OLAF is in a period of consolidation, allowing the Office to capitalize on the important efficiency gains achieved over the last four years. Both the flow of incoming information and the performance of OLAF staff in terms of the duration and output of investigations in 2015 are broadly consistent with the two previous years, remaining high following the major reorganisation of the Office and the introduction of new procedures in 2012.

The scale and nature of the threat to the EU budget means that although OLAF's competence is limited to the protection of the EU budget from fraud and other illegal activities, OLAF finds itself in the front line of the fight against many forms of cross-border economic crime. Moreover, OLAF is the only body with investigative powers at EU level. While other EU bodies and agencies have a wider remit in the auditing and law enforcement domains - the European Court of Auditors has powers to review EU finances, Europol and Eurojust have powers to gather and analyse information about criminal activities and to coordinate the work of national judicial and police authorities - none of these are empowered to conduct investigations on their own account.

That said, there are significant limits to how much OLAF can truly achieve, as its competences fall exclusively under administrative, rather than criminal law. While this may facilitate cross-border cooperation as well as collaboration with other agencies in the early stages of investigations and can pave the way for preventive and corrective measures to minimise the economic damage caused by fraud, in the area of criminal law, only Member State competent authorities are empowered to use the whole range of necessary investigation procedures.

OLAF has made as much use of its present armoury of powers as possible, and has taken the concept of administrative investigations as a precursor or partner to criminal investigations further than expected. Nevertheless the present arrangements are not efficient enough, particularly at a time of diminishing resources for enforcement and investigation at EU and national level. The transnational nature of the many cases of fraud that OLAF investigates requires a European approach, not only in the area of administrative investigations but also for criminal investigations. Faced with increasingly complex criminal networks, cooperation is simply not enough. As we still rely on the collaboration between

several investigating judicial authorities in different countries, we are continuing to take a national approach to fighting crimes that are decidedly cross-border. However, what is necessary and what OLAF is working towards, is integration – a truly European space of justice, a body with powers to not only investigate, but also prosecute inside and across Member States - a European Public Prosecutor's Office (EPPO).

While not replacing national-level law enforcement, the EPPO would streamline the process of both identifying fraudsters and bringing them to justice. The EPPO would be a viable solution to the current fragmentation of national law enforcement efforts, ensuring both efficiency and consistency throughout Member States. Therefore, Member States and the European institutions must support a strong, independent EPPO, one which could truly achieve what it was intended to do – bring fraudsters to justice more swiftly and effectively protect European money.

Case study

OLAF investigation reveals fraud in Romanian health procurement

OLAF received information suggesting that a freelance consultant was soliciting bribes. The consultant had been employed by an international financial institution to draft technical specifications for a large health project in Romania funded by several donors including the European Investment Bank.

Working in close cooperation with the police and prosecutors in the Netherlands and the UK, OLAF confirmed that the consultant had identified companies likely to bid for the different lots and had formally agreed with each of them that he would receive 5% of the value of any contracts awarded. The consultant then distorted the international tender process to ensure that his favoured clients won and that he got his 5% kickback.

OLAF contacted the Romanian authorities and explained the situation. It was agreed that OLAF and the national prosecution service would work together in investigating this matter further. The joint approach identified compelling evidence using a variety of both administrative and criminal investigation techniques.

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The **OLAF** report **2016**

**Seventeenth report of the
European Anti-Fraud Office,
1 January to 31 December 2016**

DISCLAIMER:

OLAF's report features case studies for illustrative purposes only, in particular, the fact that OLAF presents such case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

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Executive Summary

The European Anti-Fraud Office stepped up its game throughout last year, concentrating on large, transnational investigations, which often led to multi-million euro financial recommendations.

In 2016 OLAF has continued to perform very well, opening 219 investigations after a detailed process of analysing incoming information in 1157 selections. In the same time span, OLAF concluded 272 investigations, following which it issued 346 recommendations to the competent authorities at EU and national level. As a result of the investigations it concluded in 2016, OLAF recommended the recovery of EUR 631 million, money which will gradually be returned to the EU budget to fund projects that stimulate growth and jobs. In 2016, OLAF has also succeeded in further reducing the duration of its investigations, to 18.9 months, a new record for the Office.

OLAF's unique mandate allows the Office to have a complete picture of the changing nature of fraud with European Union funds. For the first time, the OLAF Report presents the most striking trends in fraud with EU funds. OLAF's analysis uncovered, for example, that public procurement is still an attractive marketplace for fraudsters, who use corruption and off-shore accounts as fraud facilitators. Research and Employment Grants constitute a similarly lucrative fraud business, with double-funding and employment subsidy fraud becoming increasingly popular.

In addition to its investigation and coordination cases, in 2016 OLAF co-organised or supported 12 successful Joint Customs Operations (JCOs) and has made significant progress in its efforts to fight the illicit trade in tobacco products, helping national authorities seize 469 million cigarette sticks.

In the past years, OLAF has significantly invested in the most innovative investigative techniques and tools. This helped the Office acquire state of the art forensic and analytical tools, which ensure that OLAF continues to remain at the forefront of the global fight against fraud. In 2016, OLAF used these tools to analyse the Panama Papers, which led to the Office opening a number of investigations.

In 2016, OLAF also supported the European Commission in making progress on two important policy initiatives. In one case, it was decided that serious VAT offences would be included in the scope of the Directive on the fight against fraud to the Union's financial interests by means of criminal law (so-called "PIF directive"). At the same time, it became clear that the European Public Prosecutor's Office (EPPO) would be established under an enhanced cooperation procedure.

In this Report, OLAF Director General Giovanni Kessler also takes the opportunity to present an assessment of OLAF's work over the last years, as well as a vision for the future of the Office.



Foreword

I am very pleased to present you with the 2016 edition of the Annual Report of the European Anti-Fraud Office (OLAF). Over the last year, OLAF has not only upheld its strong investigative performance, but it has focused on large, transnational cases, where its expertise and involvement could make a significant difference to the EU taxpayers by delivering concrete results in protecting their money and the EU budget overall. OLAF has continued to build on the foundation laid when the Office was reformed in 2012, while constantly reducing the duration of investigations. As a result of this work, the Office recommended in 2016 the recovery of EUR 631 million to the EU budget.

Whenever the previous editions of OLAF Reports were published, we unfailingly received questions related to the nature of our investigations and to the trends we could identify in cases of fraud and irregularities affecting EU funding. Our institutional stakeholders, as well as EU citizens and journalists, were interested in the types of cases we mostly encountered, in the changing nature of fraud patterns, as well as in the types of actions which would prompt an OLAF investigation. This is why we decided to focus this year on helping our readers understand the substance of OLAF's investigative work and the recent trends that our investigations have brought to light. You will therefore be able to find out in this Report why public procurement is still attractive for fraudsters, how off-shore accounts are increasingly used to hide the proceeds of such crimes, how corruption is still an almost universal aspect found in our cases, or how undervaluation fraud is perpetrated by highly organised criminal gangs operating across borders.

This detailed view into what constitutes the challenging and diverse work of an OLAF investigator will show you how internal reforms and constant development have helped OLAF transition into not only a high-performing investigative body, but one with a clear focus and ability to solve large, complex, cross-border cases, often recommending multi-million euro recoveries.

To support its investigators in delivering quality results, OLAF has developed and promoted state-of-the art investigative techniques and tools. With text mining and analytical capabilities which are, at this point, almost unparalleled in Europe for an administrative body, OLAF was able to take on complex challenges in 2016, such as analysing the Panama Papers. So this year, we've also given some prominence to innovation at OLAF, an aspect that is often less known to our readers, but is quintessential in backing the efficiency of a modern investigative body.

OLAF owes its excellent results to the skills, dedication and commitment of its outstanding staff, who have worked tirelessly to ensure that EU citizens' money is well protected, and that fraudsters are rightfully brought to justice. OLAF is also grateful for the positive cooperation of European Member States and Institutional Partners at EU and international level.

Last but not least, as this is the last year of my mandate, I would like to thank all of you for contributing to and for supporting OLAF's work. It is with the help of responsible European citizens who understand the importance of ensuring EU funds are spent lawfully that we are truly able to protect the financial interests of the European Union, and to hold EU staff to the highest standards of ethical behaviour. I would like to also express my deep admiration for OLAF staff, whom I am proud to have worked with for almost seven years – I could not have asked for a better, more competent team!

Giovanni Kessler
Director-General of OLAF



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The seat of the European Anti-Fraud Office, in Brussels.



1. Mission and mandate



MISSION

Detect, investigate and work towards stopping fraud involving European Union funds.

MANDATE

OLAF's mandate is:

- to conduct independent investigations into fraud and corruption involving EU funds so as to ensure that all EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- to develop EU policies to counter fraud.

INVESTIGATIVE COMPETENCES

OLAF can investigate matters relating to fraud, corruption and other offences affecting EU financial interests concerning:

- all EU expenditure: the main spending categories are structural funds, agricultural policy and rural development funds, direct expenditure and external aid;
- some areas of EU revenue, mainly customs duties;

OLAF can also open investigations into suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission and, as such, under the responsibility of Commissioner Günther Oettinger.

However, in its investigative mandate, OLAF acts in full independence.

WHAT WE DO

OLAF's investigative work broadly involves:

- assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation;
- conducting administrative investigations, where appropriate in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- supporting the anti-fraud investigations of national authorities;
- recommending necessary actions that should be taken by the relevant EU or national authorities;
- monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud, and better tailor the support we provide to relevant national authorities.



Responsibilities for much of EU spending are shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The detection, investigation and prosecution of fraud against the EU budget can therefore only be conducted in cooperation with a wide range of partners, at national, European and international level.

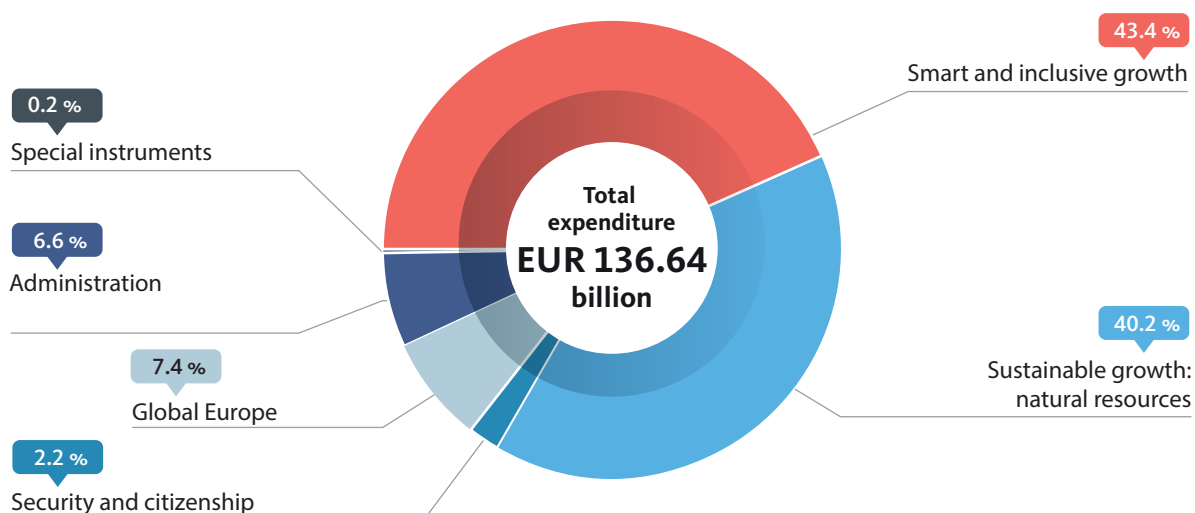
OLAF cases frequently concern:

- cross-border procurement fraud or corruption in public procurement procedures involving EU financing;
- double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made;
- subsidy fraud in different forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes. Examples include the delivery of the same piece of research to several funding authorities within or beyond EU borders,

plagiarism – the copying of research which has already been undertaken by others, and the deliberate gross disrespect of the conditions of financial assistance;

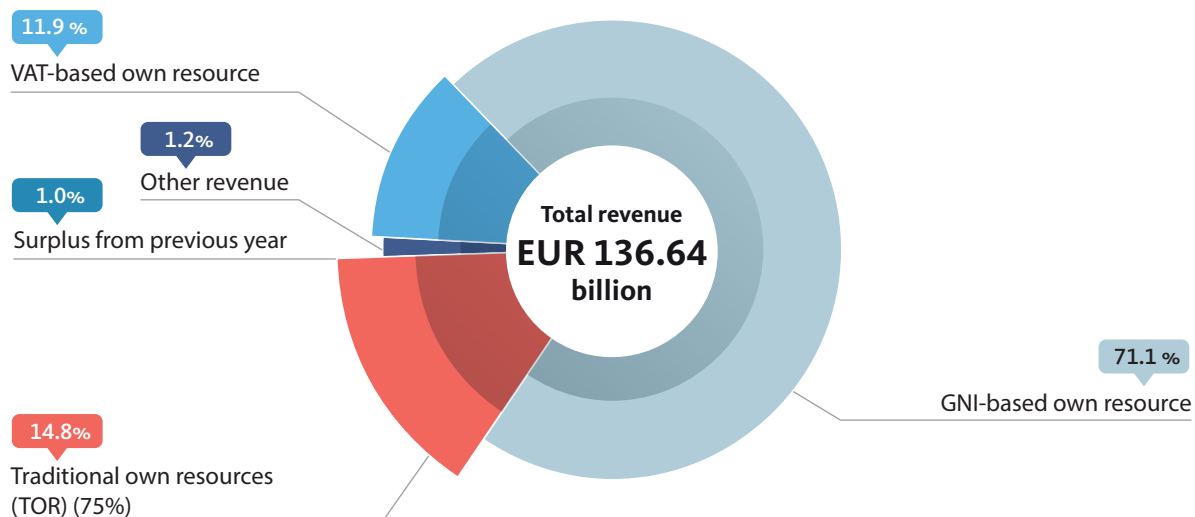
- customs fraud whereby fraudsters attempt to avoid paying customs duties (EU own resources), for instance by smuggling goods into the EU.

EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, allowances, travel and relocation expenses, social security and health entitlements. They may also be at risk from corrupt activity by members and staff in procurement procedures, and from other forms of corruption such as attempts to illicitly influence decision-making and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business, which also makes investigations more complex. OLAF thus has a unique mandate to carry out so-called “internal” investigations into allegations of misconduct involving staff and members of the EU institutions.

**Figure 1: EU expenditure in 2016**

(¹) Source: OJ L51, 28.2.2017, p. 13

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

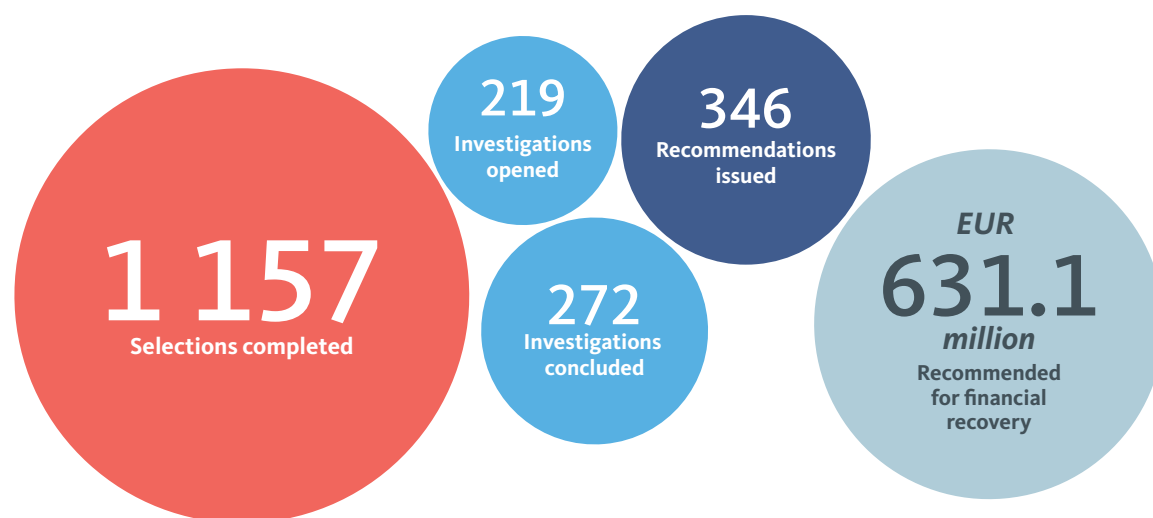
Figure 2: EU revenue in 2016

(¹) Source: OJ L51, 28.2.2017, p. 14

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

2. OLAF investigative activity: current trends in anti-fraud investigations

Figure 3: OLAF's investigative activity in 2016: maintaining excellent results



In the last five years OLAF has undergone a major transformation, with a significant effort deployed by management and staff together to improve the efficiency of its investigative function. This strategy has borne fruit, with OLAF transitioning into a highly performing body, with a clear focus on dealing with complex cases and delivering concrete results for EU taxpayers. Overheads were reduced, resources redeployed to the extent maximum on investigations and the necessary infrastructure investments made to support this investigative drive. As mentioned in the OLAF Report 2015, the Office has reached “cruising altitude” in its investigative performance over the last two years, given the resources it currently has. This is why in this year’s Report, beyond presenting performance indicators, we will focus on showcasing the substance of OLAF’s investigative work and recent trends that our investigations have revealed.

2.1. Summary of OLAF’s investigative performance in 2016

In a nutshell, the performance indicators displayed above show that in 2016 OLAF has continued to perform very well, fully in line with the path followed in previous years. OLAF opened 219 investigations after a detailed process of analysing incoming information in 1157 selections. It concluded 272 investigations pursuant to which it issued 346 recommendations to the competent authorities at EU and national level. As a result of its investigations concluded in the year, OLAF recommended the recovery of EUR 631 million to the EU budget. These funds will gradually return to the budget so that they can be reattributed to projects that can stimulate growth and jobs in Europe. In 2016, OLAF has also succeeded in further reducing the duration of its investigations, to 18.9 months overall, with the selection duration corresponding to these cases remaining at an average of 1.7 months. For a detailed presentation of these and other indicators, please refer to the Annex to this Report.



Figure 4: An example of undervaluation fraud uncovered by OLAF



Further details on this case are presented in this chapter.

Following the practice established in previous years, we present below a breakdown of the investigations concluded by OLAF in 2016, concerning the use of EU funds managed integrally or partially at national or regional level. This is not to be read as a ranking of fraud in Europe, but rather seeks to present the geographical focus of OLAF's investigative activity in 2016, which also relies on the amount, type and quality of information received.

Figure 6 shows that, as was the case in previous years, the structural funds sector remains at the core of OLAF's investigative activity. In 2016, it was closely followed by the customs and trade sector where OLAF has started carrying out more investigations.

Figure 5: Investigations into the use of EU funds managed in whole or in part at national or regional level concluded in 2016

		<i>Concluded with recommendations</i>
Romania	21	11
Poland	16	8
Hungary	13	11
Bulgaria	11	4
Greece	9	3
Italy	8	6
Slovakia	8	5
Czech Republic	5	1
Portugal	5	2
Croatia	4	1
Netherlands	4	1
The former Yugoslav Republic of Macedonia	4	2
France	3	2
Lithuania	3	1
Germany	2	1
Sri Lanka	2	2
United Kingdom	2	2
Austria, Cameroon, Congo (Brazzaville), Ethiopia, Ghana, Guyana, Israel, Kazakhstan, Kiribati, Kyrgyzstan, Madagascar, Malawi, Nepal, Niger, Serbia, Slovenia, Spain, Syria, Togo, Turkey, Zimbabwe	21 (1 per country)	14
Total	141	77

Figure 6: Ongoing investigations at the end of 2016, divided by sector

Sector	2014	2015	2016
Structural Funds	111	104	69
External Aid	79	66	52
Centralised Expenditure	49	58	59
Customs and Trade	56	50	60
EU Staff	43	37	48
Agricultural Funds	60	36	21
Social Funds	42	21	19
Tobacco and Counterfeit goods	21	18	8
New Financial Instruments	13	8	8
Total	474	398	344



OLAF's Director-General participates in a Joint Customs Operation at the border between Romania and Moldova

2.2. OLAF at the helm of large, complex, cross-border investigations

Beyond the indicators highlighted in the previous section, in this year's Report we delve deeper into OLAF's investigative work in order to outline the trends identified by OLAF investigators in recent cases, most of which were concluded in 2016. This analysis is based on empirical evidence, without therefore being a comprehensive list of concluded OLAF investigations. OLAF has a unique mandate to fight fraud affecting European Union financing. It also benefits from a unique position since the transnational dimension of its work allows it to have a complete picture of the changing nature of fraud patterns across Europe. In recent years, OLAF has strived to focus on those fraud cases with the largest impact, investigations of a complex, cross-border nature, where its trans-European view brings a clear added-value to curbing fraud. As a result, we note that while Europe has evolved in numerous ways, from the different political context, to an increasingly liberalised market, fraudsters have also adapted to this new context, constantly coming up with novel and creative ways to try to pocket EU money. We present below an analysis of some of the most striking trends revealed by OLAF investigations.

A. PUBLIC PROCUREMENT: STILL AN ATTRACTIVE "MARKET PLACE" FOR FRAUDSTERS, WHERE CORRUPTION AND THE USE OF OFF-SHORE ACCOUNTS ACT AS FRAUD FACILITATORS

Ask any OLAF investigator and they would tell you that a large part of their caseload relates to allegations of fraud in **public procurement**. Thorough document verifications and meticulous on-the-spot checks made by OLAF have revealed several underlying issues that make this particular area more prone to fraudulent activities. For instance, some of the applicable national public procurement laws, ordinances or decisions are complicated and written in a manner that is unclear and difficult to apply even by the contracting authorities. Moreover, some authorities lack the administrative capacity and expertise to implement the rules in a coherent and consistent way, while in certain cases, members of the evaluation committees are insufficiently qualified, especially when appraising complex infrastructure tender proposals. Furthermore, when audits, controls and checks are conducted by the regulatory authorities, they are sometimes carried out in a superficial or inadequate manner.



For example, an OLAF investigation into tenders for EU-funded projects meant to develop inland waterways in Croatia revealed how expenditure in a niche market, where there were only few participants capable of providing the services requested and a small number of potential bidders, can create the perfect fraud story. OLAF's investigation revealed that a local businessman controlled the tender procedure by getting access to confidential material and steering the technical requirements to his advantage. He then conspired with other European companies to rig the market. By acting in a coordinated manner, the fraudsters were able to exclude competitors and divide EU-funded projects between themselves. OLAF worked with national authorities to gather evidence; criminal investigations are still on-going in three Member States. OLAF also made a Financial Recommendation to the European Commission to recover EUR 1.2 million.

In light of such issues, OLAF experts have developed over the last years a system of “**Red flags**” which can indicate whether a particular procurement project has a higher probability of suffering from fraud or corruption. Red flags can relate to bidders (who could for example, have multiple undeclared connections between them), to evaluation teams, or to the procedures themselves (very large tenders, too short timespan for the application process, changes in the project description after the award, etc).



Such “red flags” were for instance apparent in an investigation OLAF concluded in 2016 into a EUR 17.6 million cross-border fraud case. The investigation uncovered a fictitious sub-contracting scheme used to artificially increase the prices declared for the supply of medical equipment from the Czech Republic to Slovakia. OLAF's investigation established that the public procurement procedure for the contract had been seriously breached and that prices of the medical equipment supplied had been grossly overstated, therefore causing serious damage to the EU financial interests. OLAF made a Financial Recommendation to the European Commission to recover all of the EU funds in question and issued a Judicial Recommendation to the Slovak Judicial Authorities to further follow-up on the matters uncovered.

With many **procurement fraud cases being transnational**, the new fraud scenarios often involve a contracting authority from one Member State and bidders from several other Member States who subcontract their works to companies again placed in different countries.



An investigation into fraud with EU funds that were meant to finance free food programmes for the poorest European citizens, which OLAF concluded in 2016, perfectly illustrates this trend. A criminal gang in Bulgaria used a complex scheme of phantom purchases, sales companies and off-shore accounts to hide the proceeds they received in exchange for corrupting senior officials in a Paying Agency in Romania. As a result of corruption-related serious criminal acts, the officials made false declarations and illegal advance payments for products that were never delivered. This led to EUR 26.7 million being diverted from to the EU budget, with the criminal gang making an additional EUR 5.98 million in “market profit” from the irregular sale of the products on the open market. In the course of its enquiries, OLAF uncovered that, in perpetrating the fraudulent acts, the criminal network carried out illegal activities in at least eight different countries, six of which were EU Member States. To help ensure the funds can actually benefit some of the most vulnerable members of society, OLAF made a Financial Recommendation to the European Commission to recover EUR 26.7 million. Judicial proceedings in the case are on-going in both Romania and Bulgaria.

The **use of off-shore accounts to hide the proceeds of crimes** is indeed often used in large public procurement cases.



In 2016, for example, OLAF concluded an investigation into a EUR 1.7 billion euro transport project in Hungary, in which several international specialist construction firms were the main players. Using its cross border powers, OLAF conducted enquiries in Hungary and in the UK and traced the projects links to companies in third countries. OLAF also checked the contractor bids, the use of sub-contractors, the use of consultancy companies, as well as the use of off-shore accounts. The investigation revealed very serious irregularities as well as possible fraud and corruption in the execution

¹ https://ec.europa.eu/anti-fraud/sites/antifraud/files/docs/body/identifying_reducing_corruption_in_public_procurement_en.pdf



OLAF uncovers complex transnational cases working closely with Member States

of the project. As a result of its investigation, OLAF recommended to the European Commission to recover EUR 228 million, and to the European Investment Bank to recover a further EUR 55 million. OLAF also made Judicial Recommendations to both Hungary and to the UK, advising them to take the OLAF findings into account in the judicial proceedings that are on-going in these Member States.

If there is one other common thread running through OLAF's investigations in general, and the public procurement ones in particular, that would be the **existence and use of corruption**.



For instance, in another case, OLAF received allegations from an anonymous source concerning an EU-funded competitiveness project in Kosovo². The allegations indicated abuse of power, disclosure of confidential information about the evaluation of the tender proposals, corruptive practices and procedural irregularities. The available information suggested the possible collusion of an EU staff with an official of a Ministry and a representative of a company involved in the bidding process. OLAF coordinated its investigation with the national judicial authorities of Kosovo. The

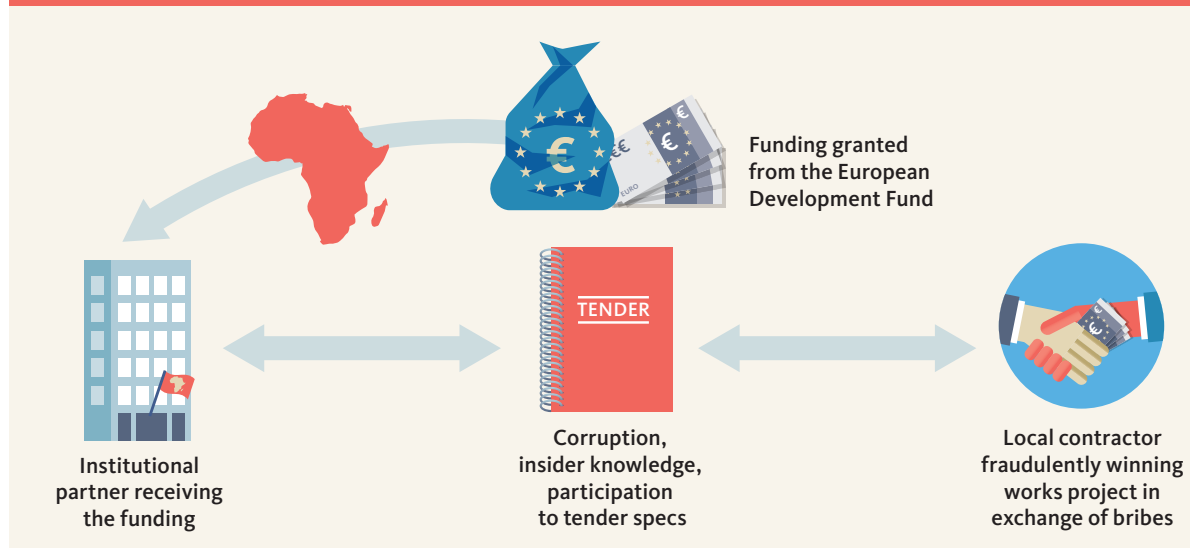
investigation confirmed the allegations regarding the attempted tender manipulation. OLAF discovered that the Ministry official and the representative of the bidding company were exchanging confidential information during the evaluation in their attempts to steer the outcome of the tender procedure. It was also clarified that the EU staff was not involved in these manipulation attempts. Following the completion of the investigation in 2016, OLAF sent the information it gathered to the judicial authorities of Kosovo. This information was consequently used to initiate court proceedings against the two individuals.



OLAF can and does investigate wherever European funds are spent, in and outside the EU. In one such case, an EU Delegation located in an African country suspected irregularities and potential fraud related to a tender procedure by which a public works contract had been awarded to a local company. The European Development Funds at stake amounted to almost EUR 3 million. A financial audit launched by the EU Delegation highlighted financial irregularities, mostly ineligible costs and detected several irregularities in relation to the tender procedure set up under the responsibility of the institutional partner, such as numerous cancellations of successive tender processes for this works contract and the final awarding of the

² This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Corruption in public procurement



contract to the long-standing historical partner of this institution. In its investigation, OLAF was able to collect evidence proving that the work contract was unlawfully awarded to this established local partner in breach of procurement rules. The local partner was found to have previously been associated in the elaboration of the Terms of Reference for this works contract, he did not meet the eligibility criteria for being awarded the contract and was almost going bankrupt when applying for the contract. OLAF was able to demonstrate that a person working inside the institutional partner and the manager of the winning contractor had engaged in corruption. Copies of several supporting documents were collected proving that the winning contractor had been informed in advance about the details of the call for tender, that bribes had been agreed in advance between the two persons involved, and that additional bribes were to be paid to local administrative authorities with the awarded EU funds. The bribes were actually paid with cash withdrawn from the bank account of the contractor where the EU funds were transferred, and were registered in the accounting system as “administrative and representation costs.” OLAF issued Financial Recommendations For the recovery of a large part of the EU funds at stake.

B. RESEARCH AND EMPLOYMENT GRANTS: A LUCRATIVE FRAUD BUSINESS?

In the last years, OLAF has investigated a significant number of fraud cases in the **academic and research fields**. Increasingly, OLAF investigators have had to deal with cross border cases concerning employment subsidy fraud involving universities and research institutes. With the help of EU grants, research and industry professionals can disseminate their knowledge. Unfortunately, there are individuals who seek to defraud the EU budget in the context of such exchanges.

More generally, fraud involving employment grants mostly relates to double funding, whereby employers are receiving a subsidy from a Member State to fund their employment, part of which is paid from EU funding, while at the same time the company who employs them is charging 100% of their time to an EU project. This is often coupled with claims for artificially inflated working hours.



A recent OLAF investigation involved persons from four different Member States and third countries and concerned allegations of systematic fraud in the recruitment and secondment of a large number of researchers engaged in several EU research projects. The persons involved had falsified CVs and timesheets and had made false declarations about exchanges of researchers, as well as about appointments of



persons who either were not eligible to take part in the project, or who had personal links to the project managers. This deprived genuine researchers of funding. The OLAF investigation was carried out in close cooperation with Member State authorities and involved more than EUR 3 million in EU funds. The investigation was concluded with Financial and Judicial Recommendations.

C. REVENUE FRAUD: COMPLEX TRANSNATIONAL SCHEMES TO EVADE CUSTOMS DUTIES RUN BY CRIMINAL NETWORKS

A particularly profitable area of customs fraud is the **evasion of anti-dumping and anti-subsidy duties**. Fraudsters may attempt to evade the duties by misdeclaring the type of product at import or by claiming it has originated in other countries than it really did, in order to benefit from preferential tariffs. This may be done by swapping containers en route to Europe and providing false sets of documents, or, in the more complex cases, by setting up fake factories allegedly producing the items in question.



The EU imposed anti-dumping and countervailing duties on biodiesel produced in the United States in 2009 and in Argentina and Indonesia in 2013. Following the introduction of such measures, OLAF experts generally monitor and analyse import flows to identify any sudden changes in the declared countries of origin which might point to customs fraud. OLAF investigators immediately started noticing cases where biodiesel was stored in third countries, such as India and Canada, and then re-exported to the European Union, declared as having originated in these two countries. OLAF investigators also started noticing large amounts of biodiesel coming into the EU via the Western Balkans. OLAF opened an investigation to see if biodiesel was indeed being illegally imported into Europe.

The Stabilisation and Association Agreements between the EU and the Western Balkan countries gave OLAF the possibility to request assistance from the countries in question. OLAF also received assistance from Dutch, Italian and US authorities. Moreover, further evidence of fraudulent transshipment was collected during a joint enquiry carried out by OLAF together with Dutch and Italian customs authorities as well as with local customs authorities from the Western Balkans. The legal

and technical expertise available in OLAF and the international administrative assistance amongst customs authorities were put to good use in solving this complex investigation. OLAF established that the biodiesel coming into Europe from the countries that had imposed anti-dumping duties was falsely declared as originating in Africa. Sometimes, the quantity declared was lower than the real one, or the product was kept in temporary storage in a particular EU country for a certain amount of time, in order to make the product difficult to trace back. Other times, when imported into the Western Balkans, the biodiesel was declared as another chemical product altogether. As a result of this investigation, OLAF has recommended the recovery of over EUR 2 million.

OLAF investigators have, in the last years, been faced with increasingly complex customs fraud cases – mostly **undervaluation fraud** - perpetrated by **highly organised international criminal gangs**.



OLAF investigated a major case of customs fraud whose consequences were felt all over the EU. Though concluded in early 2017, the case progressed substantially throughout 2016. OLAF investigators and analysts identified a fraud pattern employed by international organised crime groups who scouted ports in the EU with the weakest controls, in order to get away with declaring falsely low values for textiles and footwear imported from China. This is an example of so-called **undervaluation fraud**, whereby importers can derive profit from evading customs duties and related taxes, paying much less than what is legally due. OLAF's investigation revealed that the single most significant hub for this fraudulent traffic was in place in the UK.

In the context of this investigation, OLAF carried out an extensive analysis of all customs declarations presented in the UK for all imports of textiles and shoes from China between 2013 and 2016. For example, OLAF found women's trousers imported from China were declared at customs in the UK at an average price of EUR 0.91 per kg, although in the same period, the world market price for the raw material (cotton) alone was EUR 1.44 per kg and the average declared value in the whole of the EU for the same products was EUR 26.09 per kg.

OLAF calculated a loss to the EU budget of almost EUR 1.987 billion in customs duties. The investigation also revealed substantial VAT evasion in connection with imports through the UK by abusing the

suspension of the payment of VAT, the so-called customs procedure 42³. As the goods are destined for the markets of other Member States, it is the revenues of those Member States, such as France, Spain, Germany and Italy that are mainly affected. These VAT losses are cumulatively estimated in the range of EUR 3.2 billion for the period 2013-2016.

Despite repeated efforts deployed by OLAF, and in contrast to the actions taken by several other Member States to fight against these fraudsters, the fraud hub in the UK has continued to grow. As a result, OLAF has issued a Financial Recommendation addressed to the European Commission for the recovery from the UK to the EU budget of the EUR 1.987 billion⁴ lost in customs duties, as well as an administrative recommendation aimed at preventing the abuse of customs procedure 42. A judicial recommendation was addressed to the UK Crown Prosecution Service to initiate judicial proceedings against those involved in fraudulently evading customs duties and against those knowingly involved in laundering the proceeds of this offence. The UK HMRC (Her Majesty's Revenue and Customs) also received an OLAF recommendation to take all necessary actions to implement risk indicators to effectively mitigate the undervaluation risks for importations of textiles and footwear from China, as well as to take all appropriate measures to recover the customs duties evaded to the extent possible.

Complex customs fraud does not always deal with undervaluation of goods. Tackling the **smuggling of counterfeit products** is also an important area of OLAF's work, in its efforts to protect the EU budget as well as more broadly the health of European citizens.



In a case of 2016, OLAF investigators checked a system connecting several customs authorities where Risk Information Form messages are exchanged and noticed that the Czech authorities had signalled a

seizure of counterfeit ball bearings imported from China into the Czech Republic. OLAF investigators got in touch with the Czech authorities, and transmitted the information they received as a Mutual Assistance communication to all Member States, warning the latter to be on the look-out for additional such consignments. As a result, French Customs informed OLAF about three containers containing 21 tonnes of counterfeit bearings destined for a company in Spain. Spanish customs, together with OLAF investigators and representatives of the rights-holding company, carried out a control at the Spanish company in question, which resulted in over 3 tonnes of counterfeit bearings being seized. OLAF's work did not stop there. OLAF investigators went to establish that the Spanish company imported counterfeit bearings from a Chinese company, which appeared to be active and continuing its trade in counterfeit bearings worldwide, including in the EU. Based on this information, OLAF, via its Liaison Officer in China, requested the Chinese authorities to conduct an investigation concerning this particular Chinese company. OLAF also requested information from Hong Kong authorities regarding a company involved in the illegal traffic of counterfeit bearings seized in France and Spain. Investigations are on-going.

D. THE CHANGING NATURE OF CIGARETTE SMUGGLING

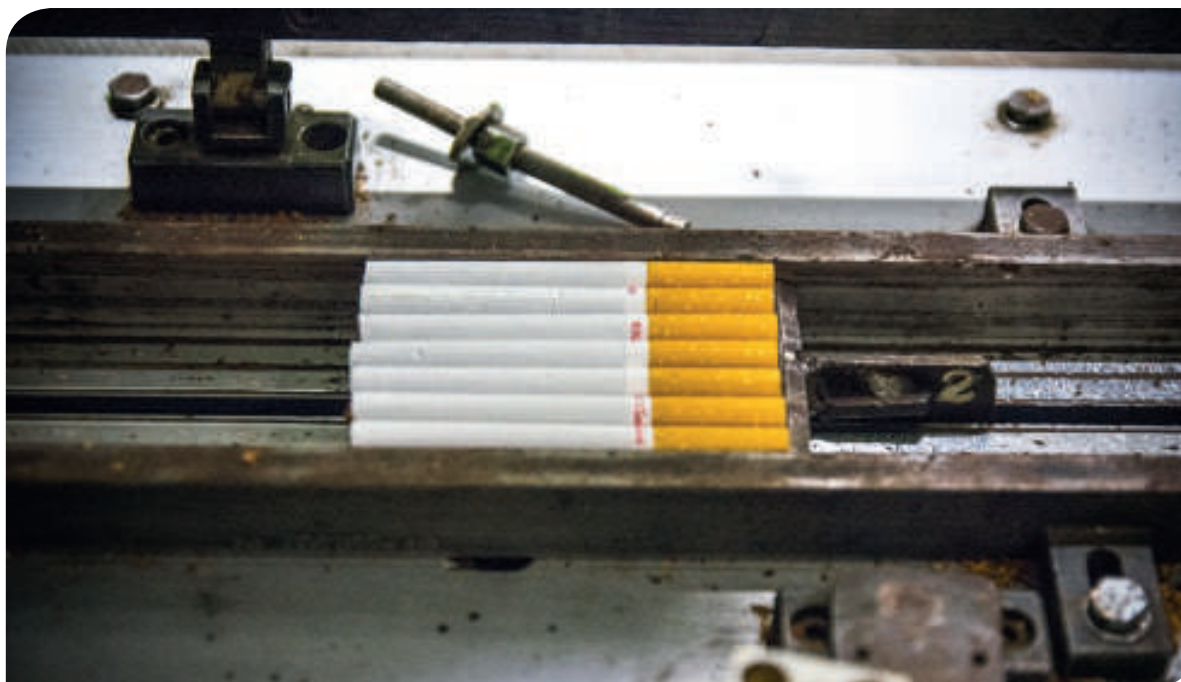
The prevalence of contraband on the EU tobacco market has significantly decreased in the last decade. A Commission Staff Working Paper published in 2016 showed, for example, that contraband in genuine Phillips Morris products on the illicit EU tobacco market dropped by around 85% from 2006 to 2014. This, however, did not lead to an overall reduction of illicit products on the EU market as smugglers turned their attention to **traffic with "cheap whites,"** which are non-branded cigarettes.



A five-month operation in which OLAF worked closely with EU Member States and the customs authorities of third countries to track suspicious shipments of cigarettes resulted in the seizure of more than 58 million cigarettes in the Port of Piraeus, Greece, in early 2016. The cigarettes had been produced in South-East European countries, but were declared

3 Customs procedure 42 provides for non-EU goods to be released into free circulation in an EU Member State exempted from import VAT on the condition that these goods will be transported to another Member State due to an intra-community transaction.

4 As this case was concluded in 2017, the EUR 1.987 billion recommended for recovery are not included in the 2016 figure of financial recommendations presented in this report.



as meant for export to Asia. Initially transhipped through different European ports before being moved to Asia, the cheap whites were then shipped to a second Asian country, loaded into containers declared as garden sets or stones, and then transported back to Europe. As a result of OLAF's collaboration with authorities in Asia and Greece, the five containers used for this smuggling operation were identified and closely monitored until their arrival in Europe. The criminal network smuggling the goods was found to have used off-shore companies and false documents in order to hide their illicit activities.

In all the above-cited cases mentioned in this section, OLAF has been in the driving seat of large, complex, cross-border cases where it has succeeded in bringing a clear added-value on a European and often international scale. After reaching its "cruising altitude" in terms of investigative performance following its complete reorganisation five years ago, OLAF is now a unique central point in Europe for conducting intricate administrative investigations and delivering concrete results for the EU taxpayers. It has the experts, tools and capacities to detect new fraud trends and to adapt investigative techniques to be one step ahead of fraudsters.

2.3. OLAF's investigative mandate within the EU Institutions

OLAF also has a unique mandate to carry out internal investigations into the EU Institutions, Bodies, Offices and Agencies for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office investigates serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of EU officials liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies. Indeed any perceived lack of integrity within the institutions presents a reputational risk not only to the Institutions themselves but also to the European project as a whole.

OLAF's remit for internal investigations is thus focused on alleged serious wrongdoing. While there is no all-encompassing definition of serious wrongdoing, OLAF's resources are concentrated on cases where the deployment of OLAF's know-how is warranted, just like in external investigations. It must be recalled that such internal investigations are rare in relative terms since there are numerous checks and balances in place to avoid fraud and misconduct in the EU Institutions. OLAF also works on a constant basis with the EU Institutions and bodies to help them detect, prevent and address any such possible cases.



OLAF was informed that a Contracts and Finance Officer working for an EU Agency had allegedly requested bribes in order to apply lower financial penalties to a supplier who had been late in delivering IT equipment. The contracted company had not delivered a number of laptops ordered by the Agency on time, and, according to the provisions of the contract, faced potential financial consequences.

OLAF conducted an inspection at the premises of the EU Agency, as well as interviewed the person concerned, who, shortly after, resigned from his position. The investigation uncovered that, on two occasions, the Contracts and Finance Officer had had unofficial meetings with representatives of the IT supplier outside the Agency's premises – one time in a bar and another time in a park. During these meetings, the person concerned requested side payments in cash, specifically two brown envelopes, one containing EUR 20,000 and the other 20,000 GBP. In exchange for the bribes, the Contract and Finance Officer proposed to reduce the amount of financial penalties. However, the company came clean and never accepted to pay the bribes and fully cooperated with OLAF throughout the investigation.

As a result of its investigation, OLAF issued Judicial Recommendations to the relevant national Judicial Authorities.

A. FICTITIOUS EMPLOYMENT AND MISUSE OF ALLOWANCES IN THE EUROPEAN PARLIAMENT

In the field of internal investigations, in recent years OLAF has dealt with an increase in the number of cases related to the European Parliament. While many of the investigations are currently on-going, below you can find a sample of the cases concluded in 2016.

These cases typically relate to fictitious employment, misuse or fraudulent declaration of allowances, misuse of European Parliament funding to support the activities of national parties, as well as to situations of conflict of interest and possible corruption. Such irregularities concern MEPs and their assistants, as well as European Parliament staff members.



During a case OLAF concluded in 2016, investigators uncovered that a Member of the European Parliament committed serious irregularities concerning expenses the MEP had declared in relation to the employment of his/her assistants. In one case, OLAF established that MEP had produced a purely fictitious work contract for a person declared as his/her assistant, even though the person never worked for the European Parliament. In a second case, an assistant received a salary and allowances related to their employment in Brussels while, in reality, this person never provided any direct assistance to the MEP in the offices of the European Parliament as required by the rules, and did not actually reside in Brussels at all, a condition stipulated in the employment contract. Instead, the person lived elsewhere, and was not assisting the MEP in his/her duties at the European Parliament, but was working for the national party. As a result, OLAF sent its final report to the European Parliament, recommending the recovery of more than EUR 300,000, which represented the financial damage OLAF considered that the Parliament budget had suffered, as well as the launch of disciplinary procedures against one of these assistants. In addition, OLAF transmitted its final report to the national public prosecutor, recommending that judicial proceedings be initiated regarding the persons concerned identified by the OLAF investigation. Judicial proceedings are currently under way.



In another such case concluded in 2016, OLAF carried-out an investigation concerning the alleged undeclared external activity of a Parliamentary Assistant of another MEP. Despite the allegations, the OLAF investigation established that the assistant had fulfilled the conditions of his employment. However, the investigation did reveal some procedural shortcomings, and OLAF brought these to the attention of the European Parliament. The investigation was concluded with a disciplinary recommendation.

In addition, on the basis of various investigations, OLAF identified certain procedural weaknesses in the management and control systems of the European Parliament. As a result, in 2016 OLAF issued a number of administrative recommendations to the European Parliament, in order to address these issues. In



particular, OLAF recommended that the Parliament provides adequate means to register the presence of the Accredited Assistants while in Brussels, Strasbourg or on mission, as well as clarifies its guidelines on the usage of own devices such as laptops, tablets or phones, and that of private emails. Moreover, following an investigation into the unauthorised disclosure of an

OLAF-marked final report, OLAF issued an administrative recommendation urging the EP to fully protect confidential information transmitted in documents carrying the official markings of OLAF, to ensure personal data contained in them is only transferred on a need-to-know basis and to reinforce their rules on co-operating with OLAF.

Figure 7: Investigations into EU staff and members of the Institutions concluded in 2016

		<i>Concluded with recommendations</i>
European Commission	10	8
European External Action Service	7	6
Agencies	7	4
European Parliament	3	2
European Economic and Social Committee	2	2
Council of the European Union	1	0
European Investment Bank	1	1
EULEX	1	0
Court of Justice of the European Union	1	1
European Institute of Innovation and Technology	1	1
Total	34	25

3. OLAF on the European and international scene

3.1. Preventing and fighting revenue fraud

In a context of ever more inter-connected global markets, with international flows of goods and capital, OLAF has an important role in preventing and tackling fraud affecting the revenue of the EU, mainly customs duties. In 2016, the Office delivered significant results for the EU budget in this field.

OLAF AT THE HELM OF TRANS-EUROPEAN JOINT CUSTOMS OPERATIONS

In addition to its investigations concerning cases of revenue fraud, examples of which were presented in the previous chapter, OLAF has a crucial role in coordinating large-scale Joint Customs Operations (JCOs) involving EU and international operational partners. JCOs are targeted actions of a limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or identified trade routes. In 2016, OLAF co-organised or supported 12 such successful operations. Four of the JCOs organised in cooperation with Member States (Estonia, Finland, Greece and the Netherlands) were financed by OLAF:

JCO Magnum was organized at regional level and targeted the smuggling of tobacco products transported by road into the EU territory from third countries such as Belarus, Ukraine and Russia. The operation was coordinated by the Estonian Customs Administration and OLAF with the involvement of five Member States, and led to the seizure of around 11 million cigarettes.

JCO Warehouse III targeted the smuggling of excise goods, such as mineral oil/fuels, including the usage of the duty and tax suspension regimes for fraudulent activities. Coordinated by the Finnish Customs Administration and OLAF with the involvement of 26 Member States and the support of Europol, the operation was run from the Permanent Operational Coordination Unit at the OLAF premises in Brussels. The operation led to the seizure of several thousand litres of diesel.



JCO Orion targeted goods originating from non-EU countries and released into free circulation using customs procedure 42. The operation was coordinated by the Hellenic Customs Administration and OLAF with the involvement of the customs authorities of 23 Member States, and in close co-operation with their tax authorities. Managed from the OLAF Permanent Operational Coordination Unit, with the participation of liaison officers and a representative from Europol, the JCO led to customs officers uncovering several instances of undervaluation and misclassification of goods at import, as well as a string of missing traders who 'disappeared' in order to evade customs duties and VAT.

JCO Wafers focused on counterfeit semiconductors imported into the EU from China and Hong Kong by Post/Express Courier Services. This operation was coordinated by the Dutch Customs and OLAF with the involvement of 12 Member States and the support of Europol, and in close co-operation with the industry. The operation led to the seizure of several hundred thousand counterfeit semiconductors, as well as other counterfeit products.



OLAF'S ANTI-TOBACCO SMUGGLING MANDATE

To counter tobacco smuggling into the EU, which causes huge revenue losses to the budgets of the EU and of the Member States, OLAF has a unique administrative investigative mandate in this field. In complex cross-border cases in particular, OLAF can bring significant added-value by helping coordinate anti-smuggling operations carried out by law-enforcement agencies across Europe. OLAF works to ensure that evaded duties are recovered, criminal smuggling networks are dismantled and perpetrators brought to justice.

In addition to its operational activities to fight illicit tobacco trade, in 2016, OLAF has also been a key contributor to the EU becoming a Party to the Protocol to Eliminate Illicit Trade in Tobacco Products to the WHO Framework Convention on Tobacco Control ("FCTC Protocol").

A KEY TOOL IN FIGHTING THE ILLICIT TOBACCO TRADE – THE FCTC PROTOCOL

The FCTC Protocol is the first international treaty aiming to specifically tackle the illegal trade of tobacco products and it was adopted in November 2012. The EU, with OLAF as lead service, had a key role in negotiating it under the auspices of the World Health Organisation (WHO). On 24 June 2016, the EU became a Party to the Protocol having deposited the instrument of formal confirmation with the United Nations.

The FCTC Protocol is a key policy tool to prevent illicit tobacco trade at the international level and is therefore becoming the central pillar of the EU's policy to fight this cross-border phenomenon. In addition to acting as a deterrent against criminals engaging in the illegal tobacco trade, the Protocol will require legislation and administrative measures in the Parties enabling them to implement core commitments on the control of the supply chain of tobacco products. The key provisions concern track and trace systems to follow products through the supply chain, licensing requirements for

the production of tobacco products and manufacturing equipment, reinforced control in free zones as well as provisions on money laundering. This is complemented by other regulatory provisions such as due diligence, record keeping ("know-your-customer"), increased sanctions, law enforcement co-operation, and mutual administrative assistance.

The FCTC Protocol will only effectively help curbing illicit trade if it is also implemented by third countries which are the main source of illicit tobacco products or are transit countries on the smuggling routes. Therefore, the Commission and OLAF are intensifying their efforts to promote the Protocol outside the EU.

NEW, POWERFUL TOOLS TO COMBAT CUSTOMS FRAUD MADE AVAILABLE IN 2016

In 2016, customs investigators across the European Union also gained access to new electronic tools to combat customs fraud more effectively. Through the update of Regulation 515/97, OLAF was empowered to create new IT systems which will allow the EU and its Member States to better track and trace suspicious shipments and thus increase the detection of customs fraud.

Investigators will now be able to access a new Container Status Messages directory which gathers messages that record the movements of containers transported on maritime vessels. The messages are directly provided by maritime carriers. Similarly, an Import, Export and Transit directory has also been developed, containing data on goods entering, transiting and leaving the EU. Data relating to exports which will be gathered is limited to sensitive products, such as tobacco, alcohol and fuels. As of next year, customs officials as well as OLAF officials will also be able to cross-check the information from both databases to detect potential fraud patterns. These new tools will strengthen the analytical capabilities of national customs authorities and OLAF in detecting fraudulent operations.

Figure 8: Cigarettes seized with the support of OLAF (rounded to million sticks)

Year	2012	2013	2014	2015	2016
Coordination and investigation cases	156	281	168	602	458
JCOs	0	68	132	17	11
Total	156	349	300	619	469



OLAF holds meetings with international partners to help eradicate fraud with EU funds

The amended legislation will also help speed up OLAF investigations by setting out deadlines for Member States to provide investigation-related documents. It will also facilitate the use of information obtained on the basis of mutual assistance as evidence in national judicial proceedings.

FIGHTING TRANSHIPMENT FRAUD GLOBALLY

The practice of the illegal transshipment of goods in the international Free Zones poses a serious problem for the EU because it can be used by criminal networks as a concealed transport route to bring into the EU illicit products and dangerous substances. OLAF is working hard to strengthen the co-operation with the third countries concerned by creating the conditions for an early tracking and monitoring system for the most dangerous products that could harm the health and safety of our citizens and damage our environment. OLAF has carried out missions and discussions with key international partners throughout 2016.

3.2. OLAF relations with its partners

MUTUAL ASSISTANCE AND ANTI-FRAUD PROVISIONS IN INTERNATIONAL AGREEMENTS

Cooperation with third countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance in customs matters. Such agreements provide the required legal basis in the context of Article 19 of Regulation 515/97 for the exchange of information with third countries on fraud or irregularity. More than 70 agreements are currently in place, including with major EU trade partners, like the US, China or Japan. In 2016, the list of agreements in force has been enlarged with the following partners: Kazakhstan, Ivory Coast, Ghana and Kosovo. In addition, negotiations to update the previous agreement have been finalised with Armenia. Negotiations with Mercosur (Argentina, Brazil, Paraguay and Uruguay) have made good progress.

Free trade agreements can contain an anti-fraud clause which allows for a temporary withdrawal of tariff preference for a product in cases of serious customs fraud and a persistent lack of adequate cooperation to combat it. OLAF actively contributes to the negotiations on this anti-fraud clause. In 2016, the EU made progress in on-going negotiations for this clause with Japan, the US, Mexico, Mercosur and Tunisia.

ADMINISTRATIVE COOPERATION ARRANGEMENTS WITH INTERNATIONAL PARTNERS

Maintaining close relationships with its EU and non-EU investigative partners is key to OLAF's success. Administrative Cooperation Arrangements (ACAs) can play an important role in fostering such relationships. In 2016, OLAF continued working towards concluding relevant arrangements with its investigative partners. To the existing approximately sixty arrangements in force at the beginning of the year, OLAF added two ACAs with Member States' authorities⁵, three ACAs with international customs authorities⁶, one ACA with

⁵ City of London Police and Autorità Nazionale Anti-Corruzione from Italy.

⁶ State Customs Committee of Belarus, Taiwan Bureau of Foreign Trade, and Taiwan Customs (revision of an existing ACA).



an international anti-corruption authority ⁷, one ACA with a finance control Body ⁸ as well as one ACA with an international organisation ⁹.

OLAF also concluded two new arrangements with EU institutions: one with the European Economic and Social Committee (EESC) and one with the European Investment Bank (EIB).

Throughout the year, OLAF also “assessed” its stock of existing ACAs, with a view to update those that needed to be and, ultimately, to be better equipped for future joint investigative work with its partners.

ADVISORY COMMITTEE FOR COORDINATION OF FRAUD PREVENTION (COCOLAF)

OLAF also steers and chairs the Advisory Committee for Coordination of Fraud Prevention (COCOLAF) and its respective sub-groups, composed of representatives of Member States’ authorities. The 2016 annual meeting provided an opportunity to discuss the main developments in the fight against fraud and the preparation of the Article 325 TFEU Report on the ‘Protection of the European Union’s financial interests — Fight against fraud 2015’.

The COCOLAF subgroups met in 2016 to:

- ▶ exchange experience and best practices in anti-fraud activities;
- ▶ draw up fraud prevention documents under a collaborative approach with Member States’ experts coordinated by OLAF such as ‘Guidelines on National Anti-Fraud Strategies’;
- ▶ prepare guidance on the ‘Irregularity Reporting’ and the launch of updated the Irregularity Management System (IMS);
- ▶ share media strategies and launch communication activities on fraud prevention and deterrence.

NATIONAL ANTI-FRAUD STRATEGIES

Member States are required to put in place efficient and proportionate anti-fraud measures for each operational programme financed or co-financed by the EU for the programming period 2014-2020. These anti-fraud measures are ideally part of a comprehensive national anti-fraud strategy (“NAFS”). OLAF encourages Member States to develop such anti-fraud strategies and can provide support to Member States in the drafting process. In 2016 OLAF, with the assistance of Member State experts, issued updated guidelines on the development of NAFS. Currently, nine Member States (Bulgaria, Croatia, Czech Republic, France, Greece, Hungary, Italy, Malta and Slovakia) have adopted a NAFS. In 2016, OLAF has also advised and assisted Albania, Serbia and the Former Yugoslav Republic of Macedonia in establishing their NAFS. Candidate and Potential Candidate Countries must adopt a NAFS for the protection of EU funds as part of the accession process.

COOPERATION WITH EUROJUST

In 2016, OLAF and Eurojust organised a training session for Eurojust National Members and staff, in order for them to better understand OLAF’s mandate and working methods. Eurojust and OLAF continued to regularly exchange information of investigating interest and to cooperate on common cases.

FPDNet

In 2016, OLAF also continued to work on fraud prevention training and awareness-raising activities through the well-established Fraud Prevention Network, FPDNet, bringing together professionals from Commission Services, Executive Agencies and the European External Action Service.

⁷ National Anti-Corruption Bureau of Ukraine (NABU).

⁸ Inspection Generale des Finances (IGF) of the Democratic Republic of Congo

⁹ International Fund for Agricultural Development (IFAD).

4. Partnering to fight fraud: Monitoring the actions taken by the recipients of OLAF recommendations

4.1. Financial monitoring

OLAF INVESTIGATIONS LEAD TO HIGH AMOUNTS RECOMMENDED FOR RECOVERY TO THE EU BUDGET

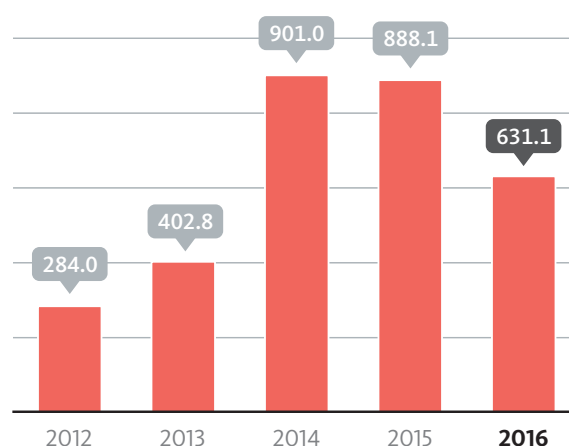
Financial recommendations are addressed by OLAF to the EU institutions or national authorities providing or managing EU funds. The aim of such financial recommendations is to seek the recovery of the defrauded EU funds to the EU budget. The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that given year. The amount of recommended recoveries is therefore not an indication of the overall fraud level in Europe, but relates to specific investigations OLAF has finalised in a particular year.

Pursuant to the investigations it concluded in 2016, OLAF has recommended the recovery of EUR 631.1 million to the EU budget. OLAF is, however, not itself responsible for the recovery of these funds. It is important to note that this money will progressively be recovered by the relevant authorities at EU and Member State level over the years. Money can be retrieved from the beneficiaries of the funds, national managing authorities or paying agencies in a number of ways, including direct recovery, offsetting, deduction, de-commitment, programme closure, or clearance of accounts.

FINANCIAL IMPACT OF OLAF'S INVESTIGATIONS IN THE OVERALL DETECTION OF IRREGULARITIES ACROSS EUROPE

Member States also manage the collection of the EU's customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and supports them via trainings and through active exchange of information.

Figure 9: Amount recommended by OLAF for financial recovery in 2016 (million EUR)



Under sectoral regulations, Member States have to report any irregularity or suspicion of fraud¹⁰ they detect exceeding EUR 10,000 to the European Commission. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU financial interests (the so-called "PIF Report").

In last year's OLAF Report 2015, OLAF presented for the first time an analysis in the field of Traditional Own Resources (TOR), as well as in the area of shared management, providing an overview of the number of fraudulent and non-fraudulent irregularities detected by national authorities throughout the EU. In this year's edition of the Report, the analysis was extended to include 2016 as well. The impact of investigations

¹⁰ A case can be defined as fraud only after a definitive sentence is issued by a competent judicial authority. This can take a few years following the detection and reporting of the case to the Commission.



is shown as a percentage of the total TOR that authorities have collected for the years 2013-2016 and as a percentage of the total payments made under the two main areas of shared management¹¹ by each Member State.

In parallel with the Member States, OLAF also gathers data on the number of investigations it has conducted which have led to financial recommendations. Alongside the results by national authorities, the results obtained by OLAF during the same period are also published¹².

In this analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States.

Figure 10 shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources between 2013 and 2016 and the percentage that their financial impact represents in terms of the gross TOR collected by Member States and made available to the EU budget. OLAF results are shown alongside those of national authorities.

Figure 11 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management, namely Structural Funds and Agriculture, between 2013-2016 and their financial impact expressed as a percentage of the total payments for the years 2012-2015¹³, divided by Member State. OLAF results are shown alongside those of national authorities.

Our analysis thus highlights once again the important contribution OLAF investigations are making in helping the relevant authorities recover EU funds that have been defrauded or irregularly misspent. In terms of Traditional Own Resources, OLAF financial recommendations would represent 0.49% of the gross TOR collected, compared to 2.04% for all Member States together. As such, OLAF financial recommendations would account for between 19.3% and 23.9%¹⁴ of the entire financial impact of investigative and control activities in the Member States. Compared to the period 2013-2015, the financial impact of OLAF's recommendations remained stable, while the financial impact of national investigations decreased. While OLAF identified fewer irregularities than national authorities as a whole, their financial impact was, on average, significantly larger. This is a testament to OLAF's commitment to utilising its resources effectively, and thus concentrating on cases where its input would bring the most value added.

Comparable results occur also in the shared management areas, where the financial impact of the activities of all Member States together accounts for 2.1% of payments, while OLAF alone recommended the recovery of 0.43% of payments. In this area, OLAF financial recommendations would represent 17.1% to 20.7% of the entire impact of investigative and control activities. There are particular countries, like Hungary, where the financial impact of OLAF cases was four times higher than that of national investigations.

Individually analysing the two main areas of shared management, OLAF's impact has been particularly significant in relation to the Structural Funds, as its financial recommendations represented 0.8% of the payments, i.e. between 19% and 23.5% of the financial impact of investigative and control activities of the Member States, which represents around 3.5% of the payments made between 2012 and 2015. Again, OLAF concentrated on large, complex cases, with a high financial impact.

11 Namely, Agriculture and Structural Funds.

12 Results by the Member States and OLAF may partially overlap. OLAF results are extracted from the Case Management System, and represent the total sum of financial recommendations issued at the end of the investigations. Data concerning Member States is extracted from the Irregularity Management System (IMS) for the two expenditure areas and from the OWNRES system for TOR. Data used in this report need to be considered as provisional as final data are published in the 'Report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests — Fight against fraud - 2015' which will be published in July 2016.

13 The financial impact of irregularities detected between 2013-2016 is compared with payments disbursed between 2012-2015 as, in the area of expenditure, investigations are very rarely related to payments disbursed in the same fiscal year.

14 The range has been calculated assuming, for the lower limit, that OLAF results are not included in those reported by the Member States, while for the highest limit, the assumption is the opposite - that OLAF results are fully included in those reported by the Member States.

Figure 10: Member State/OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2013-2016

	Traditional Own Resources (TOR)			
	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % TOR collected
	N	%	N	%
Austria	279	2.94%	8	0.14%
Belgium	780	1.06%	23	0.77%
Bulgaria	99	3.65%	15	1.56%
Croatia	49	1.69%	0	0.00%
Cyprus	37	1.78%	5	0.08%
Czech Republic	294	2.14%	15	1.11%
Denmark	282	1.68%	13	0.59%
Estonia	25	1.58%	7	0.44%
Finland	156	1.16%	8	0.47%
France	1 484	1.93%	20	0.31%
Germany	7 316	2.29%	27	0.20%
Greece	178	6.75%	11	0.18%
Hungary	174	1.43%	11	0.38%
Ireland	114	1.12%	9	0.42%
Italy	692	1.52%	23	0.24%
Latvia	104	5.56%	8	2.18%
Lithuania	168	2.29%	11	1.23%
Luxembourg	0	0.00%	0	0.00%
Malta	14	4.77%	1	0.03%
Netherlands	1 808	3.11%	35	1.01%
Poland	615	1.25%	22	1.03%
Portugal	126	2.50%	13	1.60%
Romania	305	4.05%	22	2.04%
Slovakia	68	1.05%	9	0.25%
Slovenia	45	0.64%	11	0.64%
Spain	1 402	2.33%	24	0.51%
Sweden	308	0.98%	11	0.28%
United Kingdom	4 177	1.86%	31	0.32%
Total	21 099	2.04%	393	0.49%



Figure 11: Member State/OLAF detection of irregularities and their financial impact in the areas of Structural Funds and Agriculture for the period 2013-2016

	Shared Management: Structural Funds and Agriculture			
	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	295	0.34%	2	0.03%
Belgium	327	0.58%	1	0.03%
Bulgaria	720	1.74%	38	0.46%
Croatia	46	0.82%	1	0.01%
Cyprus	72	0.49%	0	0.00%
Czech Republic	3 212	5.49%	5	0.06%
Denmark	193	1.20%	0	0.00%
Estonia	346	1.39%	0	0.00%
Finland	125	0.09%	0	0.00%
France	1 039	0.33%	5	0.01%
Germany	1 623	0.37%	6	0.09%
Greece	1 505	2.23%	10	0.35%
Hungary	2 442	1.22%	41	4.16%
Ireland	1 325	3.14%	0	0.00%
Italy	3 016	1.63%	15	0.25%
Latvia	580	3.30%	1	0.01%
Lithuania	896	3.00%	3	0.08%
Luxembourg	1	0.12%	0	0.00%
Malta	80	2.28%	1	0.50%
Netherlands	726	2.03%	1	0.00%
Poland	4 731	1.60%	13	0.07%
Portugal	1 703	1.21%	7	0.24%
Romania	4 857	5.65%	99	0.68%
Slovakia	1 360	13.14%	14	2.55%
Slovenia	239	2.00%	1	0.14%
Spain	9 766	2.98%	5	0.49%
Sweden	207	0.82%	0	0.00%
United Kingdom	2 610	0.89%	5	0.05%
Total	44 042	2.10%	274	0.43%

4.2. Judicial monitoring

Ever since its creation, OLAF has been monitoring the actions taken by national judicial authorities following its judicial recommendations, in order to see the outcome of these cases on the ground and find out if they have led to indictments or to other judicial measures.

A recent analysis OLAF conducted into the national judicial outcomes for the last seven years confirms the results from the previous period, namely that around half of the cases submitted by OLAF to national judicial authorities have led to indictments. While judicial authorities are of course independent, and while the legal architecture may vary at Member State level, OLAF has continuously strived to understand the reasons why national judiciaries dismiss part of the cases it sends them. Therefore, OLAF carried out a detailed exercise with several Member States in 2014, 2015 and 2016 successively.

While it is not for OLAF to question the validity of national prosecutors' decisions to dismiss individual cases on particular grounds, OLAF's analysis confirms the argument in support of the Commission's proposal for a European Public Prosecutor's Office. First of all it appears that art. 11§2 of Regulation 883/2013, and prior to that, art. 9§2 of Regulation 1073/1999 which was identical, is not a sufficient legal basis to allow all Member States' judicial authorities to use OLAF reports as evidence in trial. Therefore, in numerous Member States, after receiving the OLAF final report, prosecutors carry out all the investigation activities once again in order to acquire admissible evidence.

Sometimes, despite great investigative efforts deployed by the Office, its limited investigation powers and practical possibilities do not allow it to collect strong evidence of a criminal offence.

As regards internal investigations, whereas for OLAF any infringement committed by EU staff is regarded as a very serious matter, irrespective of the prejudice to the EU budget, the priorities of the national judiciaries may be different.

Finally, some of the cases analysed show differences of interpretation of EU and national law between OLAF and national authorities. OLAF started in 2016 to address these differences, through bilateral meetings with the relevant judicial authorities.



Overall, the exercise covered all Member States with the exception of Croatia where OLAF did not issue any judicial recommendations, and of Malta and Slovenia, where no cases submitted by OLAF were dismissed. The results of the exercise carried out by OLAF were discussed in the annual Interinstitutional Exchange of Views, as well as at a meeting with all the national anti-fraud coordination services (AFCOS), in 2016.



Figure 12: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2009 and December 2016

Member state	No decision taken by JA (*)	Decision taken by JA			Indictment rate
		Total	Dismissed	Indictment	
Austria	3	5	2	3	60%
Belgium	9	36	17	19	53%
Bulgaria	13	22	12	10	45%
Croatia	2	0	0	0	NA
Cyprus	2	3	2	1	33%
Czech Republic	3	6	4	2	33%
Denmark	2	3	2	1	33%
Estonia	1	1	0	1	100%
Finland	2	1	1	0	0%
France	8	9	4	5	56%
Germany	15	19	13	6	32%
Greece	13	10	2	8	80%
Hungary	22	9	6	3	33%
Ireland	1	2	2	0	0%
Italy	25	30	11	19	63%
Latvia	2	2	2	0	0%
Lithuania	3	7	4	3	43%
Luxembourg	6	4	3	1	25%
Malta	3	4		4	100%
Netherlands	11	4	3	1	25%
Poland	9	11	2	9	82%
Portugal	10	5	4	1	20%
Romania	28	74	50	24	32%
Slovakia	5	9	7	2	22%
Slovenia	3	1	0	1	100%
Spain	12	16	10	6	38%
Sweden	1	2	1	1	50%
United Kingdom	19	13	7	6	46%
Grand Total	233	308	171	137	44%
Grand Total without SAPARD (**)	233	246	123	123	50%

(*) In the category of no decision taken, we include also those cases that are still in the so-called "reporting period". When OLAF sends a judicial recommendation to a Member State, the competent authority has to report on the actions taken following the recommendation within 12 months.

(**) OLAF's overall caseload in Bulgaria and Romania includes a large number of older investigations involving the misuse of SAPARD funds. SAPARD-related cases have led to a relatively low rate of judicial indictment. This was mainly due to the widespread use of consultants and agents in preparing aid applications and tender documents, which raised doubts at judicial level about the fraudulent intent of the beneficiaries. In both countries, the indictment rate of non-SAPARD cases is higher.

4.3. Disciplinary monitoring

EU INSTITUTIONS TAKE ACTION TO FOLLOW-UP ON OLAF'S INTERNAL INVESTIGATIONS

The Disciplinary Recommendations issued by OLAF concern misconduct of EU staff or members of the EU Institutions and are directed at the authority having disciplinary powers in the Institution concerned. The appointing authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the appointing authority may join several recommendations resulting from different investigations and, subsequently, impose one single sanction.



Figure 13: Actions taken by the appointing authorities following OLAF's Disciplinary Recommendations issued between 1 January 2014 and 31 December 2016

Recipient of recommendation	Total	No decision taken (*)	Decision taken	
			No case is made	Action taken
Agencies	9	4	3	2
Court of Justice	2	1	1	0
European Commission	20	4	5	11
European Economic and Social Committee	2	1	1	0
European External Action Service	4	1	0	3
European Investment Bank	2	1	0	1
European Parliament	9	3	1	5
Total	48	15	11	22

(*) In the category of no decision taken, we include also those cases that are still in the so-called "reporting period". When OLAF sends a disciplinary recommendation to an appointing authority, the competent authority has to report on the actions taken following the recommendation within 6 months.



5. Focus chapter: OLAF and innovation

OLAF has made significant investment and deployed substantial efforts in the last years to use and promote the most innovative investigative techniques and tools. OLAF has matched its unique investigative mandate with innovative state of the art investigative tools in order to continue to remain at the forefront of the global fight against fraud. In this year's Report, OLAF is placing in the spotlight some of its most important initiatives in this field, undertaken in 2016.

5.1. A premiere of 2016: OLAF's extensive analysis of the "Panama Papers"

In its investigative activities, OLAF generally uses all open source information available. For instance, OLAF's text mining and analysis capabilities are, at this point, almost unparalleled in Europe for an administrative body. When the Panama Papers were published, OLAF experts quickly realised that the documents could bring interesting leads in the fight against fraud and corruption, and that they had the necessary tools to process the huge data volume. OLAF therefore downloaded the Panama Papers public database, which contained almost 430,000 entities – persons and companies. With its highly-developed analytical tools, OLAF examined the large amount of available data. The first step, which took 11 days, was "cleaning" the data, whereby OLAF analysts fixed any possible inconsistencies. A Slavic name, for example, when translated from the Cyrillic alphabet to the Latin alphabet could be spelled in different ways, although it relates to the same person. Experts identified such instances, thus making the data more reliable. Experts then checked whether the following three categories had in any way been linked to the offshore companies exposed in the Panama Papers.

The first category related to EU staff who held managerial functions (European Commission Directors-General, Directors or Executive Directors of all EU Decentralized Agencies), to members of the European Institutions (the current Members of the European Parliament, the Juncker and Barroso II Commissions) and to staff categories across the European Institutions considered to be at higher risk, for example budget administrators, procurement officers, inspectors,

investigators or auditors. The second category consisted of experts providing services in the course of EU projects and beneficiaries of EU funds, while the third category comprised persons or entities that had been involved in OLAF closed or on-going investigations.

Overall, OLAF identified around 40,000 persons and companies pertaining to these three categories. The data was imported into iBase, a database that helped OLAF analysts identify persons, companies and their relationships. The software automatically flagged identical matches and semi-automatic "near matches" based on spelling variations.

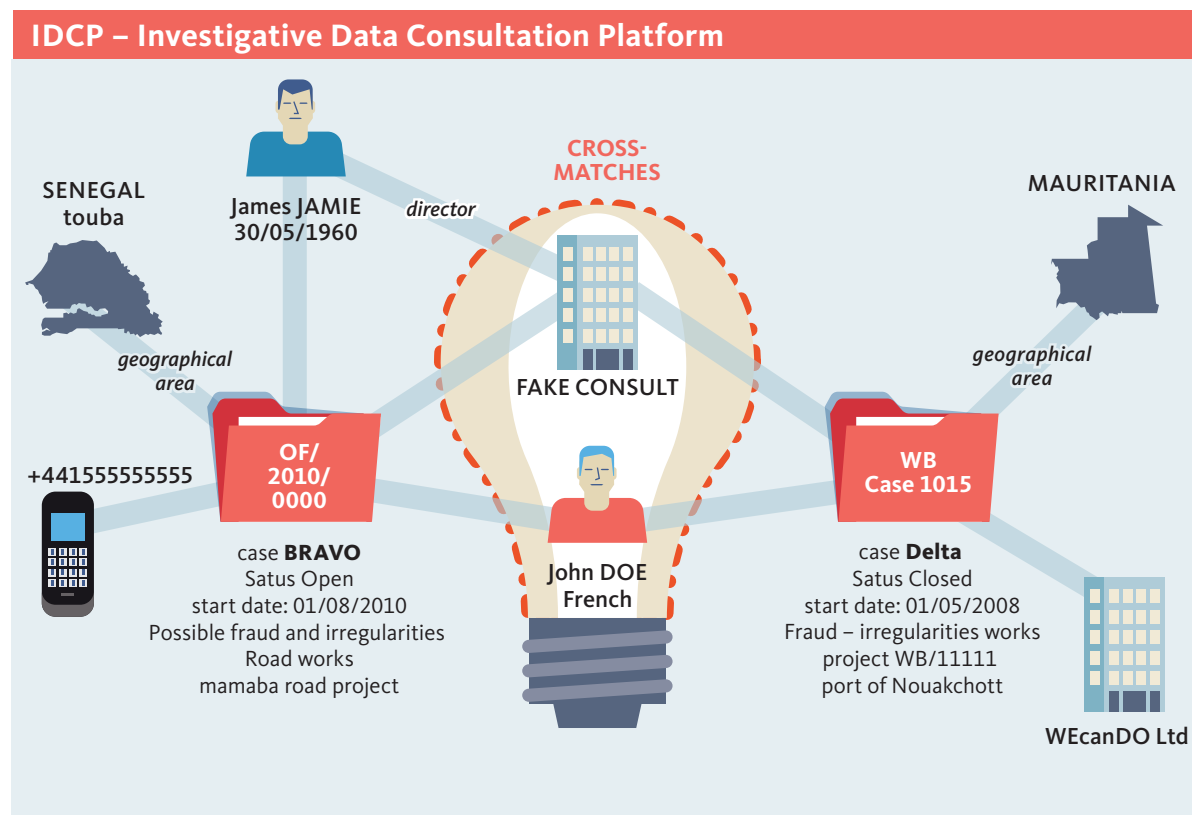
The analytical exercise undertaken by OLAF resulted in 17 real matches, a very number low compared to the large number of individuals and companies OLAF cross-referenced, and a positive sign attesting to the integrity of EU staff and members. On the basis of this analysis and of information also related to the Panama Papers but obtained from other sources, OLAF then opened four investigations.

The purpose of the analysis was not only to uncover any fraud against the EU budget or serious misconduct of EU staff and members, but to also identify any systemic vulnerability in European Commission programmes, with a view to correcting it.

5.2. The IDCP platform: cross-matching across borders

In June 2016, OLAF joined forces with the World Bank Integrity Vice Presidency (INT) by signing an arrangement to set up an Investigative Data Cross-Matching Platform (IDCP). This arrangement marks a new step in the longstanding and successful cooperation between the two bodies and deepens international cooperation in the fight against fraud by creating a database to support the exchange of investigative information.

The IDCP facilitates the exchange of case-related information between OLAF and INT, helping the two partners identify cases of double or multiple funding of development projects, as well as identical persons or economic operators defrauding their respective budgets.



The innovative feature of the IDCP is that once data has been uploaded into the system, it will automatically identify “cross-matches” such as the name of the same economic operator or of the same persons in the OLAF and INT investigations, and will automatically notify the two investigative bodies.

Cross-matches are done in full compliance with the European Data Protection Supervisor’s (EDPS) recommendations.

5.3. OLAF Operational Analysis and Digital Forensic activities

A dedicated OLAF Operational Analysis and Digital Forensic Unit is providing highly specialised technical assistance and analytical support to OLAF investigators. Assistance is focussed on complex investigations, both with respect to the content or the high volume of data. The Unit is composed of highly experienced and certified digital forensic examiners and analysts who are trained to find evidence wherever data/information has been stored, hidden or even deleted.

The Unit applies expert skills and state of the art tools to acquire, handle, process and analyse large amount of data and information in order to extract, interpret and present evidence useful in OLAF investigations. Moreover, the team works on a fully integrated platform of forensic data extraction, deep full text search, text mining, content analysis, audio search, multi-media analysis and advanced data visualisation.

The combination of these tools together with the expertise in handling and analysing huge volume of data and information make this Unit an essential and valuable support to OLAF investigative operations on complex investigations.

OLAF also assists its partners in the Member States and in the European Commission by providing technical, analytical and forensics support for their investigative operational activities (e.g. in the context of Joint Customs Operations) or facilitating and enhancing the audit risk analysis methods of the Commission’s Directorates-General.

Not only does OLAF’s Operational Analysis and Digital Forensic team offer assistance to national law enforcement authorities, it also shares its expertise with

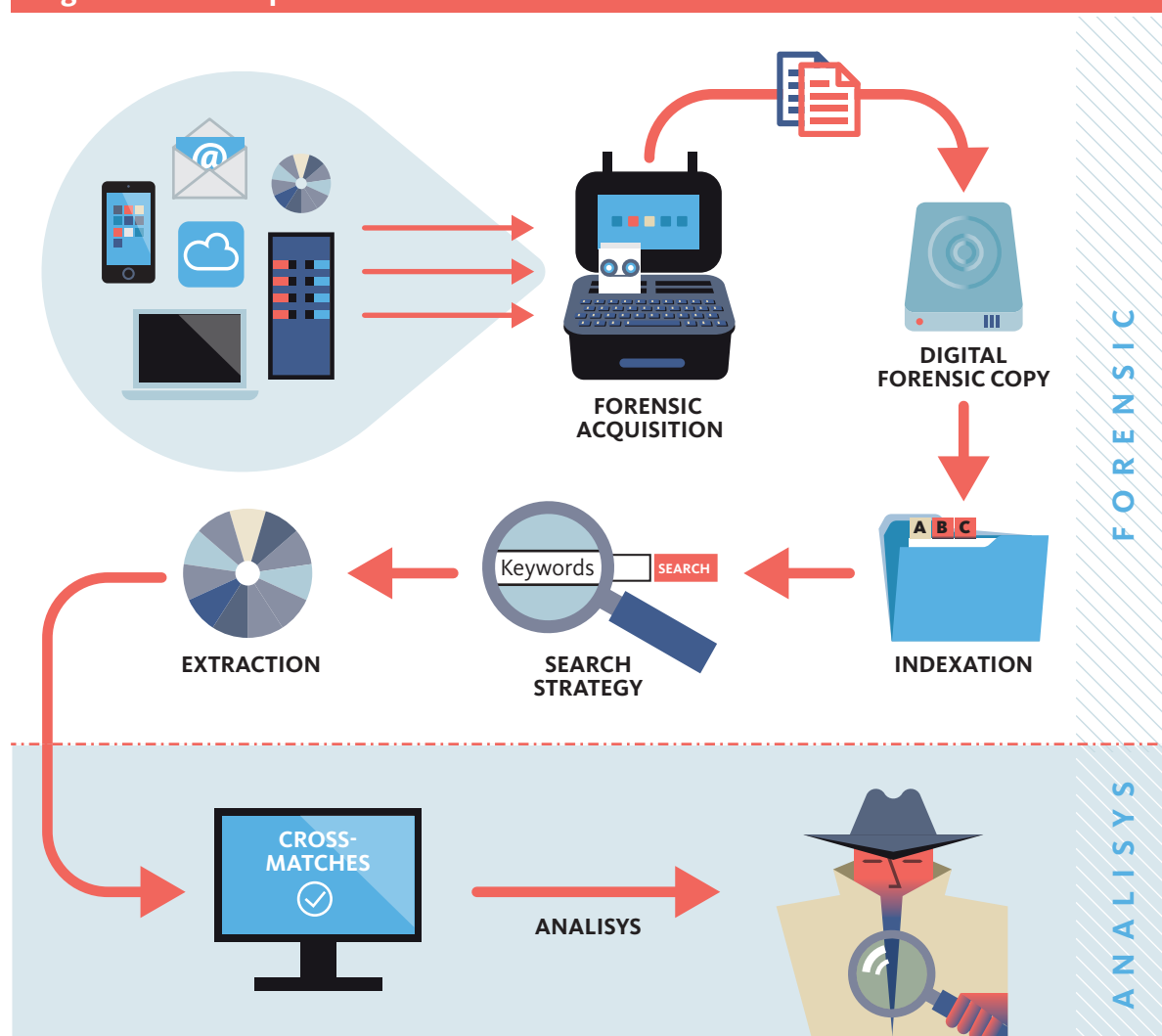


Member States and International Organisations by providing analytical support for developing intelligence based solutions, and technical assistance or training for their capacity-building in forensic procedures and in detecting methods of fraud.

Thanks to such collaboration between OLAF and its partners, the prosecution of corruption and fraud cases has been facilitated in many countries.

OLAF management is committed to constantly providing OLAF investigators with new tools and with the necessary support to take on large, complex, cross-border fraud investigations. It is only through acquiring or developing such tools in-house that OLAF can stay one step ahead of the game and identify increasingly professionalised fraudsters.

Digital forensic operation



6. Policies to fight fraud

In addition to its investigative work, as a European Commission service, OLAF plays an active role in the development of EU anti-fraud policies. The Office is regularly at the forefront of drafting and negotiating legislative texts concerning the protection of the EU's financial interests against fraud and corruption. It is thanks to its solid investigative expertise, that OLAF can support the EU institutions in furthering a sound legal framework that offers ever-improved protection to the EU budget and to taxpayers' money. The main projects on which OLAF experts have made significant efforts in 2016 are summarised in this chapter.

PIF DIRECTIVE: AGREEMENT REACHED IN LATE 2016

In 2016, the European legislators continued negotiations on the proposed Directive on the fight against fraud to the Union's financial interests by means of criminal law (so-called "PIF directive"). The aim of the proposal is to harmonise definitions of offences, sanction levels and prescription periods for EU fraud and related crimes. The main open issue for discussion in the course of 2016 was whether VAT fraud should or should not come within the scope of the Directive. An agreement was reached between the co-legislators in November 2016. Under this agreement, cases of serious VAT offences are included in the scope of the Directive when they involve a damage of at least EUR 10 million. The formal adoption of the Directive by the Council and the European Parliament is scheduled to take place in 2017.

THE LONG ROAD TO ESTABLISHING A EUROPEAN PUBLIC PROSECUTOR

Decisive progress was made on the Commission proposal for the establishment of a European Public Prosecutor's Office ("EPPO") in 2016 under the Dutch and the Slovak Presidencies. At the same time, Sweden announced at the December Justice and Home Affairs Council that it would not participate at this stage in the EPPO. Discussions will continue under the Maltese Presidency. In the absence of unanimity, a large number of Member States decided at the beginning of 2017 to establish the EPPO under an enhanced cooperation

procedure. The Parliament – which will need to give its consent to the Council for the EPPO to be established – has reiterated its support for the creation of an independent and efficient EPPO in a Resolution adopted in October 2016.

OLAF will work closely with the EPPO as it is being set up, in order to allow it to benefit to a maximum from OLAF's practical experience in the fight against fraud affecting EU funds. Once the EPPO is operational, both bodies will need to establish a close partnership for the exchange of information and collaboration on investigations.

IMPLEMENTATION OF THE HERCULE III PROGRAMME

OLAF is responsible for the management of the Hercule III Programme which mainly supports actions and projects that aim to protect the financial interests of the European Union. The Programme has a budget of more than EUR 100 million for the period 2014-2020. It is implemented on the basis of annual work programmes setting out the budget and the funding priorities for a given calendar year. The annual work programme for 2016 made available a budget of EUR 14.5 million for the purchase of, for example, specialised technical equipment by law enforcement agencies in the Member States, such as customs or police forces. The financial support was used for the purchase of a wide range of equipment, such as scanners used in harbours or airports, digital forensic soft- and hardware or the purchase and training of sniffer dogs. For example Greek customs obtained remarkable results with their "Cigarette Detector Dogs" which recently helped seize more than 250 million cigarettes and 500kg tobacco.

The technical equipment purchased with grants from the Hercule III Programme in 2016 was already found to have improved the quantity and quality of information customs authorities gathered on individuals and organisations suspected of involvement in smuggling. The equipment led to a better understanding of the methods deployed by organised crime, which contributed in 2016 to important seizures of cigarettes, tobacco or to the detection of money laundering and VAT evasion.



This was the third year of the implementation of the Hercule III programme and the first tangible results of the activities funded since 2014 started becoming available in 2016. These results demonstrate the substantial contribution with the Programme's financial support to the protection of the Union's financial interests.

The Hercule III Programme also supported conferences, seminars and training events attended by staff of national administrations, law enforcement agencies and NGOs in order to strengthen mutual cooperation, staff exchanges or the exchange of best practices in the protection of the Union's financial interests. The Programme funded digital forensic training sessions aimed at improving the skills of its participants to secure evidence from digital devices in a rapidly evolving technological environment and helping them to stay in the forefront of the fight against fraud.

EVALUATION OF THE OLAF REGULATION NO 883/2013

The exercise of OLAF's mandate to investigate fraud and any other illegal activity affecting the EU financial interests and to help Member States fight fraud is governed by Regulation No. 883/2013, the so-called "OLAF Regulation", in force since 2013. Article 19 of the Regulation provides that *"by 2 October 2017, the Commission shall submit to the European Parliament and the Council an evaluation report on the application of this Regulation. That report shall be accompanied by an opinion of the Supervisory Committee and shall state whether there is a need to amend this Regulation."*

The evaluation work which already started in 2015 with the help of an external contractor is an important exercise intended to ensure that the legal framework for OLAF investigations is fit for purpose. It will provide recommendations for any future revision of the Regulation if shortcomings of the legislative framework and its implementation are identified. The report will look in particular at the effectiveness of OLAF's investigative tools, the procedural guarantees for persons concerned laid down in Regulation 883/2013, OLAF's governance and its relations with its partners. The evaluation will not only consider the status quo, but will also be forward looking. It will assess any necessary adaptations to OLAF's framework in order to clarify OLAF's relationship and added value vis-à-vis the European Public Prosecutor's Office and, more generally, its role in a changing anti-fraud landscape. The evaluation will thus allow the Commission to



identify any possible need to adapt OLAF's mandate and tools to current needs and challenges in the area of fraud.

In March 2017, a first evaluation conference was held in Brussels. In his remarks, OLAF Director-General Giovanni Kessler advocated the need for reform. *"The evaluation of Regulation 883 offers us an important opportunity,"* Mr. Kessler said. *"Not only can we see what worked and what should be improved, it gives us the possibility to truly reflect on the future of OLAF and assess whether the current OLAF model is still good enough to cater for the overall protection of the EU's financial interests."* In relation to the issues emerging from the evaluation, the OLAF Director-General put forward a number of areas that should be considered for a possible revision of the Regulation. In particular, he called for better tools to allow the Office to perform the investigative acts necessary in the fight against fraud. He also suggested that an amended Regulation should consider a sufficient legal basis to allow judicial authorities in all EU Member States to use OLAF reports as evidence in trial. Given OLAF's unique investigative mandate, he invited participants to



As part of the evaluation process, European Commissioner for Budget and Human Resources, Günther H. Oettinger, joined more than 200 stakeholders at a high-level conference on 1-2 March 2017 in Brussels. *"I can only commend OLAF for its impressive work in protecting the EU budget and helping ensure that citizens' money goes towards projects that improve the lives of all Europeans,"* Commissioner Oettinger said. *"Now it's time to look to the future and to try to make sure that OLAF has the tools it needs to successfully counter increasingly sophisticated forms of fraud,"* he added.

Commissioner for Budget & Human Resources Günther Oettinger at the Conference on the evaluation of Regulation 883/2013, in March 2017

consider possible new areas to further develop OLAF's competences.

National-level experts joined academics, lawyers and EU civil servants in lively discussions on the key

provisions of the Regulation and their application in the context of current and emerging fraud trends. Results of the conference will feed into the evaluation report on the application of the Regulation 883/2013 that will be finalised in 2017.





7. Relations with the Supervisory Committee

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. The Committee delivers Opinions to the Director-General of OLAF and reports to the EU institutions.

The Supervisory Committee members are appointed by common agreement of the European Parliament, the Council and the Commission. Regulation 883/2013 provides for a staggered renewal of the SC Members to ensure continuity in the Committee. In 2016, the European institutions established a new list of Members, as well as a reserve list for the Supervisory Committee. Two new members, Ms Drinan (IE) and Ms Stronikowska (PL), started their mandate mid-2016, replacing Mr Pöysti and Mr Bösch. The remaining three members of the SC, Ms Pignon, Mr Denolf and Mr Zimianitis were replaced in January 2017 by Ms Fazenda (PT), Mr Klement (CZ) and Mr Mulder (NL). Since March 2017, Mr Mulder is the Chair of the Committee, replacing Ms Drinan in this function.

In line with Regulation 883/2013, the Members are supported by a Secretariat. As of 1 January 2017, following an amendment of Regulation 883/2013, the Supervisory Committee Secretariat is no longer provided by OLAF, but by the Commission. It was decided by the Commission to attach the Secretariat staff to the Commission's Pay Master Office (PMO).

The Director-General of OLAF keeps the Supervisory Committee regularly informed of the Office's activities, implementation of its investigative function, and action

taken by way of follow-up to investigations. In 2016, in accordance with the Regulation 883/2013 and the working arrangements between OLAF and the Supervisory Committee, OLAF transmitted to the Committee 562 documents with information on cases lasting more than 12 months. OLAF informed the Committee of 266 recommendations, issued between 16 October 2015 and 15 October 2016, as a result of OLAF's investigations, and a further 67 instances in which information was transmitted to judicial authorities of the Member States. Staff of the Committee's Secretariat also had full access to 62 case files in OLAF's case management system.

In 2016, the Supervisory Committee delivered two Opinions to the Director-General, one on OLAF Draft Investigation Policy Priorities for the year 2016, and one on OLAF's Preliminary Draft Budget for 2017, to which OLAF has replied on 12 May 2016 and on 13 January 2017 respectively.

In its Opinions, the Supervisory Committee issues recommendations to the Director-General. OLAF reports annually to the Committee on the state of implementation of its recommendations, the last time on 16 February 2017, concerning all recommendations issued in 2016.

Details of the Committee's work can be found in its annual activity report. This report and OLAF's responses, as well as other information, are publicly available on OLAF's website.

8. Data protection, legality checks and complaints

PROTECTION OF PERSONAL DATA IS CRUCIAL TO OLAF'S WORK

The protection of personal data contributes to the overall success of OLAF's investigative function as it safeguards the rights of individuals during all the stages of the life of an OLAF case. Ever since the creation of OLAF as an independent body, the Office has its own data protection officer (DPO) who ensures that OLAF implements the requirements of Regulation 45/2001 on the protection of personal data, including the recommendations of the European Data Protection Supervisor (EDPS). The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital devices.

More than 2800 relevant data subjects have been listed in the numerous cases opened by OLAF between 2012- 2016 and the investigative units in charge have taken the relevant measures to provide them with a data protection privacy statement as soon as possible.

In 2016, OLAF concluded several new Administrative Cooperation Arrangements (ACAs) which cover transfers of personal data with partners in non-EU countries and international organisations. Data protection clauses, based on a model established in consultation with the EDPS, were included in all of these ACAs. A specific arrangement was concluded between OLAF and the World Bank Integrity Vice-Presidency to launch the investigative Data cross -Matching platform marking a new step in the two bodies' successful cooperation, with the authorisation of the EDPS (see special focus chapter on innovation in this Report).

During 2016, OLAF received a total of 10 requests from data subjects for access to their personal data. All of these requests have been handled within the legally foreseen deadlines.

OLAF GUARANTEES PROPORTIONALITY OF INVESTIGATIVE ACTS, AND SAFEGUARDS THE RIGHTS OF DEFENCE

The OLAF Director-General has put in place an internal advisory and control procedure to ensure the compliance of OLAF investigations with EU and national law, as well as the respect of procedural guarantees and fundamental rights of the persons involved in OLAF cases. The responsible team within unit 0.1, composed of OLAF staff with legal and prosecutorial experience in various Member States, conducts legality checks during OLAF's investigations, as well as legal reviews before cases are concluded.

The internal advisory and control review allows the Office to benefit from an ex ante control as regards the legality check of the investigative activities requiring the authorisation of the Director General, ensures the overall quality and conformity of the investigative activities to the applicable rules, and helps improve the final case reports, the decisions on closure and the recommendations issued by OLAF.

Furthermore, the control of the respect of national provisions ensures that the final OLAF case reports constitute admissible, credible and valuable evidence in the course of administrative and criminal proceedings in the Member States concerned.

OLAF RECEIVES VERY LOW NUMBER OF COMPLAINTS ON ITS INVESTIGATIVE ACTIVITY

Persons affected by an OLAF investigation may address a complaint directly to OLAF. The possibility to make a complaint to the Director-General of OLAF is without prejudice to the citizen's right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the European Courts.

In 2016, the Director-General received six complaints from persons involved in OLAF investigations about issues relating to the handling of their procedural guarantees. In five of these complaints, the complainants



received a substantiated reply within the two months' deadline in accordance with the established procedures.

Officials and other EU staff may also complain to OLAF under Article 90a of the Staff Regulations against any act adversely affecting them in connection with OLAF investigations. In 2016, OLAF received two complaints in which Article 90a of the Staff Regulations was invoked. After examining them in accordance with the established procedure, OLAF concluded that they did not satisfy the conditions foreseen in Article 90a and replied to the complainants accordingly.

In 2016, the European Ombudsman opened two inquiries in relation to complaints involving OLAF, both of which were closed in the course of the year. The first complaint concerned a public access to documents request, where the Ombudsman concluded that OLAF was entitled to refuse access. The second complaint concerned an alleged failure to reply to the complainant's correspondence. Following the Ombudsman's intervention, OLAF settled the issue by replying to the complainant and apologising for the delay. In the course of 2016, the Ombudsman also concluded seven inquiries concerning OLAF that had been opened in previous years. Two of these inquiries concerned OLAF's investigative activity, two were about requests for access to documents, one concerned an alleged failure to reply to correspondence, one concerned the processing of personal data and one was related to the inclusion of a company in the Early

Warning System (EWS). All seven inquiries were closed either without a finding of maladministration, or because OLAF had already settled the matter.

Issues related to OLAF investigations were also raised before the European Courts in a very limited number of cases. Usually, this occurs in the context of litigation against measures taken by the Commission or other institutions, bodies or agencies based on OLAF recommendations, such as financial recovery or disciplinary procedures. It may also occur in the context of an action for damages caused by OLAF. This was the case in T-483/13 Oikonomopoulos v. Commission, where the General Court reviewed a broad range of procedural steps carried out by OLAF. In its judgement of 2016 the General Court confirmed OLAF's competence to carry out investigative activities. In particular, it upheld the opening of the investigation, the conduct of the on-the-spot checks the conduct of interviews, the timing and duration of the investigation and respect of the rights of defence of the person concerned.

In July 2016, the European Court of Justice confirmed in a judgment that OLAF investigative procedures respect the fundamental right to protection of personal data as well as the rights of defence¹⁵.

¹⁵ Judgment of the General court 20 July 2016, T -483/13.

9. Staff and Budget

Staff and budget

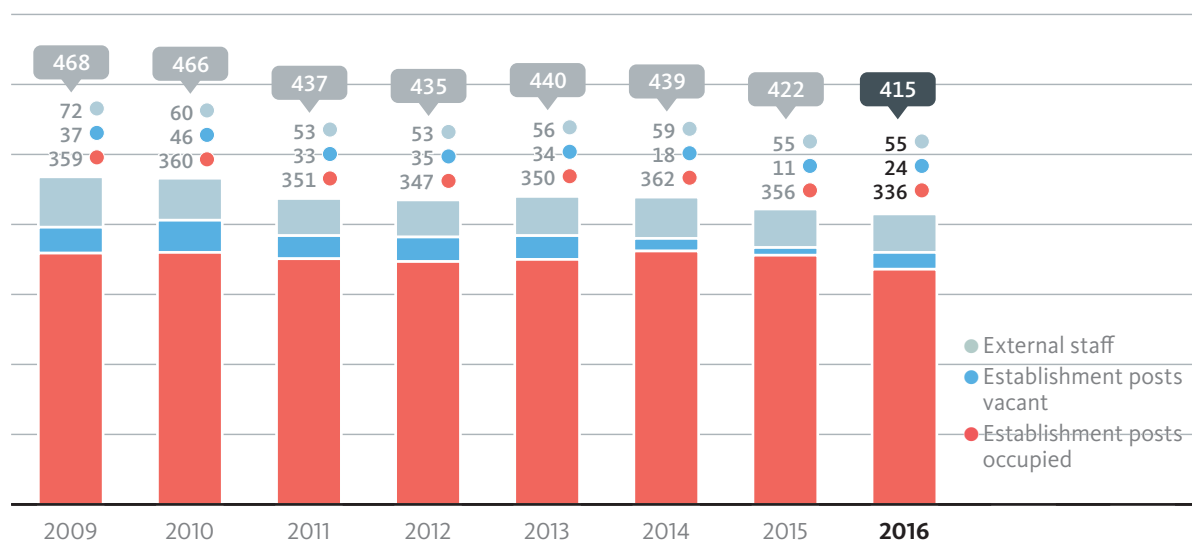
The number of OLAF staff members has declined in 2016 by 1.7%, in the context of the general reductions in staff and budgets in the EU public service. At the end of 2016, the total number¹⁶ of staff members and available vacancies in OLAF stood at 415. Despite the staff cuts, OLAF managed to maintain the relative share of staff allocated to the fight against fraud at 78.3% and to anti-fraud policy work at 12.3%. The remaining 9.4% were allocated to overhead functions such as HR, finance and ICT infrastructure management.

So far OLAF has coped with the combination of a structural increase in workload and reduction in staff numbers through efficiency gains. Indeed, a number of organisational changes were introduced since 2012 to streamline support functions and processes, improve the distribution of responsibilities and competences, and reduce non-core activities, overheads and administrative burdens. These changes have improved the efficiency of investigations, despite the additional notification duties and legality checks imposed by Regulation 883/2013.

OLAF increasingly requires staff with a wide range of skills, training and professional backgrounds. Also, OLAF needs to be able to function and investigate in all EU languages. OLAF's staff profile in 2016 met the necessary standards. However, the challenges which OLAF faces in maintaining its current level of professional expertise go beyond the budgetary restrictions outlined above. OLAF will have to renew its ageing workforce, as investigative staff recruited from national services in the early days of the Office retire, and will have to manage the increasing demand from other Commission services and EU bodies for staff with the skills and background of OLAF professionals. With a view to anticipating these challenges, actions taken under the OLAF HR Strategic Plan in 2016 included:

- ▶ Launching two competitions in the investigative field for administrators to compensate the loss of expertise OLAF is facing due to the ageing of its staff and the expiry of many temporary agent contracts. Reserve lists, which should be published by in the last semester of 2017, will include 25 investigators with expertise in EU expenditure and anti-corruption, 15 investigators with experience

Figure 14: Number and breakdown of OLAF staff from 2009 to 2016



¹⁶ Officials, temporary agents, contract agents, seconded national experts and interim staff employed on 31/12/2016; excluding trainees and external service providers.

**Figure 15: OLAF's administrative budget in 2016 (million EUR)**

EU staff	40.5
Infrastructure	6.7
ICT	5
External agents (contract staff, seconded national experts and interims)	2.6
Missions	1.7
Anti-fraud measures	1.9
Training, meetings and committees	0.5
Total	58.9



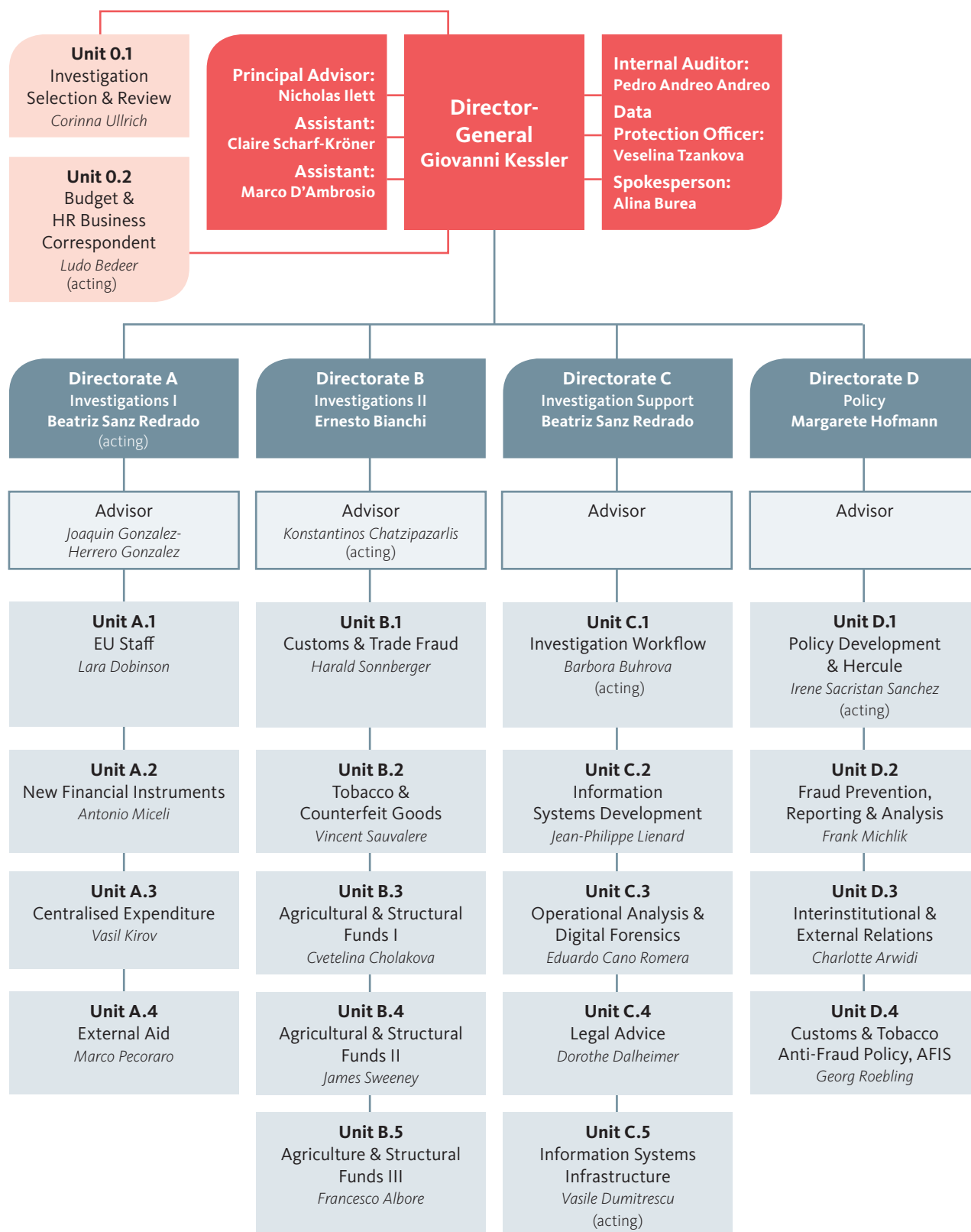
in customs and trade, tobacco and counterfeit goods, as well as 10 investigators able to take up the function of team leaders.

- Continuous investment in the professionalisation of its staff through internal investigative training, external trainings and coaching.
- The sharing of knowledge and enhancing the communication within the organisation, via

lunchtime debates and team building actions focusing on work related issues that have a direct impact on the teams' effectiveness.

- Communicating on OLAF's activities and contributing to a positive image of the Office by giving trainings and presentations to stakeholders outside the Office, as well as organising visits within OLAF premises.

Figure 16: Organisational chart



10. Communication

WE NEED TO TALK ABOUT FRAUD

In recent years, OLAF has placed great emphasis on clearly and coherently communicating with its stakeholders and the public to explain the contribution it brings to the EU budget and the European project more generally. In its dual capacity as independent investigative body which also acts as a Directorate-General of the European Commission in developing anti-fraud policies, OLAF strives to be as open and as transparent as possible with the media and the public, while also protecting the confidentiality of investigations. To manage the communication on investigative matters independently from any other institution, OLAF has its own Spokesperson team who communicates to the media on matters linked to its investigative mandate.

Constantly looking for new ways to reach European citizens, and to raise awareness of the importance of fighting fraud with EU funds, in 2016, OLAF focused on both increasing its communication output, and diversifying the channels through which it reaches its audience. Communication actions were geared towards developing and maintaining a positive relationship with journalists in Brussels and beyond, with the end goal of both informing our readers on why enforcing a policy of zero tolerance to fraud is essential, and empowering them to take an active stance in fraud prevention and deterrence. OLAF organised or participated in several press conferences and events, on issues ranging from



the launch of the OLAF annual report, to customs fraud or cigarette smuggling. It partnered with national law enforcement institutions in order to present cross-European case studies (e.g. press event with Belgian Customs in December 2016).

In an attempt to better engage directly with its audience, in 2016 OLAF has become active on Twitter. This has helped the Office get closer to its audience, as well as engage with partner anti-fraud services, showcasing their work and achievements. Our guest-posting exercises developed with OLAF partner institutions, such as the Belgian and Latvian Ministries of Finance or the Dutch Customs and helped spread the word about the need to take action against fraud and corruption.

Throughout 2016, OLAF also continued to be the central point of the OAFCN, the OLAF Network of Anti-Fraud Communicators, which was created over a decade ago and is a unique cross-European network of communication experts working on anti-fraud issues. The Network brings together Communication Officers and Spokespersons from OLAF's operational partners in the Member States. It plays a pivotal role in communicating the threat of fraud to the public, as well as the joint efforts made by national and European authorities to combat it. It is a key platform for raising awareness and reaching out to various audiences on fraud issues.

OLAF also engaged in joint actions with other European Commission services, supporting the EU Budget Focused on Results initiative of the Directorate-General for Budget, for example, as well as presenting its work at the yearly Open Day of the European Institutions.



11. Outlook by the Director-General of OLAF

It has been almost seven years since I took over the position of OLAF Director-General. Moving to Brussels was not a difficult decision. As a former prosecutor, I was passionate about fighting fraud, while my strong belief in the values of the European Union made me embrace the role of a dedicated EU civil servant. Though I knew it would be a unique and challenging position, this was a challenge I both looked forward to, and welcomed.

With the end of my mandate in sight, I am proud to have had the opportunity to work alongside excellent colleagues, who supported me in steering the Office through an extensive reorganisation, one that helped OLAF work better, faster and more efficiently. I took over the management of OLAF at a turning point, and saw it transform into a modern investigative body, able to solve even the most complex, cross-border, fraud cases. Our results over the last years speak for themselves – several thousand large-scale investigations completed and recommendations issued, with several billion euros recommended for recovery, all in an ever shorter time frame and with no staff increase. With the support of my colleagues, we not only took on high profile internal and external investigations, but we did our work thoroughly and with great determination, while maintaining an unfailing dedication to our independence. I am very proud to highlight that we have succeeded in upholding our independence and in strengthening our position on the institutional landscape, even in difficult times, even in the face of often unjustified criticism that triggered reactions which could have weakened the Office.

I also think that we have done the most with the tools that were granted to OLAF by the legislators. We've reached the much-wished for "cruising altitude" in investigative performance, but in order to do more, the investigative tools available to us need to be updated to match the complexity of our cases and of today's fraud scenarios. The truth is that OLAF was given an ambitious investigative mandate, but was only endowed with limited administrative powers. Access to bank account information, the unhindered ability to gather necessary evidence, and a clear authority to interview witnesses – these are all things we are currently missing. Even our Final Reports lack the same evidentiary value in all EU Members - after receiving the OLAF Final Report, many national prosecutors need carry out all the investigative activities afresh in order to acquire admissible



evidence. This slows down the administration of justice and sometimes allows fraudsters to escape from the enforcement net.

Luckily, progress is within our reach. Right now, Regulation 883/2013, the legal text governing the work of OLAF, is being reviewed. This puts us in a unique position to analyse what works, as well as what could be improved. It is a matter of assessing what OLAF is, but looking towards the future at what it could become.

In my view, future should be guided by reform. The future I would want for OLAF means updating Regulation 883 in a way that allows us to have the tools we need to perform the investigative acts necessary to solve even the toughest fraud cases, and to generate evidence that can be relied on in national courts. As anti-fraud investigators, we need the right tools to perform investigations into possibly illicit financial flows, to follow the money throughout the fraudulent chain, as well as clear access to the premises of those economic operators or Institutions who may have been involved in fraudulent activities.

For the past several years, OLAF has actively participated in the drafting of the European Commission's proposal of creating a strong European Public Prosecutor's Office, an initiative I have taken every opportunity to openly support. It only made sense that faced with increasingly transnational cases of fraud with EU funds, the EPPO would create a truly European common space of justice. It is now clear that the EPPO has moved in the direction of enhanced cooperation and that not all EU Member States will be a part of it. In Member States that choose not to participate in this initiative, the

EPPO would not be competent for all offences against the Union's financial interests. Therefore, it will face important limitations to its ability to investigate and prosecute these offences across the whole EU.

With this in mind, and knowing that its work will be indispensable in complementing that of the EPPO, reflecting on the future of OLAF is more important than ever. The groundwork is here - OLAF is already an established, efficient, professional service. We have seen what OLAF can achieve on its own. Now we need to also reflect on ways in which OLAF can support and enhance the work of the EPPO. OLAF will play a prominent role to ensure an equivalent level of protection in both the Member States that will participate in the EPPO, and in the ones that will not do so. The Office will continue to conduct its investigations in non-participating Member States, sending judicial recommendations

where offences against the European Union's financial interests are detected, as well as in the participating Member States in situations where the EPPO chooses not to act. By working together, OLAF and EPPO will truly be able to close the circle of the protection of the European Union's financial interests.

The past seven years have taught me that with passion, drive and determination, nothing is impossible. OLAF has achieved excellent results in complete independence, with a staff fully dedicated to working for the benefit of the European citizens, and supported by a cohesive team of managers who have revitalised the work of the Office. Looking towards the future, and notably the creation of the EPPO, I am genuinely enthusiastic about what's in store for the Office. As I see it – the only way is up!

12. Statistical annex: additional data on OLAF investigative activity

This annex presents additional detailed data relating to OLAF's investigative activity in 2016, as a complement to the key indicators already mentioned in chapters 2 and 4.

Figure 17: OLAF's investigative performance

	2009	2010	2011	2012	2013	2014	2015	2016
Incoming information	959	975	1041	1264	1294	1417	1372	1136
Investigations opened	160	152	146	431	253	234	219	219
Investigations concluded	140	136	154	266	293	250	304	272
Recommendations issued	194	172	175	199	353	397	364	346

Figure 18: Selections completed and their duration

	2009	2010	2011	2012	2013	2014	2015	2016
Selections completed	1007	886	926	1770	1247	1353	1442	1157
Average duration (in months) of selection phase	5.8	6.3	6.8	1.4	1.8	2.0	1.7	1.7

Figure 19: Average duration of closed and ongoing investigations (in months)

	2009	2010	2011	2012	2013	2014	2015	2016
Average duration of investigation	20.2	20.8	22.4	17.3	17.5	18.1	18.7	17.2
Average duration of selection corresponding to these cases	5.7	6.4	6.9	6.3	4.3	2.9	2.3	1.7
Total average duration of cases	25.9	27.2	29.3	23.6	21.8	21.0	21.0	18.9

Figure 20: Average duration of closed investigations only (in months)

	2009	2010	2011	2012	2013	2014	2015	2016
Average duration of investigation	25.8	22.9	27.0	22.5	22.3	23.3	25.1	23.2
Average duration of selection corresponding to these cases	5.6	5.6	6.1	7.5	5.9	3.6	2.8	1.8
Total average duration of cases	31.4	28.5	33.1	30.0	28.2	26.9	27.9	25.0

Figure 21: Recommendations issued

Type of recommendation	2009	2010	2011	2012	2013	2014	2015	2016
Financial	76	62	63	116	233	253	220	209
Judicial	61	67	73	54	85	101	98	87
Disciplinary	18	10	16	25	24	15	16	18
Administrative	39	33	23	4	11	28	30	32
Total	194	172	175	199	353	397	364	346

**Figure 22: Incoming information by source**

Source	2009	2010	2011	2012	2013	2014	2015	2016
PRIVATE	523	594	767	889	889	959	933	756
PUBLIC	436	381	274	375	405	458	439	380
Total	959	975	1041	1264	1294	1417	1372	1136

Figure 23: Incoming information from Member States in 2016

Member State	Public source	Private source	Total
Austria	1	7	8
Belgium	11	14	25
Bulgaria	1	32	33
Croatia	2	4	6
Cyprus	0	1	1
Czech Republic	1	19	20
Denmark	2	2	4
Estonia	0	3	3
Finland	1	1	2
France	0	11	11
Germany	6	29	35
Greece	4	11	15
Hungary	2	20	22
Ireland	0	3	3
Italy	8	15	23
Latvia	1	2	3
Lithuania	2	6	8
Luxembourg	1	4	5
Malta	1	1	2
Netherlands	2	4	6
Poland	2	18	20
Portugal	1	4	5
Romania	2	33	35
Slovakia	2	16	18
Slovenia	1	5	6
Spain	7	23	30
Sweden	0	1	1
United Kingdom	3	14	17
Total	64	303	367

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The **OLAF** report **2017**

The Fraud Notification System (FNS) is a web-based tool available to any person who seeks to pass on information concerning potential corruption and fraud.
http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

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The **OLAF** report **2017**

**Eighteenth report of the
European Anti-Fraud Office,
1 January to 31 December 2017**

DISCLAIMER:

OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents such case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

Communicating with OLAF

<http://olaf.europa.eu>

Reporting fraud to OLAF

http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

Complaining about an OLAF investigation

http://ec.europa.eu/anti-fraud/olaf-and-you/complaints-olaf-investigations_en

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Executive summary

OLAF: DETECT, INVESTIGATE, PROTECT

In 2017, the European Anti-Fraud Office (OLAF) closed large-scale investigations, showing its capacity to detect and investigate complex fraud schemes across Europe and beyond.

OLAF investigations ranged from major undervaluation fraud cases where fraudsters profited from declaring falsely low values for goods at import in the European Union (EU), to cases where OLAF tackled organised crime groups defrauding funds intended for agriculture, or cases where investigators uncovered fraud in large infrastructure projects.

OLAF'S INVESTIGATIVE PERFORMANCE IN 2017:

- ▶ OLAF concluded 197 investigations, issuing 309 recommendations to the relevant national and EU authorities.
- ▶ OLAF recommended the recovery of over EUR 3 billion to the EU budget. This exceptionally high figure stems from major undervaluation fraud cases concluded by OLAF during the year.
- ▶ OLAF opened 215 new investigations, following 1111 preliminary analyses carried out by OLAF experts.
- ▶ In the absence of any staff increase and despite the complexity of the cases it dealt with, OLAF succeeded in further reducing the duration of its investigations to 17.6 months overall.

TRENDS IN ANTI-FRAUD INVESTIGATIONS:

The transnational dimension of its work allows OLAF to form a unique view of the changing nature of fraud across Europe. For the second consecutive year, OLAF presents in this Report an analysis of some of the most striking trends revealed by OLAF investigations:

- ▶ Corruption, conflict of interest and the manipulation of tender procedures continue to be encountered in fraud cases affecting EU structural funds, with some instances where organised crime groups try to gain profit.
- ▶ Fraudsters have increasingly attempted to defraud funds destined for research or the refugee crisis.
- ▶ The evasion of customs duties is orchestrated through transnational criminal schemes.

OLAF'S UNIQUE ROLE IN FIGHTING REVENUE FRAUD THROUGH GLOBAL INVESTIGATIONS:

OLAF is presenting in this Report a detailed overview of its activities aimed at protecting EU revenue, with the conclusion of a string of investigations in this area in 2017. Any gaps in the legislative setting or operational capacity of customs administrations to function across borders are quickly exploited by organised criminal groups. In this context, due to its ability to operate transnationally and to gather and share information, OLAF plays a crucial role in preventing and tackling revenue fraud, as well as in assisting national customs administrations in their challenging work.

CONTRIBUTION TO THE EU POLICIES TO FIGHT FRAUD:

OLAF is at the forefront of negotiating legislative texts concerning the protection of the EU's financial interests against fraud and corruption. The decision to create a European Public Prosecutor's Office (EPPO) in 2017 marked a milestone in the defence of the financial interests of the European Union. OLAF has worked relentlessly in support of this project for many years, and will continue to work alongside the EPPO to ensure taxpayers' money is effectively protected from fraud and corruption.



Foreword

The positive results for OLAF set out in this Report were very largely achieved under the leadership of Giovanni Kessler. Mr Kessler served as Director-General from February 2011 until October 2017, when shortly before the end of his mandate at OLAF he returned to Italy to become Director-General of the Agency for Customs and Monopolies. He took with him our appreciation for his contribution to our work and all our best wishes for his new appointment.

In October 2017 the Council adopted the Regulation on the establishment of a European Public Prosecutor's Office (the EPPO Regulation). This marked a decisive step in the defence of the financial interests of the European Union, and indeed in the development of the European project, by introducing for the first time, albeit not in all Member States, a structure for criminal prosecution at EU level. Once the EPPO starts operations, at earliest late in 2020, prosecutions in serious cases of fraud against the EU budget will increasingly be brought before national criminal courts by a European body.

The creation of the EPPO marks also a milestone in the history of OLAF and of the project which started with the creation of its predecessor, UCLAF¹, in 1988. UCLAF and OLAF staff, past and present, have been working towards this goal for many years, in some distinguished instances for a quarter of a century. Their professional expertise, insight, creativity and determination to deliver have constituted the driving force without which the EPPO would certainly not have got off the ground and might never have got onto the agenda.

A glance at the academic literature shows the extent to which OLAF staff have contributed to the intellectual foundations of the EPPO project. A future historian might attempt to unravel all the complex interactions from *Corpus Juris* in the early 1990s through the successful incorporation of Article 86 in the Lisbon Treaty in 2007 to the conception and negotiation of the necessary legal texts in more recent years. He or she would surely highlight the consistent pursuit of this strategic objective by successive OLAF senior management, as well as the skilful tactics of individual OLAF colleagues at critical points along the path.

It follows that we, in OLAF, are proud of our collective achievement and are committed to playing our part in making the EPPO a success. We are now moving to the next stage; not only but not least for OLAF, the EPPO is no longer an ambition, but has become a challenge.

The architecture as finally determined by the legislator gives the EPPO and OLAF complementary roles. The original concept under which the operational resources of OLAF would have been integrated in or placed under the direct control of the EPPO did not find favour with the Member States. OLAF will therefore retain all its present responsibilities for investigations in those Member States which do not join the EPPO, and for many investigations in the Institutions and the Member States which fall outside the EPPO's mandate or which the EPPO opts not to pursue.

OLAF will also remain responsible for administrative investigations whose purpose is to enable the recovery of money for the EU taxpayer. It will continue to be necessary, under the new framework for protecting the financial interests of the EU, to find an appropriate balance, often on a case by case basis, between the objectives of recovering money and of obtaining convictions in the criminal courts.

¹ Unité de Coordination de la Lutte Anti-Fraude, unit coordinating the fight against fraud, part of the Secretariat General of the European Commission 1988-1999), https://ec.europa.eu/anti-fraud/about-us/history_en

This means that OLAF will indeed have a key role in support of the EPPO, on request and under OLAF's own powers and responsibility. The Commission's legislative proposal which is needed to adapt the present OLAF Regulation to be consistent with the EPPO Regulation will probably have been adopted by the time this Report is published. It is important that the legislator, in further clarifying the relationship between OLAF and the EPPO, leaves sufficient space for operational flexibility and for the working relationship to develop over time. This is a necessary condition for a successful partnership, but not a sufficient condition. As always, loyal and constructive cooperation between committed public servants, in a spirit of trust and respect, will be essential.

A new Director-General will shortly be appointed to guide OLAF through the next stage of our journey, in the footsteps of Franz-Hermann Brünner and of Giovanni Kessler. As this Report and its predecessors show, the incoming Director-General will find OLAF solidly established, on a stable course, with a well-deserved reputation for effective and independent investigations in defence of the financial interests and reputation of the EU.

Apart from the strategic challenges of adapting OLAF to work with the EPPO, of reacting to changes in the threat and of maintaining the commitment of staff in the face of increasing workload and at best stable resources, the Director-General will face some difficulties which are particular to the environment in which OLAF functions.

These include continuing ambiguities in governance structures; handling the complex and sometimes acute tensions which OLAF's independent investigations can provoke in the Member States and in the Institutions; and occasionally confronting some residual naivety among well-intentioned stakeholders and observers, even after OLAF has been on the scene for nearly two decades, about the seriousness of the threat from fraud and serious misconduct and the need for OLAF to be allowed to hold and to exploit proportionate means to address this threat.

The incoming Director-General will have the privilege of leading the formidable body of women and men who constitute OLAF's staff. Our colleagues come from many different national and professional cultures; former police and customs officers, former public prosecutors, judges and advocates, auditors and financial specialists, former tax inspectors, intelligence analysts and data specialists, forensic IT experts, policy and legal officers, specialists in IT systems and development, economists and statisticians, communication specialists, and even the occasional diplomat.

Some have joined OLAF in mid or late career from national services; increasingly, others have spent most of their working lives in the European public service and have decided to bring their experience and expertise to bear on the fight against fraud for a period of time. Together, they make a unique team, and one which is very much the model for other international organisations in our line of business. It is inspirational to work with them and to see how the whole is greater than the sum of the parts. On behalf of Giovanni Kessler, myself and the other members of the senior management team, I thank OLAF staff for their hard work, their enthusiasm and their support. As my own career in the public service draws to an end, I can think of no better place from which to say goodbye.

Nicholas Ilett
Acting Director-General, May 2018



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The seat of the European Anti-Fraud Office, in Brussels.



1. Mission and mandate



MISSION

Detect, investigate and work towards stopping fraud involving European Union funds.

MANDATE

OLAF's mandate is:

- to conduct independent investigations into fraud and corruption involving EU funds so as to ensure that EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- to develop EU policies to counter fraud.

COMPETENCES

OLAF can investigate matters relating to fraud, corruption and other offences affecting EU financial interests concerning:

- all EU expenditure: the main spending categories are Structural Funds, agricultural policy and rural development funds, direct expenditure and external aid;
- some areas of EU revenue, mainly customs duties.

OLAF can also carry out investigations into suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission and, as such, under the responsibility of Commissioner Günther H. Oettinger (Budget and Human Resources).

However, in its investigative mandate, OLAF acts in full independence.

WHAT WE DO

OLAF's investigative work broadly involves:

- assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation;
- conducting administrative anti-fraud investigations, where appropriate, in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- supporting the anti-fraud investigations of national authorities;
- recommending actions that should be taken by the relevant EU or national authorities;
- monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud and better tailor the support OLAF provides to national authorities.

Responsibilities for much of EU spending are shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The detection, investigation and prosecution of fraud against the EU budget can therefore only be conducted in cooperation with a wide range of partners, at national, European and international level.

OLAF cases frequently concern:

- cross-border procurement fraud or corruption in public procurement procedures involving EU financing;
- double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made;
- subsidy fraud in different forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes. Examples include the delivery of the same piece

of research to several funding authorities within or beyond EU borders, plagiarism – the copying of research, which has already been undertaken by others, or the deliberate gross disrespect of the conditions of financial assistance;

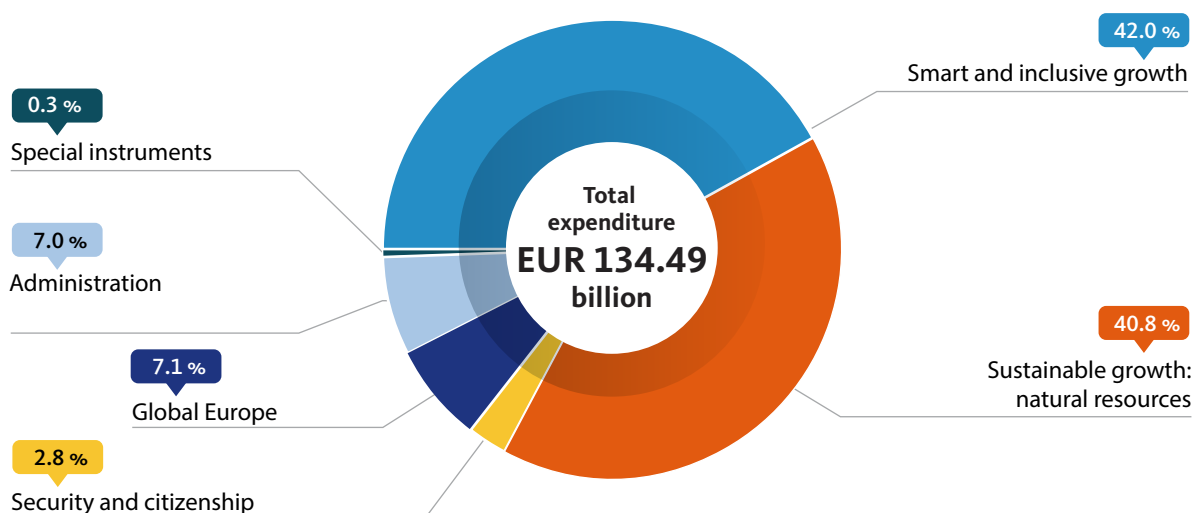
- customs fraud where fraudsters attempt to avoid paying customs duties (EU own resources), for instance by smuggling goods into the EU.

EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, travel and relocation allowances, social security and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures, and of other forms of corruption such as illicit attempts to influence decision-making and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out so-called “internal” investigations into any allegations of misconduct involving staff and members of the EU institutions.





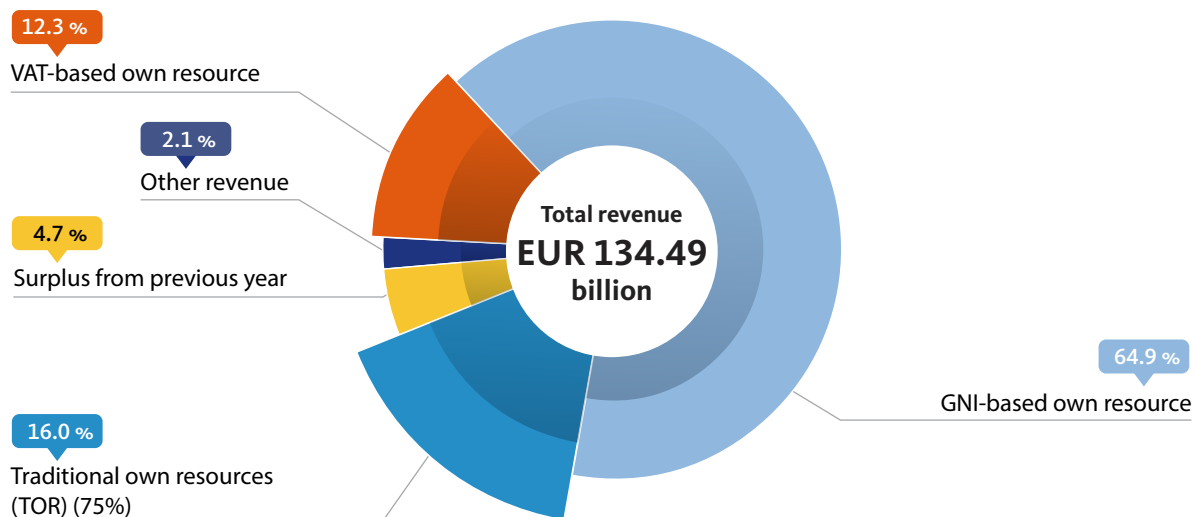
Figure 1: EU expenditure in 2017



(¹) Source: OJ L227, 1.9.2017, p. 3

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

Figure 2: EU revenue in 2017



(¹) Source: OJ L227, 1.9.2017, p. 4

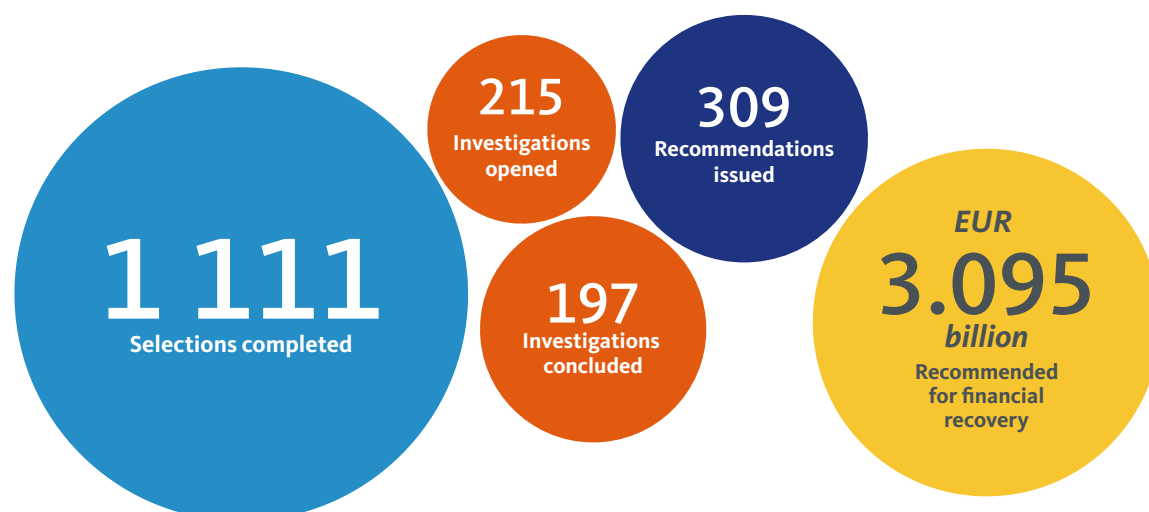
Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

2. OLAF investigative activity: trends in anti-fraud investigations

In recent years, OLAF has focused on tackling complex cases, where its unique investigative capacity can bring real added value in uncovering fraud and delivering tangible results to EU taxpayers. OLAF management has supported this investigative drive by making the necessary infrastructure investments and by ensuring

that a maximum number of staff work on investigations. For the second consecutive year, in this Report, we focus on showcasing the substance of OLAF's investigative work, highlighting the most prominent trends that our investigations have revealed.

Figure 3: OLAF's investigative activity in 2017: maintaining a steady investigative drive



2.1. Summary of OLAF's investigative performance in 2017

In brief, the performance indicators displayed above show that in 2017 OLAF has continued to perform well, in line with the path followed in previous years. OLAF opened 215 investigations after a process of analysing incoming information in 1111 selections. It concluded 197 investigations pursuant to which it issued 309 recommendations to competent authorities at EU and

national level. As a result of investigations concluded during the year, OLAF recommended the recovery of over €3 billion to the EU budget. Recovered funds will gradually return to the budget and be reattributed to projects that can stimulate growth and jobs in Europe. In 2017, OLAF has also continued to reduce the duration of its investigations, to 17.6 months overall, with the selection duration corresponding to these cases remaining at around 1.8 months.

For a detailed presentation of these and other performance indicators, please refer to the Annex to this Report.



As in previous years, we present below a breakdown of the investigations concluded by OLAF in 2017, concerning the use of EU funds managed or spent in whole or in part at national or regional level. This overview presents the geographical focus of OLAF's investigative activity in 2017. It is worth noting that OLAF's investigative work

depends largely on the amount, type and quality of information the Office receives.

Figure 5 shows that, as was the case in previous years, the structural funds sector remains at the core of OLAF's investigative activity.

Figure 4: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2017

Country	Cases concluded	
	Total number per country	from which closed with recommendations
Romania	11	8
Hungary	10	7
Poland	10	7
Greece	9	5
Bulgaria	7	4
Germany	5	3
Italy	5	4
Czech Republic	4	2
Slovakia	4	2
France	3	2
Portugal	3	2
Serbia	3	3
Croatia	2	2
Haiti	2	0
Argentina, Austria, Belarus, Burkina Faso, Burundi, Congo, Egypt, Iraq, Israel, Japan, Kenya, Kosovo, Latvia, Mali, Moldova, Morocco, Niger, Palestine, Syria, Turkey, Ukraine, United Kingdom, Uruguay, Zambia	24 (1 per country)	7
Total	102	58

Figure 5: Ongoing investigations at the end of 2017, divided by sector

Reporting sector	2014	2015	2016	2017
Structural Funds	111	104	69	73
External Aid	79	66	52	58
Centralised Expenditure	49	58	59	71
Customs and Trade	56	50	60	44
EU Staff	43	37	48	64
Agricultural Funds	60	36	21	22
Social Fund	42	21	19	5
Tobacco and Counterfeit goods	21	18	8	7
New Financial Instruments	13	8	8	18
Total	474	398	344	362

2.2. OLAF's added value: central role in complex investigations

OLAF has a unique mandate to fight fraud affecting European Union finances. It also benefits from a noteworthy position since the transnational dimension of its work allows it to form a full picture of the changing nature of fraud across Europe. In recent years, OLAF has strived to focus on fraud cases with the largest impact and on complex investigations, where its trans-European view brings a clear added-value to curbing fraud. We present below an analysis of some of the most striking trends revealed by OLAF investigations in 2017. This analysis is based on empirical evidence, without amounting to a complete list of investigations concluded by OLAF. However, these trends give an indication of the areas most prone to fraud with EU funds, as well as of the new ways in which fraudsters try to pocket EU money.

CORRUPTION, CONFLICT OF INTEREST AND MANIPULATION OF TENDER PROCEDURES:

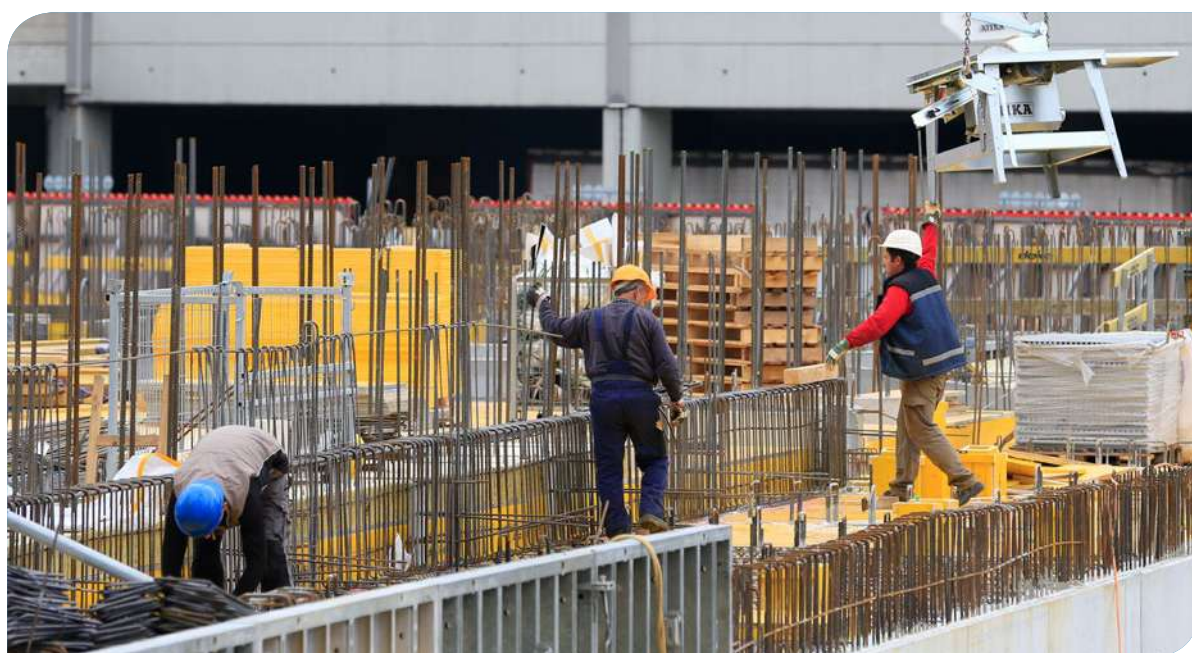
Fraud involving EU structural funds remained at the core of OLAF's investigative work in 2017. While the scope of fraud itself has not changed, investigators noticed new ways in which fraudsters try to cheat

the system, circumventing EU rules. One of the main common features of the OLAF cases concluded in 2017 was the **collusion** between the winner of a tender and either a consultant or the beneficiary of the funding. **Conflict of interest** also featured prominently in many of OLAF's cases, sometimes involving political figures and large public procurement projects.



Two investigations OLAF conducted into projects financed by the European Regional Development Fund (ERDF) for road constructions in Romania illustrate this trend. OLAF's investigations uncovered that the representatives of a county municipality, the beneficiary, had colluded with representatives of the company who designed the technical specifications for the road, in order to establish restrictive criteria in the tender documentation that would benefit one particular economic operator. This company won the contract, while the rest of the tenderers were disqualified during the initial evaluation phase.

The two colluding organisations falsified a large number of documents, including the technical project and memorandum for the road construction, as well as the structure checks. These falsified documents were not only used by the municipality in the tender procedure related to the works, but were also later submitted to support a claim for reimbursement from the Managing Authority, resulting in the undue allocation of EU funds.





OLAF calculated that the financial damage to the European Union budget stemming from these cases is approximately EUR 21 million, representing the total value of EU funding paid by the Managing Authority. As a result, OLAF recommended that the Directorate-General for Regional and Urban Policy of the European Commission recover the full amount, and issued judicial recommendations to the Romanian National Anticorruption Directorate (DNA) to initiate judicial actions.

The DNA responded to OLAF's recommendations by opening a criminal investigation. In November 2017, the DNA brought charges against high-level officials in Romania for fraud with EU funds, for creating an organised criminal group and misusing an official position for personal gain. In order to secure the recovery of funds to the EU budget, the DNA prosecutors seized assets and froze the bank accounts of the persons concerned. The European Commission asked Romania to carry out the necessary corrections so that the EU budget would not be affected. Romania agreed to the Commission's request to apply these corrections.



A similar scenario was uncovered in Hungary during an investigation into 35 lighting projects implemented under the Hungarian Environment and Energy Operational Program and co-financed by the European Structural and Investment Funds. The projects were aimed at updating the public lighting infrastructure in various Hungarian municipalities using environmentally friendly and power-saving LED technology products.

OLAF verified the grant applications and found that the initial cost estimations calculated by the applicants were irregular, with **artificial supporting documents** used to justify a cost benefit analysis. Moreover, a consulting company linked with the main contractor had signed a contract with several beneficiaries to draft the technical annex to their project application, and could thus influence the content of the technical specifications used by the beneficiary during the tender procedure. OLAF also uncovered numerous serious irregularities that had occurred during the public procurement procedures. It also identified **conflict of interest** between some consultants and the works company.

Upon concluding its investigation at the end of 2017, OLAF sent its final report with financial recommendations to the European Commission Directorate-General for Regional and Urban Policy to recover EUR 43.7 million, and judicial recommendations to the General Prosecutor of Hungary.



In a case concluded in 2017, OLAF investigated allegations of misuse of funds by a cooperative in the Czech Republic, which had received funding from the European Agricultural Guarantee Fund. Among the criteria for recognition of a producer organisation and of a supranational producer organisation for fruit and vegetables, there was a requirement for the applicants to secure independent management and operation of the organisation.

The OLAF investigation revealed that most members of the cooperative were in fact owned by the same family. OLAF concluded that the family links among the persons involved in the ownership of the cooperative could influence the decisions of the cooperative, making it ineligible for EU subsidies as both a producer organisation and as a supranational producer organisation. OLAF recommended that EUR 5.5 million in EU funds be excluded. OLAF also issued a judicial recommendation to the Supreme Public Prosecutor's Office of the Czech Republic to initiate judicial proceedings.



In another investigation concluded in 2017, OLAF identified serious irregularities affecting a EUR 2 million project related to promotional services for improving the image of fisheries and aquaculture products in Italy, which was co-financed under the European Fisheries Fund.

On-the-spot-checks at the premises of several economic operators, interviews with witnesses and persons concerned, as well as coordination meetings with the Managing Authority allowed OLAF to confirm the existence of serious irregularities and fraud affecting the project. In particular, OLAF acquired evidence proving that both the awarding procedure and the implementation phase of the project were not in compliance with public procurement law provisions. For example, the starting price of the procurement was not fixed by carrying out a required analysis, the Managing Authority did not execute appropriate controls, and several sub-contracting activities were granted in the absence of the necessary authorisation of the Managing Authority. Moreover, the implemented project was different from what had been agreed with the Managing Authority in the initial timetable and some deliverables were not operational in the agreed timeframe.

OLAF also identified possible **kick-back payments** among the different subcontractors, which indicated the likelihood of criminal offences under the Italian criminal code. As a result, OLAF addressed judicial recommendations to the Public Prosecutor's Office

of Rome, as well as a financial recommendation to the European Commission's Directorate-General for Maritime Affairs and Fisheries to recover the full amount of the project.

The Public Prosecutor's Office of Rome followed up on OLAF's recommendations, together with the Italian Carabinieri, by opening a criminal investigation which has led to a person being placed under house arrest, as well as to seizures amounting to EUR 2.1 million.

Niche markets can be attractive to fraudsters, as they are often highly technical and only a limited number of companies have the required expertise to make viable offers. If the tender procedure is opened to international consortia, it can be very difficult for national authorities to detect and investigate any irregularity or fraud warning signs. In such cases, OLAF can demonstrate its added value, as it combines technical expertise with the capacity to conduct transnational investigations.



For example, the expertise of OLAF investigators in international tender procedures allowed them to unravel a complex fraud scheme designed to divert EU funds by a group of international businessmen. This occurred in the context of OLAF investigations into EU-funded projects on the development of inland waterways in Croatia.

In close cooperation with national authorities, OLAF conducted investigative activities in different EU Member States. Using forensic technology, investigators pieced together a clear picture of cross-border procurement fraud. OLAF found evidence that the conspirators gained access to **confidential tender information**, shared that information and rewrote the tender specifications in order to favour the winning consortium. As a result of its investigations, OLAF recommended that the economic operators behind the fraud be excluded from participation in future projects funded by the EU. Moreover, judicial recommendations were addressed to prosecutors in The Netherlands, Austria and Croatia. In addition, administrative recommendations were sent to the European Commission Directorate-General for Neighbourhood and Enlargement Negotiations.

While one cannot speak of a trend per se, OLAF has, in recent years, conducted a number of investigations related to **new financial instruments**, for example, in the use of EU Structural Funds to finance risk capital funds. Risk capital funds may, in turn, invest in innovative small and medium-sized enterprises that are less likely to receive capital from private investors. Any investigation into such matters involves assessing the eligibility of a large number of enterprises, some operating cross-border, which makes OLAF particularly able to take on such cases.



During one such investigation, OLAF received allegations about several companies which were co-financed from the European Regional Development Fund through a risk capital fund in Germany. The allegations suggested that the investment team of the risk capital fund had favoured companies which were not eligible for an investment under the rules of the European Structural Funds. OLAF examined a third of the total fund portfolio and concluded that the risk capital fund, run by the same management before and after it was privatised, made irregular investments in 44 companies, disregarding the investment criteria. For example, companies which were not small or medium-sized received funding, as well as enterprises in financial difficulties or companies threatened with insolvency. This contravened the eligibility criteria set for EU funding.

OLAF's investigation uncovered irregularities and suspected fraud as well as significant deficiencies in the control obligations of the national authorities, and confirmed serious flaws in the privatisation process of the risk capital fund. OLAF issued a financial recommendation to the European Commission Directorate-General for Regional and Urban Policy, to recover EUR 162.3 million.



The possible misuse of new financial instruments was also the subject of another investigation OLAF concluded in 2017. In this particular case, OLAF looked into the alleged misuse of EU funds and of European Investment Bank (EIB) loans by an automobile manufacturer. OLAF established that the manufacturer obtained a loan from the EIB to develop new engines using a so-called defeat device. This device allowed the manufacturer to respect emission rules in a testing environment, whilst no reduction of emissions took place during normal use of the car. OLAF concluded its investigation with a judicial recommendation to the German authorities, as well as an administrative recommendation to the European Investment Bank.



EMBEZZLEMENT OF RESEARCH FUNDING

The academic and research fields are also prone to fraud, as attested by the significant number of fraud cases uncovered by OLAF in the past years. In particular, the **secondment of researchers** has become a lucrative business for fraudsters, with individuals, research institutes or companies pocketing EU money for academic or professional exchanges which never actually take place, or projects that never come to fruition.



For example, in 2017, OLAF concluded an investigation concerning allegations of fraud in the secondment of researchers involving two Member States. OLAF identified a number of scientists, who were supposed to be seconded from a research institute in one Member State, to a company based in another Member State, and had not carried out their secondments as claimed to the competent European Commission services. The project beneficiaries had falsified CVs and time sheets, and made false declarations in order to secure EU funding

to which they were not entitled. The total damage to the EU financial interests exceeded EUR 800 000. The investigation was concluded with both judicial and financial recommendations.



A cross-border investigation OLAF concluded in 2017 involved allegations related to the potential misuse of EU funds in 31 Research and Development projects. The investigation, which took place in Hungary, Latvia and Serbia, uncovered a subcontracting scheme used to artificially increase project costs and hide the fact that the final suppliers were linked companies. Moreover, OLAF's investigation established that two research centres had artificially set up regional offices in order to be eligible for regional EU-funded projects. Declarations in work contracts were found to be false. OLAF therefore concluded the investigation with a financial recommendation to the European Commission to recover EUR 28.3 million and a judicial recommendation to the Hungarian judicial authorities.





Another investigation led to OLAF putting an end to an intricate fraud scheme through which more than EUR 1.4 million worth of European Union funds, meant for emergency response hovercraft prototypes, had been misappropriated.

OLAF uncovered the fraud pattern as part of its investigation into alleged irregularities in a Research and Innovation project granted to a European consortium. The Italian-led consortium, with partners in France, Romania and the United Kingdom, was tasked with creating two hovercraft prototypes to be used as emergency nautical vehicles able to reach remote areas in case of environmental accidents. During on-the-spot checks performed in Italy by OLAF and the Italian Guardia di Finanza, OLAF discovered various disassembled components of one hovercraft, as well as another hovercraft which was completed after the deadline of the project. It also became evident that, in order to obtain the EU funds, the Italian partners had falsely attested to the existence of the required structural and economic conditions to carry out the project.

Investigative activities carried out by OLAF in the UK revealed that the British partner only existed on paper and that the company was in fact created and owned by the same Italian partners. To simulate the actual development of the project and to divert funds, fictitious costs had also been recorded. In practice, once the EU funds were obtained, the Italian grantees used accounting artifices to syphon off money, forging documents attesting false expenses.

A thorough analysis of more than 12 000 financial transactions and payments made in the project showed that part of the EU funds received by the Italian and UK partners had been used to pay off a mortgage on a castle facing foreclosure. OLAF concluded its investigation in 2017 with two judicial recommendations - to the Public Prosecutor's Office of Genoa and to the City of London Police in the UK - and a financial recommendation to the Directorate-General for Research and Innovation of the European Commission to recover the defrauded funds. The Italian authorities are already following up on OLAF's recommendations and investigating the persons concerned for embezzlement and fraud against the EU, false accounting, fraudulent bankruptcy and fraudulent statements. (See Figure 6)



Figure 6: Operation Paper Castle

OLAF and Guardia di Finanza unravel complex scam with EU funds: Operation Paper Castle



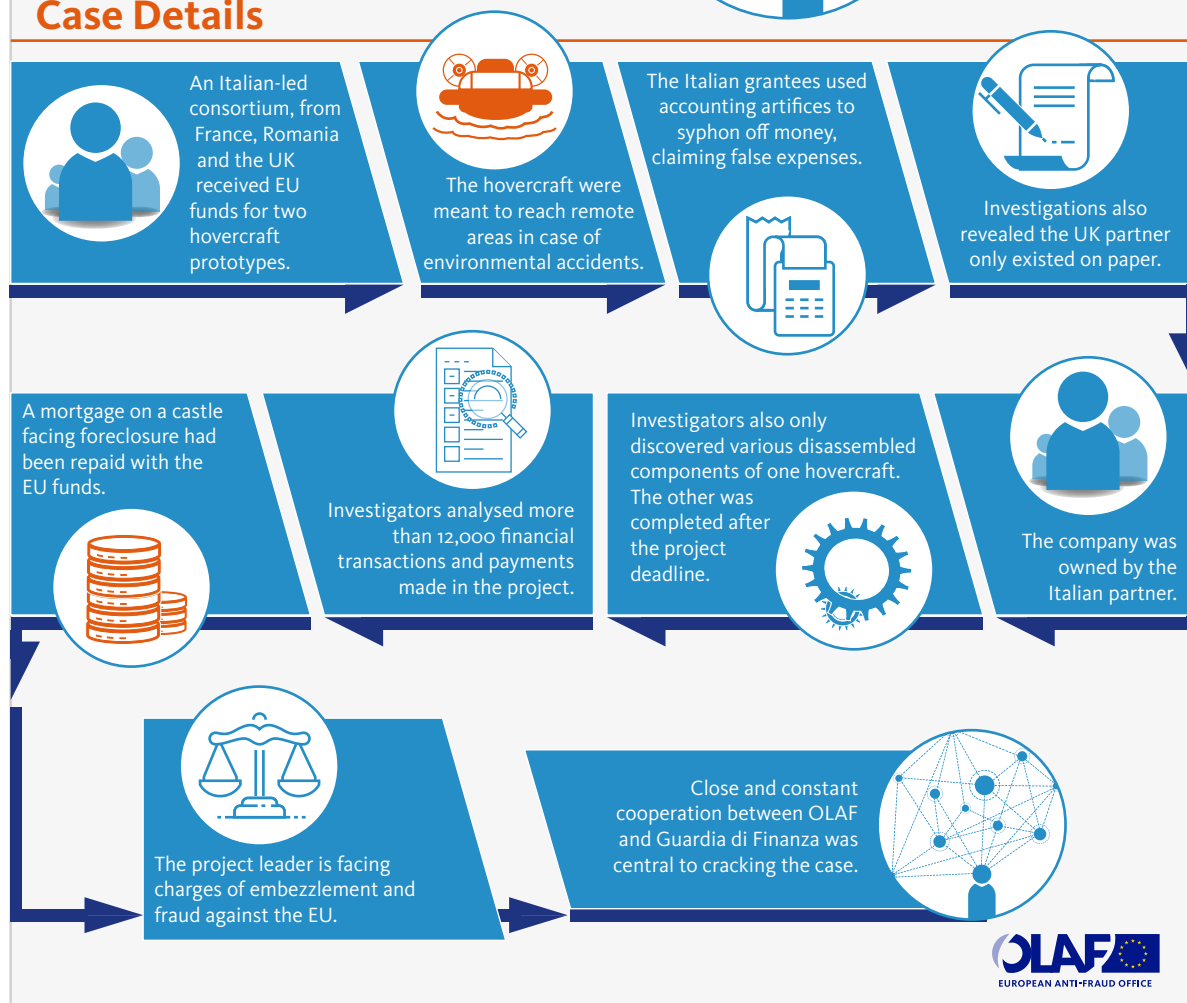
OLAF put an end to an intricate fraud scheme through which more than € 1.4 million had been misappropriated.

Investigations took place across several EU Member States.

In Italy, OLAF relied on its close cooperation with **Guardia di Finanza**.



Case Details



ORGANISED CRIME GROUPS ATTEMPTING TO DEFRAUD EU FUNDS

The next chapter of this Report will give details of how highly organised criminal gangs attempt to defraud the European Union by underdeclaring the value of products at import. However, customs is not the only field where organised crime groups try to outsmart enforcers. Over the years, OLAF has come across mafia involvement, for example, in several cases involving Agricultural Funds.



OLAF established contacts with national police authorities and Public Prosecutors' Offices and it cooperated with the Italian Anti-Mafia Directorate in order to address the issue of possible involvement of organised crime in the agricultural sector. OLAF closely monitored Italian cases where the involvement of organised crime was likely, including criminal files concerning EU funding awarded to farmers based in the South of Italy with **possible links to mafia organisations**.

At the end of 2017, OLAF concluded an investigation into suspected fraud affecting a number of aid applications in Italy. OLAF uncovered that some Agricultural Assistance Centres had introduced a number of "false farmers" in the database of the competent national paying agency, thus allowing ineligible applicants to receive EU subsidies.

OLAF's investigation, as well as a parallel Italian national inquiry codenamed Bonifica, revealed an articulated fraud pattern. Fraudsters made applications for EU subsidies based on declarations of ownership of public lands which were ineligible, or where supporting documents included false lease contracts, as the tenants had either died or were not aware of the lease. Similarly, applications were presented by individuals subjected to precautionary anti-mafia measures under Italian law, hence ineligible for funding, or were submitted for land which was ineligible because it was under seizure following organised crime offences.

OLAF's investigation was concluded with a financial recommendation to the European Commission Directorate-General for Agriculture and Rural Development to recover approximately EUR 30 million, and with an administrative recommendation to the same Directorate-General to ensure that the Italian Paying Agency (AGEA) addresses weaknesses in its management, control and sanction system with relation to payments made to Agricultural Assistance Centres. (See Figure 7)



Figure 7: Organised crime defrauding agriculture funds



THE REFUGEE CRISIS: AN OPPORTUNITY FOR FRAUD?

The conflicts in Syria, as well as in many other parts of the world, have created an overwhelming and enduring humanitarian crisis¹. Millions of people are in need of emergency assistance such as medical and food aid, water and shelter. The continuous flow of

refugees seeking safety in the neighbouring countries is bringing these states to a saturation point, so it is more important than ever for these countries, and the refugees they host, to receive the help they need.

The EU is a leading donor in the international response to the crisis. Over EUR 10 billion have been mobilised for relief and recovery assistance to Syrians, both in their home country, and to refugees and their host communities in neighbouring Lebanon, Jordan, Iraq, Turkey and Egypt. Very substantial amounts are also dispensed in other parts of the world.

¹ http://ec.europa.eu/echo/files/aid/countries/factsheets/syria_en.pdf

Humanitarian funding from the EU is frequently channelled through international organisations and through NGOs, the work of which saves lives, alleviates suffering and maintains human dignity.

Unfortunately, as attested by several OLAF investigations, those funds have also attracted the interest of persons and groups who are able to exploit humanitarian aid and defraud funds. This is largely due to projects being developed in difficult operating environments, with limited state authority and high corruption risks. Moreover, aid is frequently given through local partners, whose records can be difficult to check, and is provided in conditions of emergency, with less opportunity for thorough ex-ante controls.

In this framework, OLAF's investigations should allow not only for the recovery of any possible funds unduly disbursed, but should also help the organisations affected by fraud to improve their control systems, better manage risks and prevent new instances of irregularities from taking place.

TRANSNATIONAL CRIMINAL SCHEMES DESIGNED TO EVADE CUSTOMS DUTIES

There was no shortage of transnational criminal schemes in the customs area among the cases OLAF concluded in 2017. The highest-value investigations involved undervaluation fraud – a fraud pattern by which international organised crime groups derive profit from evading customs and VAT duties by declaring falsely low values on imported products. However, this was not the only type of fraud scheme identified by OLAF. Misdeclaring the country of origin to evade anti-dumping duties in high value goods, such as solar panels, was also identified as a prevalent fraud trend, as was transit fraud, and the smuggling of counterfeit fast-moving consumer goods. These trends are explained in detail in the next chapter.



2.3. OLAF's investigative mandate within the EU Institutions

OLAF has a unique mandate to carry out internal investigations into the EU Institutions, Bodies, Offices and Agencies for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office investigates serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of EU officials liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of Members of Institutions and bodies. Indeed any perceived lack of integrity within the Institutions presents a reputational risk not only to the Institutions themselves, but also to the European project as a whole.

OLAF's remit for internal investigations is focused on alleged serious wrongdoing. While there is no all-encompassing definition of serious wrongdoing, OLAF's resources are concentrated on cases where the deployment of OLAF's skills and powers is warranted. Such internal investigations are rare in relative terms since there are effective checks and balances in place to avoid fraud and misconduct in the EU Institutions. OLAF also works with the EU Institutions and bodies to help them detect, prevent and address any such possible cases.



The fact that OLAF opens an investigation does not mean that someone is guilty. OLAF is required by law to investigate both incriminatory and exculpatory information. Sometimes a high-quality investigation results in the exoneration of the person concerned, which is a good result in itself.

In 2017, as in the previous year, OLAF has continued to deal with a relatively high number of cases related to the European Parliament. While many of the investigations are currently on-going, in 2017 cases typically related to the misuse of European Parliament funding to support the activities of national parties. Further examples of OLAF's internal investigations are presented below.



OLAF investigated suspicions of false declarations by a probationary official who intended to obtain the expatriation allowance unduly. The allowance, equal to 16% of the basic salary, is paid to officials who are not nationals of the State where they are employed – Belgium in this case, and who during the five years before entering the service did not habitually reside or carry their main occupation within that State. OLAF found that the probationary official had made false declarations. Thanks to the cooperation of the Belgian authorities, OLAF obtained information about the residence registration history of the official, as well about the fact that the official had submitted tax declarations to the Belgian authorities prior to his entry in the EU Institutions. OLAF's findings were transmitted to the Institution for disciplinary and financial follow up, as well as to the Belgian authorities for possible breaches of the Belgian criminal and tax code.



During a similar investigation, OLAF was informed by an EU Institution that some of its members might have abused the rules on reimbursement of travel expenses and claimed higher amounts than the costs actually incurred by them for their business trips by air. Supporting documents attached to reimbursement claims submitted by these members, such as flight itineraries, invoices, or price confirmation letters, raised doubts as to the reality of plane ticket prices declared.

OLAF conducted on-the-spot checks in the travel agencies which had provided the members with the ticket reservations and with supporting documents for their trips. OLAF also verified the relevant plane ticket prices with an airline which operated most of the flights.

The investigation uncovered that the amounts claimed by the members as travel expenses included, apart from the plane ticket prices, the costs of other services purchased by the members, such as

accommodation for themselves and/or for another person and/or transport expenses for another person. The expenses were also sometimes found to include a high travel agency commission. The investigation also established that the travel agencies which provided the members with plane ticket reservations and supporting documents for their trips might have acted to cover the inflated reimbursement claims of the members.

OLAF recommended the recovery of more than EUR 40 000. No disciplinary recommendation was issued due to the lack of relevant rules of conduct for the members of this institution. Therefore, OLAF issued an administrative recommendation to this institution to adopt a code or rules governing the conduct of its members, as well as procedures providing for sanctions in cases of breaches of such rules. In addition, OLAF issued judicial recommendations to the relevant national judicial authorities.

During the course of 2017, OLAF conducted several investigations into European Agencies as well as EU missions to third countries.



In one such case, OLAF uncovered that two staff members of a European Agency had committed serious irregularities concerning undeclared external activities and irregular conduct. One staff member owned and managed several private companies without prior permission from the Agency, during office hours and while on sick leave, dedicating a significant amount of working time to this task. The same staff member did not declare a possible situation of conflict of interest when participating in the Evaluation Committees of two tenders in the Agency. Finally, this person accepted material benefits, including a three-day trip to a luxury location in another country. This person also provided the account manager of the external company with internal Agency information and amended the Agency's internal documents in the company's interests. OLAF established that a second staff member had also participated in the same undeclared event, without requesting permission.

OLAF sent its final report to the Agency, recommending disciplinary actions against both staff members and a review of certain internal controls at the Agency. OLAF also recommended that judicial proceedings be initiated in relation to one of the persons concerned by the OLAF investigation. Judicial proceedings are under way.

Figure 8: Investigations into EU staff and members of the Institutions concluded in 2017

Institution, Body, Office, Agency	Cases concluded	
	Total number	of which, concluded with recommendations
European Commission	5	3
Agencies	4	3
European Parliament	4	3
Council of the EU	1	1
EULEX	1	1
Committee of the Regions	1	1
European External Action Service	1	0
Total	17	12



3. Focus chapter: OLAF's unique role in **fighting revenue fraud** through global investigations

In a fast-changing world, where trade is becoming increasingly liberalised and markets interconnected, European customs officers are under constant pressure. Once the protectors of borders, they are now also tasked with collecting tax and with important security duties. In addition, they have to safeguard citizens from purchasing counterfeit, low-quality goods. At the same time, there is an increased push for the removal of barriers and the creation of a seamless flow of goods and capital. Customs officers are therefore expected to serve business but also people, to be fast and efficient, but also thorough. Moreover, customs administrators are now operating in an environment where fraudsters are organised, methodical and have ample resources. Any gaps in the legislative setting

or their operational capacity are quickly exploited by organised criminal groups. In this context, due to its unique ability to operate transnationally and to gather and share information, OLAF has a crucial role to play in preventing and tackling fraud affecting the revenue of the EU, as well as in assisting national customs administrations in their important work.

In this year's Report, OLAF is presenting a Focus Chapter with an in-depth overview of its recent activities in fighting revenue fraud. While most of OLAF's investigative resources are focused on the expenditure side of the budget, in this special chapter, we present a detailed picture of OLAF's activities aimed at protecting EU revenue.



3.1. Detecting and investigating revenue fraud: OLAF at the centre of large-scale investigations into the undervaluation of goods imported into the EU

In order to facilitate trade, there are several EU customs procedures that allow importers to clear their goods at the customs point of their choice, rather than at the point of entry into the customs territory. Unfortunately, fraudsters are good at identifying those administrations where they perceive the controls to be more lax. Organised criminal networks target these weaker links and fraudulently bring goods in the EU through these points. In 2017, OLAF concluded a string of large-scale investigations into the undervaluation of textiles and footwear entering the European Union, generally through Germany, but going through customs clearance in the United Kingdom, Slovakia, the Czech Republic, France and Malta.



The fraudsters' modus operandi was fairly simple. Goods from China would arrive in containers on vessels, which would generally enter Europe through the port of Hamburg, although other European ports were used occasionally. The containers, considered to be in transit, would then be placed on lorries and taken for customs clearance elsewhere in the EU, wherever fraudsters considered they could get away with declaring falsely low values for the products they were importing.

To understand the phenomenon, OLAF carried out an extensive analysis of all customs declarations for all imports of textiles and shoes from China between 2013 and 2016. A "cleaned average price" was calculated for each category of textiles and shoes imported from China, based on the value of all import declarations in the EU between 2013 and 2016. A conservative 50% of that value was taken as the lowest acceptable price for import declarations into the EU, and all declarations below the lowest acceptable price were considered as undervalued, knowing that a legitimate trade in that context would hardly be economically viable.

In the case concerning goods cleared in the UK² – the largest in this string of cases – OLAF calculated a loss to the EU budget of almost EUR 1.9 billion in customs duties. OLAF recommended this sum for recovery to the EU budget. The investigation also revealed a substantial VAT evasion, estimated at

approximately EUR 3.2 billion for the period between 2013 and 2016. This was related to the abuse of customs procedure 42, a mechanism an EU importer can use in order to obtain a VAT exemption when goods imported from outside the EU into one Member State will be transported to another Member State. In such cases, the VAT is due in the latter Member State. However, in this case, traders "disappeared" and VAT was never paid. As the goods were largely destined for the markets of other countries, the revenues of Member States such as Spain, Germany and Italy were mainly affected by the loss.

In addition to the UK case, OLAF estimated that the cumulative loss to the EU budget in customs duties stemming from its investigations regarding undervaluation in the Czech Republic, the Slovak Republic, France and Malta was in excess of EUR 300 million.

The large difference in the amounts recommended for recovery is due to the fact that the UK attracted far more of the fraudulent traffic in textiles and footwear than any other Member State, and increasingly so over time. The share of undervalued imports through the UK, when compared to legitimate trade, steadily rose from 32% in 2013 to 40% in 2014, 44% in 2015 and 50% in 2016.

OLAF's investigation also uncovered a direct correlation between diminishing traffic in the fraud hubs in the other Member States where authorities took action, and the increase of the fraudulent traffic through the hub in the UK. By implementing risk profiles, which prompt customs officers to take action to deal with the risk indicated, such as to physically examine a container or to check the customs declaration and accompanying documents, the cases of undervaluation fraud quickly started to diminish in the Czech Republic, Malta and France. Indeed, the sooner a Member State took action, the lower the revenue losses for the budget.

Since the UK had not implemented risk profiles, fraudsters had, over time, been shifting their operations to the UK. This happened despite OLAF having repeatedly alerted the UK authorities to the need to take action and to investigate the fraud networks active in the UK.

In addition to financial recommendations addressed to the European Commission Directorate-General for Budget, to recover roughly EUR 2.3 billion as a result of this string of OLAF investigations, OLAF also issued administrative recommendations to the Directorate-General for Taxation of the European Commission.

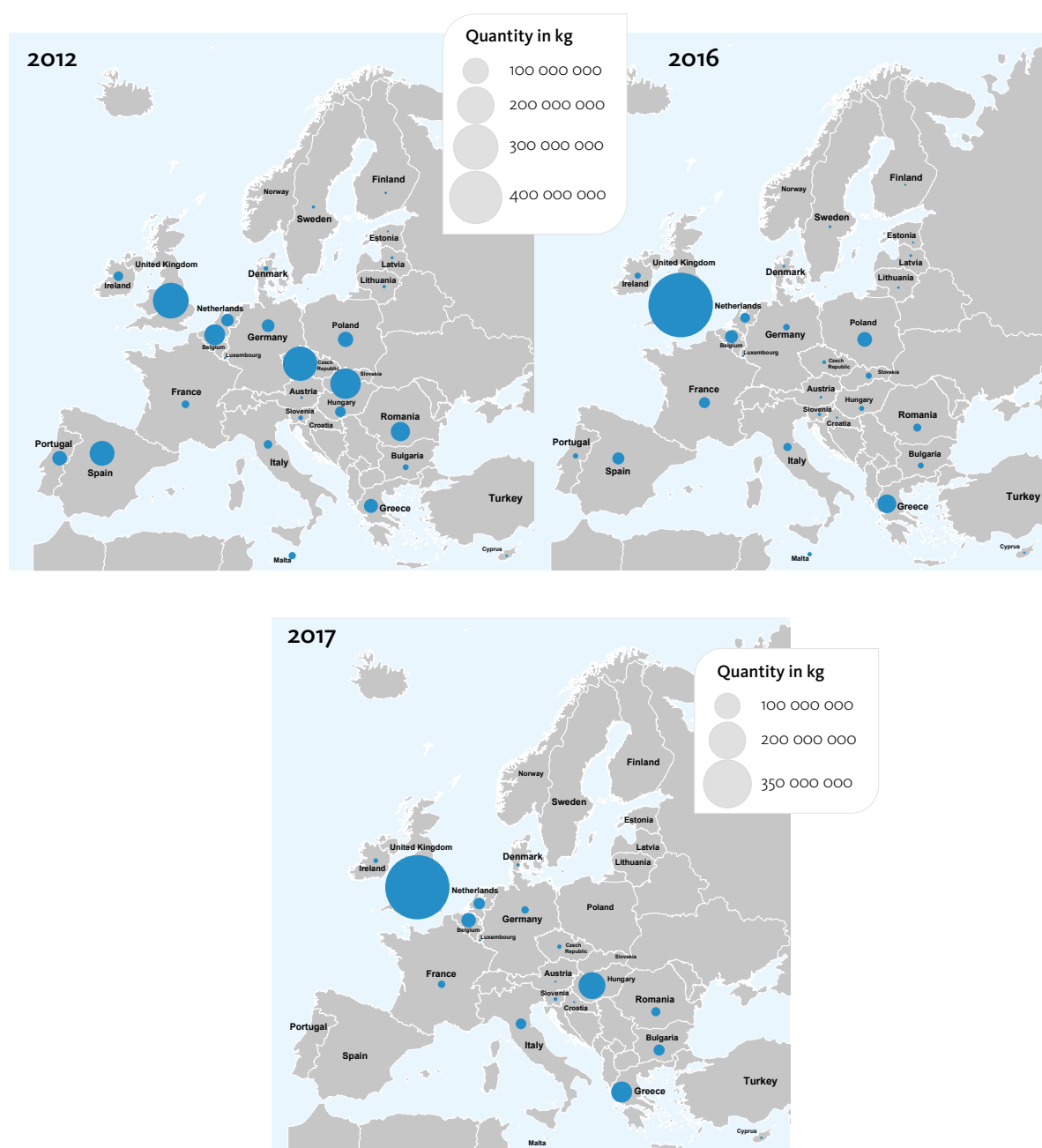
² See also OLAF Report 2016, p.13 and p.19.



OLAF's investigations into undervaluation underlined two important facts. One is that any loopholes, such as the ease with which customs procedures can be misused, will be exploited by fraudsters. The other is that quantity fraud, as opposed to quality fraud, pays

off. Criminals do not need to engage in customs fraud with goods that are very expensive. The evasion of taxes on cheap products, in extremely large quantities, yields the same, if not bigger profits.

Figure 9: Undervaluation fraud trends (textiles and footwear)



3.2. Tackling transit fraud

Transit procedures are abused not only in “missing trader” schemes, like the one presented in the previous section, but also through the remote hacking of national IT transit systems or the bribing of customs officers. As OLAF has witnessed in a number of investigations involving cigarettes, the goods are loaded onto lorries or containers and declared as transiting through the European Union. However, the lorries remain in the EU, while corrupted customs officers illegally discharge the documents accompanying the goods. In another typical fraud scheme often involving tobacco smuggling, the container, or the lorry, declared as loaded with cigarettes leaves EU territory, but the cigarettes are no longer inside. In this case, the cigarettes are unlawfully discharged before they reach the point of exit from the EU, sometimes also with the help of corrupt officials.



During one particular investigation, OLAF checked 110 transit operations reported by the National Customs Agency in Bulgaria, which established that the operations had been unduly cleared. The transit operations were initiated in various Member States, such as Poland, Hungary, Germany, France, Lithuania and Slovakia. For all of these operations, two Bulgarian customs border offices were mentioned as office of destination with final consignees in Serbia and Turkey.

However, by inspecting the Bulgarian customs offices where the transit operations should have been processed, it was established that neither the vehicles nor the goods had ever been physically presented to customs. Further checks revealed that, in some of the cases, the fraudulent electronic clearance of the operations took place a few hours after the operations had been initiated, which was physically impossible due to the timeframe needed for the actual transport. In addition, Bulgarian customs were informed by both their Serbian and Turkish colleagues that the transports concerned never physically entered the territory of those two countries. The fraudulent clearance of the operations was carried out by means of malware which made it possible to hack into the Bulgarian transit system remotely.

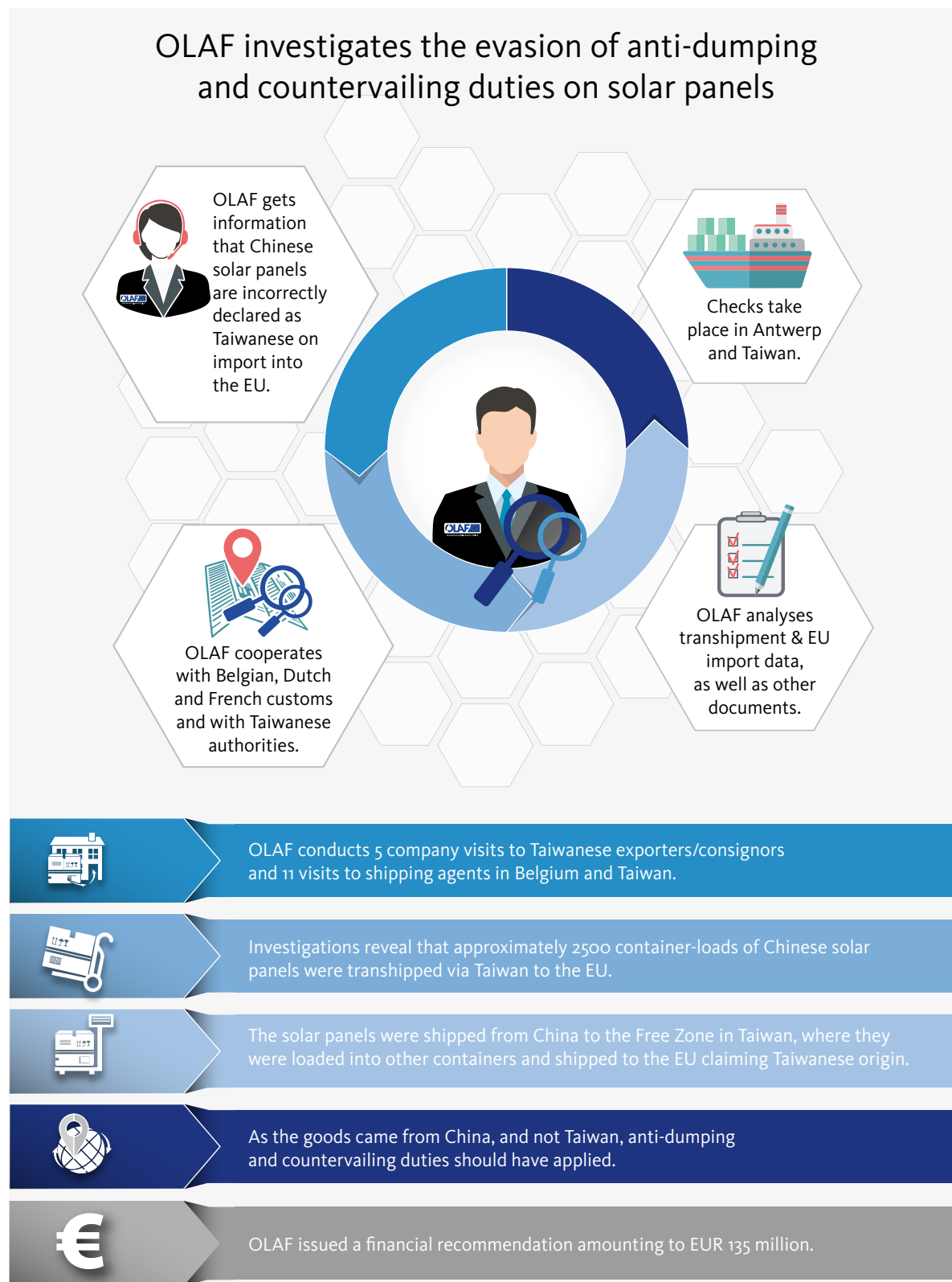
3.3. Putting an end to the evasion of anti-dumping duties on solar panels

Another profitable area of customs fraud is the evasion of anti-dumping duties. In the course of 2017, OLAF concluded nine investigations into the irregular import of solar panels from China into the EU, where most of the products were customs-cleared in the UK, Germany and the Netherlands. Seven of these cases were closed with financial recommendations to the Member States concerned totalling over EUR 228 million.



OLAF investigated a major case involving the evasion of anti-dumping and countervailing duties imposed on solar panels originating in, or consigned from, the People's Republic of China. It was alleged that solar panels were incorrectly declared on importation into the European Union as being of Taiwanese origin. In the framework of this investigation, OLAF, in cooperation with representatives of the Dutch and French customs agencies, and the competent Taiwanese authorities, carried out joint enquiries in Taiwan. Further checks took place in Antwerp, in cooperation with Belgian customs.

OLAF collected and analysed transshipment data, EU import data, as well as other documents, while also conducting five company visits of Taiwanese exporters/consignors, and visits to eleven shipping agents in Belgium and Taiwan. It was revealed that approximately 2500 container loads of Chinese solar panels had been transhipped via Taiwan to the EU. OLAF discovered that these consignments of solar panels imported into the European Union were not actually of Taiwanese origin, as declared. The solar panels were shipped from solar panel producers in the People's Republic of China to the Free Zone in Taiwan, where the solar panels were loaded into other containers and shipped to the EU with new documents claiming Taiwanese origin. As the goods came from the People's Republic of China, anti-dumping and countervailing duties should have applied. As a result, OLAF issued a financial recommendation amounting to EUR 135 million.

Figure 10: **Solar panel fraud**

3.4. OLAF at the helm of trans-European Joint Customs Operations

In addition to its investigations concerning cases of revenue fraud, OLAF coordinates large-scale Joint Customs Operations (JCOs) involving EU and international operational partners. JCOs are targeted actions of limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or on identified trade routes. In 2017, OLAF co-organised or provided support in 11 Joint Customs Operations. The Virtual Operations Coordination Unit (VOCU) module of the Anti-Fraud Information System (AFIS) was used for the secure exchange of information in all of these JCOs.

JCO Renegade was organised within the Asia-Europe Meeting (ASEM) framework, as part of its joint efforts in the fight against **counterfeit goods**. Coordinated by OLAF, the operation targeted the international trade of counterfeit auto spare parts arriving by sea container. All EU Member States, Norway, 12 Asian countries³, Interpol, Europol and the Regional Intelligence Liaison Office for Western Europe of the World Customs Organization participated in the operation. A number of vehicle manufacturers also provided a valuable contribution in targeting the goods covered by the operation, which led to several successful seizures. The exchange of information in real time allowed the experts involved to identify suspicious consignments of counterfeit goods within ordinary commercial transactions. Under the coordination of OLAF, EU and Asian customs authorities carried out targeted physical checks on more than 400 containers. Major European ports were involved in the operation, which, over the course of two weeks, uncovered a wide array of counterfeit goods.

The JCO resulted in the seizure of over 70 000 counterfeit auto spare parts, including grills, oil and air filters, and fuel pumps, along with 590 cylinders of CFC refrigerant commonly used in air-conditioning. These fake items could not only be harmful to the environment, but also be dangerous to the safety and health of citizens. An additional 400 000 counterfeit



goods, including chewing gum, toys, perfumes, headphones, garden appliances and sunglasses were also halted at the EU's doorstep. Such products can be found in many homes and are often staple products in the daily lives of citizens.

Moreover, 56 million cigarettes were confiscated, as well as 668 kilograms of cocaine. The cigarette seizures alone prevented the loss of EUR 12 million in customs duties and taxes.

JCO Magnum II targeted the **smuggling of tobacco products transported by road** into the EU territory from third countries such as Belarus, Ukraine and Russia. This operation, which was coordinated by the Estonian Customs Administration and OLAF with the involvement of fourteen Member States, Europol and FRONTEX, led to the seizure of roughly 20 million cigarettes.

JCO Cerberus focused on controlling failures to declare cash used for **money laundering** and possible terrorism offences. This operation was coordinated by the French Customs Administration and OLAF with the involvement of 27 Member States and the support of Europol, and resulted in the seizure of EUR 6.4 million in cash.

JCO Octopus II was organised by French Customs in cooperation with OLAF and targeted **revenue fraud**. The evaluation of the results is still ongoing at the time of reporting.

³ Cambodia, China, India, Japan, Lao, Malaysia, Pakistan, the Philippines, the Russian Federation, Singapore, Thailand and Vietnam.



3.5. OLAF's fight against smuggling

FAST-MOVING CONSUMER GOODS:

Infringements related to the trade in counterfeit products increased in recent years, generating vast illicit profits for fraudsters while causing huge losses of tax revenues for Member States and the EU as a whole. The black market for fake products harms the European economy, damages legitimate business and stifles innovation, putting many jobs at risk.

The European Intellectual Property Office (EUIPO) and the Organisation for Economic Co-operation and Development (OECD) have conducted a study⁴ on this matter, which yielded worrying results. For example, in 2013, the imports of counterfeit and pirated products into the EU amounted to up to 5% of all EU imports, and were worth up to EUR 85 billion. The study revealed that brands suffering the most from counterfeiting were primarily registered in OECD and in EU Member States, with the total effect of lost sales due to counterfeiting estimated at EUR 9.5 billion. The analysis of the two organisations also revealed that China was the top producer of counterfeit goods, with India, Thailand, Malaysia, Pakistan, Vietnam and Turkey identified as important producers in distinct sectors. In terms of modus operandi, fake goods were found to arrive in large quantities in containers, which would be then sent further in small parcels by post or courier services. Albania, Egypt, Morocco and Ukraine were the four transit points employed for redistributing counterfeit products into the EU.

The fight against the traffic in counterfeit Fast-Moving Consumer Goods (FMCG)⁵ has also become an enforcement priority for OLAF. Investigators have focussed in particular on stopping fraud involving counterfeit household and personal care products that may affect the health and safety of consumers or the environment. The growing incidents of counterfeit FMCG have also led to a demand for strengthening the effectiveness of customs actions, the exchange



of information between customs authorities, as well as the cooperation between the latter, the European Agencies and the rights-holders.

In this context, in 2017, OLAF carried out investigative activities together with the EU Member States concerned, which led to the seizure of 65 tonnes of counterfeit washing powder and over 50000 litres of counterfeit washing gel.

OLAF also organised a conference dedicated to the fight against the import of FMCG in the EU, where the right-holders, EU customs authorities as well as Europol, Eurojust and EUIPO shared information and agreed on further steps to curtail the flow of fake products into Europe.

⁴ <http://www.oecd.org/gov/risk/mapping-the-real-routes-of-trade-in-fake-goods-9789264278349-en.htm>

⁵ Fast-moving consumer goods (FMCG) are products that are sold quickly and at relatively low cost. Examples include non-durable goods such as packaged foods, beverages, toiletries, over-the-counter drugs and many other consumables. In contrast, durable goods or major appliances such as kitchen appliances are generally replaced over a period of several years. (Source: Wikipedia)

CIGARETTE SMUGGLING THROUGH THIRD COUNTRIES:

OLAF has a unique investigative mandate to fight tobacco smuggling into the EU which causes huge revenue losses to the budgets of the EU and of the Member States. In complex cross-border cases in particular, OLAF can bring significant added value by helping coordinate anti-smuggling operations carried out by law-enforcement agencies across Europe. OLAF works to ensure that evaded duties are recovered, criminal smuggling networks are dismantled and perpetrators brought to justice. For the past years, OLAF has been paying particular attention to vessels loaded with significant quantities of cigarettes in the port of Bar in Montenegro, which were destined mainly for Libya, Egypt, Lebanon and Cyprus. Many times, these vessels were found to arrive at their destination empty, with the cigarettes most likely diverted into the EU contraband market. The cigarettes were either illegally directly unloaded on the EU territory or, were transferred onto other vessels on the high seas, unknown to the customs or coastguard services, and then smuggled back into the EU.



For example, during one particular investigation, OLAF tracked two vessels loaded with five containers of cigarettes in Bar and destined for a Lebanese company in Beirut. OLAF found that one of the two vessels never arrived in Beirut. The Lebanese company, which was declared as consignee of the 3950 master cases of cigarettes, did exist, but had not ordered the cigarettes. OLAF discovered that this vessel, during the trip from Montenegro to Lebanon, kept sailing close to the Maltese south coast for four days, making frequent stops without any commercial reason. According to investigators' experience, this is the typical behaviour of a vessel ready to transfer fraudulently the cigarettes onto other vessels. The second vessel, loaded with 5391 master cases of cigarettes, did arrive in Beirut, but only two containers were still loaded with cigarettes, while the other three were empty. This means that only 2070 master cases arrived in Beirut while the other 3321 master cases had disappeared. If these cigarettes had been smuggled into the EU, the damage to the EU and national budgets would amount to EUR 14.5 million in customs, excise and VAT duties lost.





Overall, since the beginning of 2015, eight vessels and their relevant cargo of cigarettes loaded in the port of Bar have been seized for smuggling in Greece and Spain. The cigarettes loaded onto six of these vessels were destined for Libya, one for Cyprus and one for Lebanon. In total, almost 350 million cigarettes were seized on these vessels, corresponding to nearly EUR 70 million in customs, excise and VAT duties. OLAF is constantly tracking the movements of suspicious containers, in cooperation with the competent services of the Member States and third countries, as well as with international organisations, to avoid the diversion of cigarettes onto the EU contraband market.

OLAF has also noticed an **increase in cigarette smuggling by air**, either as cargo or transported by passengers.

In July 2017, for example, OLAF provided the Spanish Customs with information on a suspicious airfreight cigarette shipment from the United Arab Emirates (UAE), destined for Barcelona El Prat Airport. As a result, 1.8 million cigarettes were seized. OLAF also helped halt smuggled cigarettes carried by passengers arriving into the EU. Investigators worked closely with individual Member States and conducted several checks at major airports, which resulted in the combined seizure of more than 1 million cigarettes.

SMUGGLING OF ILLICIT PESTICIDES:

A particularly worrying trend is the smuggling of illegal pesticides on the European market. Illicit pesticides, usually smuggled with the involvement of organised crime, have a negative impact on economies and on the environment and can cause serious health problems for consumers.



To help curb this trend, OLAF participated in **Operation Silver Axe II**, a joint campaign coordinated by Europol together with the Netherlands. The operation targeted counterfeit and illicit pesticides in the major seaports, airports and at land borders of Belgium, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Poland, Romania, Sweden, the Slovak Republic, Slovenia, Spain and the United Kingdom.

The authorities of these EU Member States inspected over 940 shipments of plant protection products and discovered almost 122 tons of illegal or counterfeit pesticides. This result confirmed previous estimates, namely that illegal pesticides represent around 10% of the entire EU pesticide market, although evidence suggests that there are considerable differences between Member States.

Figure 11: Cigarettes seized with the support of OLAF (rounded to million sticks)

Year	2013	2014	2015	2016	2017
Coordination and investigation cases	281	168	602	458	470
JCOs	68	132	17	11	75
Total	349	300	619	469	545



OLAF particularly focused on the selection of suspicious shipments of pesticides coming from third countries which were declared in transit in the EU, or which were subject to transshipment operations and/or storage in free zones. While the use of such free zones combined with the transshipment of containers is usually a standard commercial and logistical operation, minimum or no customs oversight in the free zones can encourage the development of illegal activities. This can take the form of concealment of the true origin of products in order to avoid higher customs duties, or concealment of the transport route for illicit products, such as counterfeit products or the traffic in dangerous substances.

DRUG PRECURSORS:

Drug precursors are chemical products necessary for the illegal manufacture of drugs, e.g. ephedrine for methamphetamine, 3,4-Methylenedioxyphenylpropan-2-one (PMK) for ecstasy, Phenyl-2-propanone (BMK) for amphetamine, acetic anhydride for heroin and potassium permanganate for cocaine. However, these chemicals also have large and varied legitimate uses in the production of plastics, medicinal products, cosmetics, detergents, fragrances and flavours. Due to their wide legitimate uses, trade in drug precursors cannot be prohibited. Drug

precursors are therefore controlled through monitoring their licit trade in order to ensure that they are not diverted to illicit uses.

Drug precursors are a global problem which requires international cooperation. Having the sole responsibility within the European Commission for operational matters in the drug precursors area at EU level, OLAF is a member of the UN-INCB international Task Force for Projects Prism and Cohesion, which focuses on the prevention of the diversion from legal trade in Amphetamine-Type Stimulant drug precursors, as well as on key drug precursors for cocaine and heroin. In the framework of these projects, OLAF and national authorities are able to react to changing patterns of diversion and trafficking, including of non-scheduled substances such as alpha-phenylacetoacetamide (APAA, 3-oxo-2-phenylbutanamide) which can be used as a pre-precursor for amphetamines.

OLAF's key role is to ensure a coordinated approach within the EU, assisting Member States in their investigations, and coordinating their efforts by exchanging information about suspicious transactions, stopped shipments or seizures and by facilitating investigations. OLAF also organises operational meetings between the investigative services, both within the EU and between EU investigators and their third-country counterparts.





3.6. New tools to combat customs fraud

In 2016, an update of Regulation 515/97 empowered OLAF to create new IT systems that allow the EU and its Member States to track and trace suspicious shipments better and thus detect customs fraud. As a result, a Container Status Messages (CSM) database was set up to gather messages recording the movements of containers transported on maritime vessels. Similarly, an Import, Export and Transit (IET) directory has also been developed, containing data on goods entering, transiting and leaving the EU. Data relating to exports is limited to sensitive products, such as tobacco, alcohol and fuels.

The databases are already being widely used. By the end of 2017, the CSM database had received 820 million messages, and facilitated the work of 1595 users. The five most represented Member States were Germany, France, the UK, Belgium and Romania. Since it was launched, and up to the end of 2017, more than 28000 searches have been performed in CSM, with the most searches coming from Germany, the UK, the European Commission, France and the Netherlands.

In the same period, the IET directory received 7.5 million export and 45.8 million transit messages and was employed by 716 users. The five most represented Member States were Germany, France, Italy, the UK and Denmark. Almost 3000 searches were executed in the system until the end of December 2017, mostly by the European Commission, Germany, Italy, Portugal and Slovenia.

These new tools, which will hopefully be employed by an increasing number of users, will strengthen the analytical capabilities of national customs authorities and OLAF in detecting fraudulent operations. They will thus contribute to a better detection of revenue fraud across Europe.

3.7. Looking towards the future – E-commerce and the potential for customs fraud

With e-commerce as a booming and largely less regulated market, the potential for customs and VAT fraud is a growing concern for anti-fraud investigators. A study⁶ by the European Intellectual Property Office (EUIPO) and the Organization for Economic Co-operation and Development (OECD) revealed that, in 2013, small shipments, linked to e-commerce and usually sent through the post or through courier services, accounted for 43% of all shipments. This number is very likely to continue increasing. Small shipments may seem innocuous at first sight. However, they pose a number of problems for law enforcement authorities. It is very difficult to control the flow of goods arriving in small consignments, as customs officers do not generally have the capacity to go through a large number of micro-shipments. This means, for example, that counterfeit products or undervalued goods arriving in small consignments can be much harder to detect and can escape the enforcement net.

In addition, there is evidence that suggests that small consignments arriving in Europe are regrouped in larger warehouses. Once e-orders are placed from Europe, the goods are shipped, from such warehouses, hiding the initial origin of the goods. This may contribute to evading the applicable import taxes and duties. As described in the study mentioned above, this may also offer consumers a false sense of security.

OLAF is attentive to this trend and will continue to explore avenues for cooperation with Member States and third countries, as well as with the European Commission in order to tackle enforcement problems related to the e-commerce sphere.

⁶ See footnote 4

4. OLAF on the European and international scene



B. ADVISORY COMMITTEE FOR COORDINATION OF FRAUD PREVENTION (COCOLAF)

OLAF steers and chairs the Advisory Committee for Coordination of Fraud Prevention (COCOLAF), composed of representatives of Member States' authorities. The 2017 annual COCOLAF meeting provided an opportunity to exchange views on the main developments in the fight against fraud and the preparation of the Article 325 TFEU Report on the 'Protection of the European Union's financial interests — Fight against fraud 2016'.

In 2017, the specific COCOLAF subgroups worked on:

- exchanging experience and best practice between Anti-Fraud Coordination Services of the Member States (AFCOS);
- sharing the results of analyses about main fraud and irregularity trends and patterns;
- drafting fraud prevention documents such as "Fraud in Public Procurement – Collection of Red flags and best practices" and the Handbook on the 'Irregularity Reporting';
- sharing media strategies and organising communication activities on fraud prevention and deterrence.

4.1. OLAF relations with its partners

Both from an investigative and policy-making perspective, the work carried out by OLAF can only lead to tangible results on the ground if the Office joins forces with other European and international institutions to engage in the global fight against fraud and corruption. This is why in 2017 OLAF has continued to develop existing partnerships and to enter into agreements with new partners worldwide.

A. ADMINISTRATIVE COOPERATION ARRANGEMENTS WITH INTERNATIONAL PARTNERS

Administrative Cooperation Arrangements (ACAs) are a key tool in helping OLAF foster close relationships with investigative bodies and other non-investigative partners engaged in the fight against fraud. In 2017, OLAF signed two ACAs with Member States authorities⁷, as well as two ACAs with partner authorities in non-EU countries and territories⁸. OLAF also concluded two new ACAs with EU institutions and bodies: one with the Council of the European Union and one with the Committee of the Regions.

⁷ With the Italian Carabinieri and Italian Direzione Nazionale Antimafia (DNA).

⁸ With the Tunisian General Inspection for Finance and with the Kosovo Police (*This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence*).





C. MUTUAL ASSISTANCE AND ANTI-FRAUD CLAUSES

Cooperation with third countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance in customs matters. Such agreements provide the required legal basis in the context of Article 19 of Regulation 515/97 for the exchange of information with third countries on fraud or irregularity. More than 70 agreements are currently in place, including with major EU trade partners, like the United States, China or Japan. In addition, negotiations to update the previous agreements with Armenia and Azerbaijan have been finalised, as well as those on a new agreement with Mercosur (Argentina, Brazil, Paraguay and Uruguay).

Free trade agreements usually contain an anti-fraud clause which allows for a temporary withdrawal of tariff preference for a product in cases of serious customs fraud and persistent lack of adequate cooperation to combat it. OLAF actively contributes to the negotiations of such clauses. In 2017, a clause was agreed at technical level with Japan and good progress was made in on-going negotiations with Mercosur.

An important development in 2017 was the entry into force of the WTO Trade Facilitation Agreement (Bali Agreement), to which the EU is a party. Article 12 on customs cooperation provides for additional possibilities to exchange information with third countries with the purpose of verifying an import or export declaration where there are reasonable grounds to doubt the truth or accuracy of the declaration.

4.2. The Hercule III Programme: a key tool in supporting the fight against fraud across the EU

OLAF is responsible for the management of the Hercule III Programme⁹ which supports actions and projects that aim to protect the financial interests of the EU. The Programme has a budget of over EUR 100 million for the period 2014-2020. It is implemented on

the basis of annual work programmes setting out the budget and the funding priorities for a given calendar year. The annual work programme¹⁰ for 2017 made available a budget of EUR 14.95 million for the purchase of, for example, specialised technical equipment by law enforcement agencies in the Member States, such as customs or police forces. The financial support was used for the purchase of a wide range of equipment, like scanners used in harbours or airports, digital forensic software and hardware, or the purchase and training of sniffer dogs. The Programme also supported conferences, seminars and training events attended by staff of national administrations, law enforcement agencies and NGOs in order to strengthen mutual cooperation or the exchange of best practice. The Programme funded digital forensic training aimed at improving the skills of anti-fraud professionals in securing evidence from digital devices.

The Programme was the subject of a mid-term evaluation as required under Article 13 of Regulation 250/2014¹¹, which showed the Programme is successful. The evaluation also gathered ideas for possible new directions for the Programme going forward, for instance in the areas of cross-border cooperation between Member States, cooperation with non-EU partners, as well as on new technological developments.



Airplane scanner, Belgium

⁹ Regulation (EU) No. 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No. 804/2004/EC, OJ L 84 of 20 March 2014, p. 6-13.

¹⁰ Adopted by Commission Decision C(2017)1120 final of 22 February 2017.

¹¹ Regulation (EU) No. 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No. 804/2004/EC, OJ L 84 of 20 March 2014, p. 6-13.

5. Monitoring the actions taken by the recipients of OLAF recommendations

5.1. Financial monitoring

OLAF INVESTIGATIONS LEAD TO HIGH AMOUNTS RECOMMENDED FOR RECOVERY TO THE EU BUDGET

Financial recommendations are addressed by OLAF to the EU Institutions or national authorities providing or managing EU funds. The aim of such financial recommendations is to seek the recovery of the defrauded EU funds to the EU budget. The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that given year. The amount of recommended recoveries is therefore not an indication of the overall fraud level in Europe, but relates to specific investigations OLAF has finalised in a particular year.

Pursuant to the investigations it concluded in 2017, OLAF recommended the recovery of over EUR 3 billion to the EU budget. This sum is significantly higher than in preceding years because of the conclusion of large-scale investigations in the customs field (see the Focus Chapter of this Report for more detail).

It is important to note that OLAF is not itself responsible for the recovery of these funds. This money will progressively be recovered by the relevant authorities at EU and Member State level. Money can be retrieved from the beneficiaries of the funds, national managing authorities or paying agencies in a number of ways, including direct recovery, offsetting, deduction, de-commitment, programme closure, or clearance of accounts.

FINANCIAL IMPACT OF OLAF'S INVESTIGATIONS IN THE OVERALL DETECTION OF IRREGULARITIES ACROSS EUROPE

Member States are responsible for most EU spending and also manage the collection of the EU's customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and supports them through an active exchange of information and via targeted trainings.

Under sectoral regulations, Member States have to report to the European Commission any irregularity or suspicion of fraud¹² they detect exceeding EUR 10000. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU financial interests (the so-called "PIF Report").

In parallel with data concerning Member States' detections, OLAF also gathers data on the number of investigations it has concluded and that led to financial recommendations.

In recent annual Reports, OLAF has presented a comparative analysis in the areas of Traditional Own Resources (TOR) and shared management, providing an overview of the number of fraudulent and non-fraudulent irregularities detected by national authorities, compared to the financial recommendations issued by OLAF in the same areas. In this year's Report, the analysis covers a period of five years, including 2017. The impact of investigations is shown as a percentage of the

Figure 12: Amount recommended by OLAF for financial recovery in 2017 (in millions)

	2012	2013	2014	2015	2016	2017
Amounts recommended	284	403	901	888	631	3095

¹² A case can be defined as fraud only after a definitive sentence is issued by a competent judicial authority. This can take a few years following the detection and reporting of the case to the Commission.



total TOR that authorities have collected for the years 2013-2017 and as a percentage of the total payments made under the two main areas of shared management by each Member State. The results obtained by OLAF during the same period are presented next to those of national authorities¹³.

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States.

Figure 13 shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources between 2013 and 2017 and the percentage that their financial impact represents in terms of the gross TOR collected by Member States and made available to the EU budget. OLAF results are shown alongside those of national authorities.

Figure 14 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management, European Structural and Investment Funds and Agriculture, between 2013-2017 and their financial impact expressed as a percentage of the total payments for the years 2012-2016, divided by Member State. OLAF results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations are making in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent. In terms of Traditional Own Resources, OLAF financial recommendations would represent 2.58% of the gross TOR collected, compared to 2.01% for all Member States together. This means that, for this period, OLAF financial recommendations exceed the entire financial impact of the investigative and control activities of the Member States. The OLAF results are significantly influenced by the conclusion of investigations linked to the undervaluation of imported goods in 2017¹⁴. These results also highlight OLAF's commitment to utilising resources effectively and concentrating on cases where its input would bring most added value.

OLAF results are significant also in the shared management areas, where the financial impact of the activities of all Member States together accounts for 1.8% of payments, while OLAF alone recommended the recovery of 0.43% of payments. In this area, OLAF financial recommendations would represent 19% to 23%¹⁵ of the entire impact of investigative and control activities. There are countries where the financial impact of OLAF cases is particularly significant and, at times, even higher than that of national investigations.

¹³ Results by the Member States and OLAF may partially overlap. OLAF results are extracted from the Case Management System, and represent the total sum of financial recommendations issued at the end of the investigations. Data concerning Member States is extracted from the Irregularity Management System (IMS) for the two expenditure areas and from the OWNRES system for TOR. Data used in this report needs to be considered as provisional. Final data is published in the 'Report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests — Fight against fraud' which will be published around July 2018.

¹⁴ For more details, see chapter 3.

¹⁵ The range has been calculated assuming, for the lower limit, that OLAF results are not included in those reported by the Member States, while for the highest limit, the assumption is the opposite - that OLAF results are fully included in those reported by the Member States.

Figure 13: Member State/ OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2013-2017

Traditional Own Resources (TOR) 2013-2017				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % TOR collected
	N	%	N	%
Austria	335	2.81%	11	0.25%
Belgium	1 011	1.07%	27	0.87%
Bulgaria	119	0.96%	16	1.21%
Croatia	64	1.75%	2	0.07%
Cyprus	42	1.49%	9	0.18%
Czech Republic	383	2.34%	18	1.61%
Denmark	339	1.43%	16	0.56%
Estonia	35	2.17%	7	0.29%
Finland	187	1.19%	8	0.15%
France	1 822	1.82%	24	0.34%
Germany	9 250	2.23%	35	0.23%
Greece	226	7.10%	13	0.75%
Hungary	199	1.80%	12	0.29%
Ireland	146	1.06%	10	0.06%
Italy	832	1.34%	31	0.24%
Latvia	117	4.88%	10	2.10%
Lithuania	225	2.26%	14	1.02%
Luxembourg	0	0.00%	0	0.00%
Malta	17	4.52%	3	1.32%
Netherlands	2 257	2.99%	48	1.86%
Poland	713	1.07%	25	0.85%
Portugal	162	2.55%	16	1.22%
Romania	337	3.37%	27	1.56%
Slovakia	82	0.98%	11	50.30%
Slovenia	57	0.63%	14	0.55%
Spain	1 683	2.77%	34	1.06%
Sweden	478	1.08%	14	0.30%
United Kingdom	4 990	1.90%	41	11.07%
Total	26 108	2.01%	496	2.58%



Figure 14: Member State/ OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and Agriculture for the period 2013-2017

Shared Management: Cohesion and Natural Resources 2013-2017				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	371	0.30%	2	0.02%
Belgium	387	0.48%	1	0.02%
Bulgaria	904	1.67%	43	0.54%
Croatia	86	0.56%	1	0.00%
Cyprus	104	0.89%	0	0.00%
Czech Republic	3 480	3.40%	7	0.08%
Denmark	205	0.30%	0	0.00%
Estonia	414	1.54%	0	0.00%
Finland	139	0.08%	0	0.00%
France	1 240	0.28%	8	0.01%
Germany	1 771	0.33%	7	0.40%
Greece	2 251	2.76%	14	0.30%
Hungary	2 808	1.20%	49	3.92%
Ireland	1 432	2.41%	0	0.00%
Italy	4 101	1.27%	20	0.31%
Latvia	611	2.89%	1	0.00%
Lithuania	1 109	2.21%	3	0.06%
Luxembourg	2	0.09%	0	0.00%
Malta	117	2.42%	1	0.43%
Netherlands	813	1.74%	4	0.04%
Poland	5 461	1.74%	21	0.09%
Portugal	2 422	1.49%	9	0.36%
Romania	5 759	3.21%	107	0.52%
Slovakia	1 672	11.39%	16	2.09%
Slovenia	297	1.92%	1	0.12%
Spain	11 161	3.13%	5	0.40%
Sweden	224	0.21%	0	0.00%
United Kingdom	3 062	0.75%	5	0.04%
Total	52 403	1.83%	325	0.43%

5.2. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcome of its cases on the ground, be it indictments, dismissals, or other judicial measures, if any.

According to Article 11 of Regulation 883/2013¹⁶, at the request of the Office, the national judicial authorities concerned must send OLAF information on the action taken on the basis of its judicial recommendations.

Based on judicial monitoring carried out in 2017, OLAF noted that around 42% of the cases it submitted to national judicial authorities have led to indictments.

While judicial authorities are of course independent and while the legal architecture may vary at Member State level, OLAF has worked on understanding the reasons why national judiciaries dismissed some of the cases OLAF had submitted.

It is not for OLAF to question the validity of national prosecutors' decisions to dismiss individual cases on particular grounds. However, OLAF's analysis confirms the argument in support of the setting-up of a European Public Prosecutor's Office. It appears that Article 11§2 of Regulation 883/2013^[1], and prior to that, Article 9§2

of Regulation 1073/1999 which was identical, is not a sufficient legal basis to allow all Member States' judicial authorities to use OLAF reports as evidence in trial. Therefore, in numerous Member States, after receiving the OLAF final report, prosecutors carry out all the investigation activities once again in order to acquire admissible evidence.

Sometimes, despite considerable investigative efforts deployed by the Office, its limited investigation powers and practical possibilities do not allow to collect conclusive evidence of a criminal offence.

As regards internal investigations, whereas for OLAF any infringement committed by EU staff is regarded as a serious matter, irrespective of the prejudice to the EU budget, the priorities of the national judiciaries may be different.

Finally, there are sometimes differences of interpretation of EU and national law between OLAF and national authorities. OLAF started in 2016 to address these differences, through bilateral meetings with the relevant judicial authorities. This work continues to date. OLAF liaises with Member States on an on-going basis in order to try and improve follow-up at national level.



¹⁶ OJ L 248, 18.9.2013, p.1



Figure 15: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2010 and December 2017

Member state	No decision taken by JA	Decision taken by JA			Indictment rate
		Total	Dismissed	Indictment	
Austria	1	7	5	2	29%
Belgium	12	32	17	15	47%
Bulgaria	13	22	13	9	41%
Croatia	4	0	0	0	NA
Cyprus	4	3	2	1	33%
Czech Republic	3	8	6	2	25%
Denmark	1	3	1	2	67%
Estonia	0	2	1	1	50%
Finland	0	3	3	0	0%
France	9	8	3	5	63%
Germany	14	19	15	4	21%
Greece	16	11	3	8	73%
Hungary	20	17	9	8	47%
Ireland	1	2	2	0	0%
Italy	20	33	14	19	58%
Latvia	1	4	3	1	25%
Lithuania	0	9	3	6	67%
Luxembourg	5	5	3	2	40%
Malta	1	6	0	6	100%
Netherlands	10	7	3	4	57%
Poland	13	11	2	9	82%
Portugal	9	7	5	2	29%
Romania	26	87	58	29	33%
Slovakia	5	11	9	2	18%
Slovenia	4	1	0	1	100%
Spain	11	19	15	4	21%
Sweden	1	2	1	1	50%
United Kingdom	21	14	9	5	36%
Grand Total	225	353	205	148	42%

* In the category of no decision taken, we include also those cases that are still in the so-called "reporting period". When OLAF sends a judicial recommendation to a Member State, the competent authority has to report on the actions taken following the recommendation within 12 months.

5.3. Disciplinary monitoring

EU Institutions take action to follow up on OLAF's internal investigations

The disciplinary recommendations issued by OLAF concern serious misconduct of EU staff or Members of the EU institutions and are directed to the authority having disciplinary powers in the institution concerned.

When making such recommendations, OLAF does not specify the type of action that should be taken. The appointing authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the appointing authority may join several recommendations resulting from different investigations and, subsequently, impose one single sanction.

Figure 16: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2015 and 31 December 2017

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Agencies	8	3	4	1
Court of Justice	2	0	2	0
European Commission	22	4	6	12
European Economic and Social Committee	1	0	1	0
European External Action Service	6	1	2	3
European Investment Bank	1	1	0	0
European Parliament	16	4	1	11
Council of the EU	1	0	0	1
EULEX	1	1	0	0
Total	58	14	16	28



6. Policies to fight fraud

In addition to its investigative work, OLAF plays an active role in the development of the anti-fraud policies of the European Union. The Office drafts and negotiates legislative texts concerning the protection of the EU's financial interests against fraud and corruption. It is also thanks to its solid investigative expertise, that OLAF can support the EU institutions in furthering a sound legal framework to protect the EU budget and taxpayers' money. The main policy projects on which OLAF has made significant progress in 2017 are summarised in this chapter.

6.1. Evaluation of Regulation (EU, Euratom) No 883/2013

Regulation 883/2013 is the main legal instrument governing OLAF's investigative activities. As required by the applicable regulatory framework, on 2 October 2017, the Commission adopted its Report on the Evaluation of the application of Regulation 883/2013¹⁷. The Commission Report was supported by an independent external study¹⁸ and was based on a wide-ranging stakeholder consultation. The Report was also accompanied by OLAF's Supervisory Committee's Opinion 2/2017¹⁹.

A dedicated conference was organised by OLAF in March 2017. The conference brought together stakeholders from a wide range of anti-fraud backgrounds, such as the Anti-Fraud Coordination Services of Member States, Member State administrative authorities, law enforcement, prosecutorial and judicial authorities, EU Institutions, bodies, offices and agencies, international organisations and academics. The outcome of discussions was taken on board for the external evaluation report.

The evaluation concluded that the Regulation has allowed OLAF to deliver concrete results. Regulation 883/2013 brought clear improvements in OLAF's functioning, as regards the conduct of investigations, cooperation with partners and the rights of persons concerned by investigations. At the same time, the evaluation highlighted some shortcomings which have an impact on the effectiveness and efficiency of investigations. In particular, the extent to which the Regulation makes national law applicable is not completely clear. Today, different interpretations of the relevant provisions and differences in national law lead to a fragmentation in the exercise of OLAF's powers in the Member States. In some cases, this hinders OLAF's ability to conduct investigations successfully and to contribute to an effective protection of the financial interests across the EU.

Moreover, the evaluation also emphasised that the creation of the European Public Prosecutor's Office (EPPO) will be a game-changer and will require swift adaptations in the operation of OLAF, to ensure synergies and the efficient use of resources at EU level.

In view of the establishment of the EPPO and in light of the results of the evaluation, the Commission has prepared an assessment in line with Better Regulation principles²⁰ with a view to a proposal for the amendment of Regulation 883/2013 mid-2018. The proposal will adapt the functioning of OLAF to the establishment of the EPPO, to ensure close cooperation based on the complementarity of their respective mandates and prepare the support of OLAF to the EPPO. It will also consider targeted changes, necessary to strengthen the framework for OLAF investigations, in order to maintain a strong and fully-functioning OLAF that complements the EPPO's criminal law approach with administrative investigations. This amended text should be in force by the time the EPPO becomes operational, to ensure a seamless transition to the new institutional framework.

¹⁷ See footnote 16.

¹⁸ ICF Consulting Services Limited, 2017, Evaluation of the application of Regulation no 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), Final report, https://ec.europa.eu/anti-fraud/sites/antifraud/files/evaluation_of_the_application_regulation_883_en.pdf

¹⁹ OLAF Supervisory Committee, Opinion 2/2017 "Accompanying the Commission Evaluation report on the application of Regulation (EU) of the European Parliament and of the Council No 883/2013 (Article 19)", http://europa.eu/supervisory-committee-olaf/sites/default/files/opinion_2_2017.pdf.

²⁰ Commission Staff Working Document 'Better regulation guidelines', 7 July 2017 SWD (2017) 350 <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>



European Commissioner for Budget and Human Resources, Günther H. Oettinger, joined more than 200 stakeholders at a high-level conference on 1-2 March 2017 in Brussels. *"I can only commend OLAF for its impressive work in protecting the EU budget and helping ensure that citizens' money goes towards projects that improve the lives of all Europeans,"* Commissioner Oettinger said.

Commissioner for Budget & Human Resources Günther H. Oettinger (right) at the Conference on the evaluation of Regulation 883/2013, in March 2017

6.2. Preparing for the creation of the European Public Prosecutor (EPPO)

On 31 October 2017, the Regulation on the creation of the European Public Prosecutor's Office was published in the Official Journal²¹. The EPPO represents a significant institutional innovation which will provide the EU budget with better protection against fraud and will also change the landscape of justice in Europe. It will operate as a single body across all participating Member States. The EPPO will tackle fraud and corruption affecting the EU budget, including serious cases of cross-border VAT fraud, and will be equipped to deal with complex, transnational cases in a more efficient way than is possible today. The EPPO will be established under enhanced cooperation (at this stage) among twenty Member States, and is expected to start operations at the end of 2020. Other EU Members can join at any time.

The EPPO and OLAF will work closely together, to ensure that all available means are used to protect the EU budget. The EPPO will be able to rely on the support of OLAF, benefitting from OLAF's experience in the fight against fraud affecting EU funds.

6.3. The adoption of the PIF Directive

Following the political agreement reached between the co-legislators at the end of 2016, the Directive on the fight against fraud to the Union's financial interests by means of criminal law was adopted on 5 July 2017²². Member States now have two years (until July 2019) to transpose it into their national legislation.

The Directive will strengthen the protection of the Union's financial interests by harmonising the definition of offences affecting these interests (offences of fraud, corruption, money laundering and misappropriation), as well as harmonising sanctions and time limitations for such cases. It covers cross-border VAT fraud cases involving a total damage of at least EUR 10 Million. The Directive will replace the Convention on the protection of the European Communities' financial interests and its protocols (PIF Convention) for those 26 Member States bound by the Directive, while the Convention remains applicable to Denmark and the UK.

21 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283, 31.10.2017, p. 1–71.

22 Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29–41.



6.4. Strengthening the EU's policy on fighting the illicit tobacco trade

In addition to its enforcement role in fighting the illicit tobacco trade, OLAF also contributes to strengthening the EU's policy in this field.

In May 2017, the Commission adopted a Report on the progress in implementing the 2013 Strategy to step up the fight against the illicit tobacco trade²³. The report highlighted that important milestones have been reached, notably the adoption of the Tobacco Products Directive²⁴ and the ratification of the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products by the EU. Targeted enforcement action has also led to new records in seizure volumes. However, the smuggling of tobacco products has not receded, and reflections will continue on additional initiatives to stem especially the inflow of so-called 'cheap white' cigarettes. OLAF will continue to drive such initiatives.

The EU, with OLAF as lead service, had a key role in negotiating the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products, under the auspices of the World Health Organisation. The EU became a Party to the Protocol in 2016. However, the Protocol will only effectively help curbing illicit trade if it is also implemented by third countries which are the main source of illicit tobacco products, or are transit countries on the smuggling routes. The Commission is intensifying its efforts to promote the Protocol outside the EU while assisting Member States in the quick completion of their internal ratification procedures. OLAF is engaged in these discussions on the European and international scene.



23 COM(2017)235 final.

24 Directive 2014/40/EU of 3 April 2014, OJ L 127, 29.4.2014, p. 1.

7. Relations with the Supervisory Committee

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. Its members are appointed by common agreement of the European Parliament, the Council and the Commission.

The Members as of 31 December 2017 are the following: Ms Fazenda, Mr Klement, Mr Mulder, Mr Munoz Lopez Carmona and Ms Stronikowska. Mr Mulder has been Chairman since March 2017.

In line with Regulation 883/2013, the Members are supported by a Secretariat. As of 1 January 2017, following an amendment of Regulation 883/2013, the Supervisory Committee Secretariat is provided by the Commission, outside OLAF.

The Director-General of OLAF keeps the Supervisory Committee regularly informed of the Office's activities, the implementation of OLAF's investigative function, and of action taken by way of follow-up to investigations.

In 2017, in accordance with Regulation 883/2013, OLAF made available to the Committee over 430 documents with information on investigations lasting more than 12 months. OLAF also informed the Committee of judicial recommendations transmitted to the national judicial authorities, and of OLAF cases in which information

was sent to national judicial authorities at the dismissal of the case. The Committee and its Secretariat had full access to 64 case files in OLAF's case management system in 2017.

On the basis of the information provided by OLAF, the Committee delivers Opinions to the Director-General of OLAF and reports to the EU institutions. In 2017, the Supervisory Committee delivered three Opinions. Opinion 2/2016, issued in February 2017, concerned the OLAF Annual Activity Report, to which OLAF replied on 27 March 2017. Opinion 1/2017 concerned the OLAF Preliminary Draft Budget for 2018, to which OLAF replied on 6 October 2017. The Committee's Opinion No 2/2017 accompanied the Commission Evaluation report on the application of Regulation 883/2013.

In its Opinions, the Supervisory Committee issues recommendations to the Director-General. OLAF reports annually to the Committee on the state of implementation of these recommendations. On 9 February 2018, OLAF reported on all recommendations issued in 2017, and also on the follow-up of one recommendation issued in 2016 by the Committee.

Details of the Committee's work can be found in its annual activity report. This report and OLAF's responses, as well as other information, are publicly available on the OLAF website.



8. Data protection, legality checks and complaints

PROTECTION OF PERSONAL DATA CRUCIAL TO OLAF'S WORK

The protection of personal data is key to a successful investigation since it allows safeguarding the rights of individuals involved at any step of the investigative cycle. Since OLAF was set up as an independent investigative body, it has appointed its own data protection officer (DPO) who ensures that OLAF implements the requirements of Regulation 45/2001 on the protection of personal data, including recommendations of the European Data Protection Supervisor (EDPS). The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media.

In 2017, OLAF maintained its commitment to ensure the timely provision of relevant information to data subjects. OLAF received and handled ten requests for access to personal data as well as one request for rectification. They were all handled in a timely manner.

The current Regulation 45/2001 is under revision to align with the General Data Protection Regulation 2016/679 (GDPR) entering into force in May 2018. OLAF has already conducted awareness-raising activities internally and has mapped the necessary steps to achieve compliance with the new data protection rules.

VERY LOW NUMBER OF COMPLAINTS ON OLAF INVESTIGATIVE ACTIVITY

Persons affected by an OLAF investigation may address a complaint directly to the Director-General of OLAF. This is without prejudice to the citizens' right to lodge a complaint with the European Ombudsman, or to raise issues related to OLAF investigations before the EU or national courts.

In 2017, the Director-General received seven complaints from persons involved in OLAF investigations about issues relating to the handling of their procedural guarantees. All of the complainants received a

substantiated reply within the two-month deadline in accordance with the established procedures.

Officials and other EU staff may also complain to OLAF under Article 90a of the Staff Regulations against any act adversely affecting them in connection with OLAF investigations. In 2017, OLAF received one complaint in which Article 90a of the Staff Regulations was invoked. The response to the complaint is pending.

In 2017, the European Ombudsman opened ten new inquiries in relation to complaints involving OLAF. Seven were closed in the course of the year either without a finding of maladministration or because OLAF had settled the matter. The remaining three concern two requests for public access to documents and a decision not to open an investigation, and are still pending.

In the course of 2017, the Ombudsman also concluded two inquiries that had been opened in previous years. The first inquiry concerned a request for access to documents. OLAF disagreed with the Ombudsman as to the scope of the request and the case was closed with a finding of maladministration. However, after the complainant came back with a new request, OLAF gave partial access to the requested documents, to the complainant's satisfaction. The second inquiry concerned alleged irregularities during an investigation. In particular, the complainant argued that OLAF had failed to follow its normal administrative practices when opening that investigation and wrongly communicated information about its investigation to third parties. The Ombudsman found that OLAF complied with the relevant applicable rules and the principles of good administration. As a result, the Ombudsman closed her inquiry with a finding of no maladministration. In 2017, the Ombudsman published her 'Putting it Right' Report for cases closed in 2016, in which OLAF scored the maximum of 100% satisfactory replies to the Ombudsman.

9. Staff and Budget

INVESTING IN STAFF

In the context of the general reductions in staff and budget in the EU public service, the number of OLAF staff members continued to decrease in 2017. At the end of 2017, the total number of staff members and available vacancies at OLAF stood at 405, a 2.5% decrease compared to 2016. Despite this, OLAF did its utmost to maintain the staff resources allocated to the fight against fraud and to its anti-fraud policy work, with staff cuts mainly impacting overhead functions such as HR, finance and ICT infrastructure management.

OLAF staff members have had to adapt to a structural increase in workload, while maintaining the quality and efficiency of investigations. In a context of limited resources, OLAF counts on the wide range of skills and diverse professional background of its staff. Dealing

efficiently with a high number of investigations in various fields and countries requires a high level of expertise, knowledge of a broad range of languages, as well as commitment to defending taxpayers' interests. Two specialist competitions in the investigation field were finalised in 2017, providing OLAF with a list of 45 laureates possessing the relevant professional experience and qualifications.

OLAF invests continuously in career development. OLAF staff have the opportunity to participate in European Commission or external training, coaching sessions, or lunchtime debates and workshops, which further their professional and personal development. OLAF is also committed to investing in the training of its managers, to ensure excellent leadership.

Figure 17: Number and breakdown of OLAF staff from 2010 to 2017

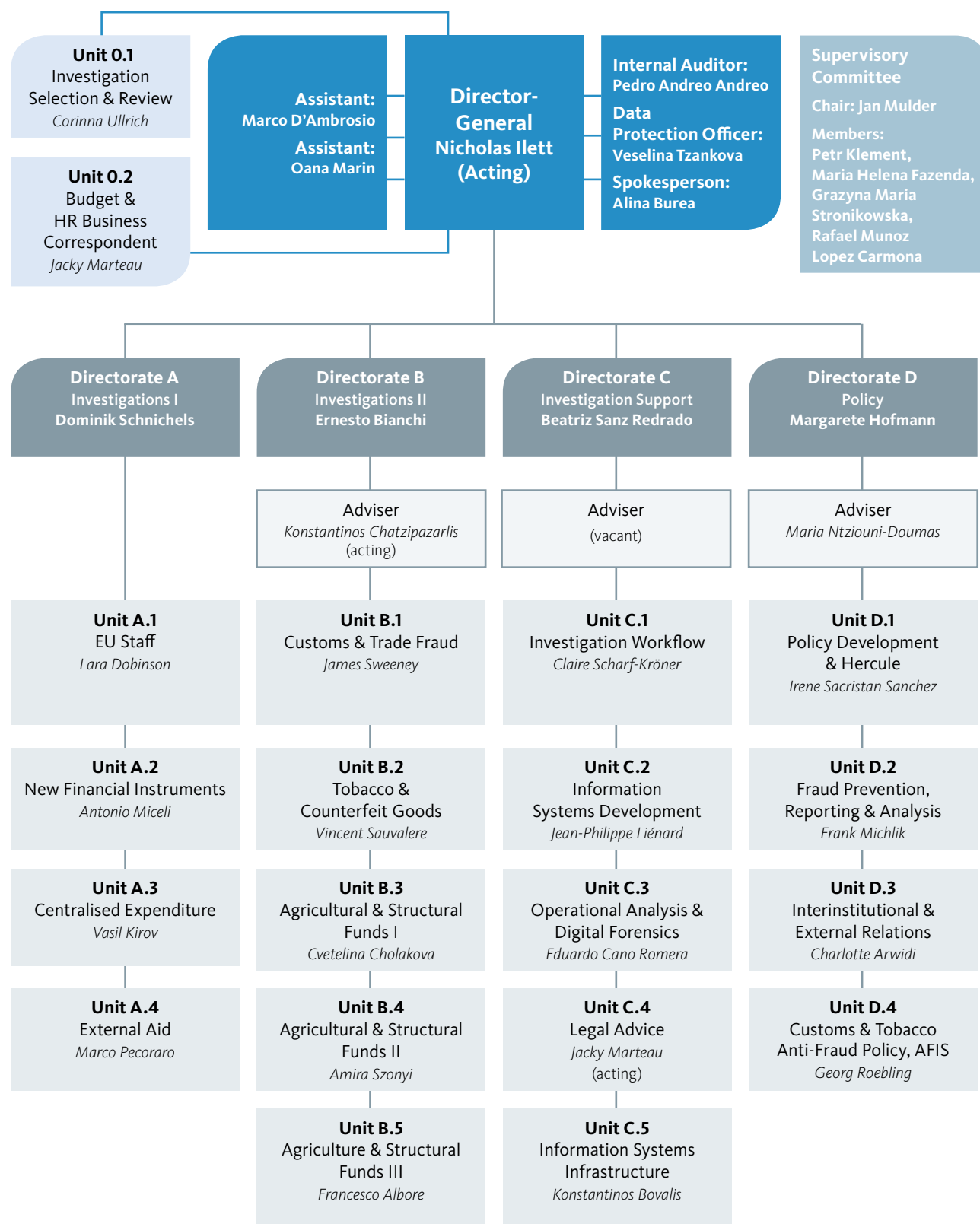
	2010	2011	2012	2013	2014	2015	2016	2017
Establishment posts occupied	360	351	347	350	362	356	336	318
Establishment posts vacant	46	33	35	34	18	11	24	32
External staff	60	53	53	56	59	55	55	55
Total	466	437	435	440	439	422	415	405

Figure 18: OLAF's administrative budget in 2017 (million EUR)

EU staff	42.1
Infrastructure	6.7
ICT	4.9
External agents (contract staff, seconded national experts and interims)	2.5
Missions	1.4
Anti-fraud Measures	1.9
Training, meetings and Committees	0.5
Total	60



Figure 19: Organisational chart (31.12.2017)



10. Communication

DON'T BRUSH FRAUD UNDER THE CARPET

In its dual capacity as independent investigative body that also acts as a Directorate-General of the European Commission in developing anti-fraud policies, OLAF strives to be as open and as transparent as possible with the media and the public, while safeguarding the confidentiality of its investigations. In recent years, OLAF has placed great emphasis on helping its audience understand the contribution it brings to the protection of the EU budget and to the European project as a whole. Given its independent investigative mandate, OLAF has its own Spokesperson's team who liaise directly with media on matters pertaining to the investigative process.

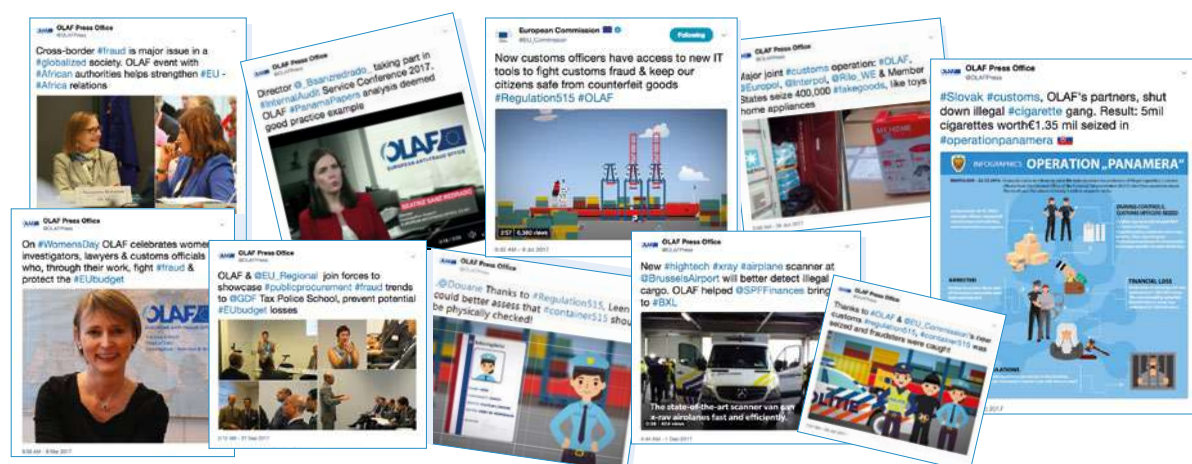
In 2017, OLAF focused on both increasing its communication output and diversifying the channels through which it reaches its audience. Communication actions were geared towards developing and maintaining a positive relationship with journalists, in Brussels and beyond, with the end goal of informing the public on why enforcing a policy of zero tolerance to fraud is essential. OLAF organised or participated in several press conferences and events, on issues ranging from the launch of the OLAF Annual Report, to customs fraud or cigarette smuggling. It partnered with national law enforcement institutions in order to present cross-European case studies, for example supporting the Latvian Ministry of Finance in its "Fraud off!" campaign, or co-organising a press event with Belgian Customs when a new airplane scanner, financed with EU funds, was inaugurated at Zaventem Airport. OLAF management and experts gave a series of

interviews throughout the year, seeking to raise awareness of the importance of the fight against fraud.

In 2017, OLAF has also continued to be active on Twitter. This has helped the Office get closer to its audience, as well as engage with partner anti-fraud services, showcasing their work and achievements. OLAF ran several twitter campaigns, like the "515 campaign" on presenting new tools facilitated by OLAF for customs officials. Guest-posting exercises developed with OLAF partner institutions helped spread the word further about the need to take action against fraud and corruption.

Throughout 2017, OLAF also continued to be the central point of the OAFCN - the OLAF Network of Anti-Fraud Communicators - which was created over a decade ago, and is a unique cross-European network of communication experts working on anti-fraud issues. The Network brings together Communication Officers and Spokespersons from OLAF's operational partners in the Member States, such as customs authorities, police, law enforcement agencies, AFCOS and prosecutors' offices. It plays a pivotal role in communicating the threat of fraud to the public across EU Member States, as well as the joint efforts made by national and European authorities to combat it. It is a key platform for raising awareness and reaching out to various audiences on fraud issues.

OLAF also engaged in joint actions with other European Commission services, supporting the EU Budget Focused on Results initiative of the Directorate-General for Budget, as well as presenting its work at the yearly Open Day of the European Institutions.





11. Statistical annex: additional data on OLAF investigative activity

This annex presents additional detailed data relating to OLAF's investigative activity in 2017, as a complement to the key indicators already mentioned in chapters 2 and 5.

Figure 20: OLAF's investigative performance

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Incoming information	959	975	1041	1264	1294	1417	1372	1136	1293
Investigations opened	160	152	146	431	253	234	219	219	215
Investigations concluded	140	136	154	266	293	250	304	272	197
Recommendations issued	194	172	175	199	353	397	364	346	309

Figure 21: Selections completed and their duration²⁵

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Selections completed	1007	886	926	1770	1247	1353	1442	1157	1111
Average duration (in months) of selection phase	5.8	6.3	6.8	1.4	1.8	2.0	1.7	1.7	2.4

Figure 22: Average duration of closed and ongoing investigations (in months)

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Average duration of investigation	20.2	20.8	22.4	17.3	17.5	18.1	18.7	17.2	15.8
Average duration of selection corresponding to these cases	5.7	6.4	6.9	6.3	4.3	2.9	2.3	1.7	1.8
Total average duration of cases	25.9	27.2	29.3	23.6	21.8	21.0	21.0	18.9	17.6

Figure 23: Average duration of closed investigations only (in months)

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Average duration of investigation	25.8	22.9	27.0	22.5	22.3	23.3	25.1	23.2	21.9
Average duration of selection corresponding to these cases	5.6	5.6	6.1	7.5	5.9	3.6	2.8	1.8	1.7
Total average duration of cases	31.4	28.5	33.1	30.0	28.2	26.9	27.9	25.0	23.6

²⁵ Since a new case management system was introduced at the end of 2016, the processing of new incoming information required more time. This explains why the average duration of selections has increased to 2.4 months in 2017. It is expected that the average duration of selections will decrease.

Figure 24: Percentage of ongoing investigations lasting more than 20 months

	2009	2010	2011	2012	2013	2014	2015	2016	2017
	37%	41%	38%	22%	30%	30%	22%	20%	22%

Figure 25: Recommendations issued

Type of recommendation	2009	2010	2011	2012	2013	2014	2015	2016	2017
Financial	76	62	63	116	233	253	220	209	195
Judicial	61	67	73	54	85	101	98	87	80
Disciplinary	18	10	16	25	24	15	16	18	10
Administrative	39	33	23	4	11	28	30	32	24
Total	194	172	175	199	353	397	364	346	309

Figure 26: Incoming information by source

Source	2009	2010	2011	2012	2013	2014	2015	2016	2017
PRIVATE	523	594	767	889	889	959	933	756	889
PUBLIC	436	381	274	375	405	458	439	380	404
Total	959	975	1041	1264	1294	1417	1372	1136	1293



Figure 27: Incoming information from Member States in 2017

Member State	Public source	Private source	Total
Austria	0	1	1
Belgium	12	4	16
Bulgaria	7	20	27
Croatia	1	11	12
Cyprus	0	0	0
Czech Republic	2	13	15
Denmark	1	0	1
Estonia	0	0	0
Finland	0	0	0
France	5	6	11
Germany	4	6	10
Greece	2	11	13
Hungary	1	26	27
Ireland	0	2	2
Italy	7	12	19
Latvia	0	0	0
Lithuania	1	3	4
Luxembourg	0	0	0
Malta	1	0	1
Netherlands	4	0	4
Poland	1	18	19
Portugal	1	1	2
Romania	7	17	24
Slovakia	1	8	9
Slovenia	0	2	2
Spain	12	19	31
Sweden	0	3	3
United Kingdom	4	5	9
Total	74	188	262

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The **OLAF** report **2018**

The Fraud Notification System (FNS) is a web-based tool available to any person who seeks to pass on information concerning potential corruption and fraud.
http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

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The **OLAF** report **2018**

**Nineteenth report of the
European Anti-Fraud Office,
1 January to 31 December 2018**

DISCLAIMER:

OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents such case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

Communicating with OLAF

<http://olaf.europa.eu>

Reporting fraud to OLAF

http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

Complaining about an OLAF investigation

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Executive summary

OLAF: DETECT, INVESTIGATE, PROTECT

In 2018, the European Anti-Fraud Office (OLAF) concluded complex, large-scale investigations, stopping fraudsters in Europe and beyond from pocketing EU money.

OLAF investigations ranged from cross-border cases involving collusion between beneficiaries and contractors to major undervaluation fraud cases where fraudsters made a profit from declaring falsely low values for goods at import in the EU, or cases of corruption in high-value EU tenders.

OLAF'S INVESTIGATIVE PERFORMANCE IN 2018:

- ▶ OLAF concluded 167 investigations, issuing 256 recommendations to the relevant national and EU authorities.
- ▶ OLAF recommended the recovery of EUR 371 million to the EU budget.
- ▶ OLAF opened 219 new investigations, following 1 259 preliminary analyses carried out by OLAF experts.

TRENDS IN ANTI-FRAUD INVESTIGATIONS:

The transnational dimension of its work allows OLAF to form a unique view of the picture of the changing nature of fraud across Europe. OLAF therefore once again presented an analysis of some of the most striking trends revealed by OLAF investigations:

- ▶ Cross-border fraud schemes where shell companies are used to disguise fake business transactions

- ▶ Fraud in the promotion of European agricultural products
- ▶ Organised crime involvement in defrauding EU funds meant to fund refugee camps
- ▶ The evasion of customs duties by highly-organised criminal groups

OLAF'S FIGHT AGAINST SMUGGLING:

In addition to its investigation and coordination cases, in 2018 OLAF co-organised or provided support to five Joint Customs Operations and has made significant progress in its efforts to fight the illicit trade in tobacco products by helping national authorities seize 350 million cigarette sticks.

CONTRIBUTION TO THE EU POLICIES TO FIGHT FRAUD:

OLAF is regularly at the forefront of negotiating legislative texts concerning the protection of the EU's financial interests against fraud and corruption. In 2018, OLAF was instrumental in the development of the new Commission Anti-Fraud Strategy (CAFS). The strategy aims to reinforce OLAF's analytical capacity, further strengthen the cooperation between OLAF and Commission services and enhance the Commission's corporate oversight in anti-fraud matters. OLAF also worked towards supporting the entry into force of a new global anti-smuggling treaty, the Protocol to Eliminate Illicit Trade in Tobacco Products, as well as on a new Commission Action Plan to fight the illicit tobacco trade.



Foreword

It is with great pleasure that, for the first time as appointed Director-General of the European Anti-Fraud Office (OLAF), I present OLAF's annual report for 2018. While the second half of 2018 corresponds to my time in office, many of OLAF's successes featured in this report were achieved under the leadership of Nicholas Ilett, the former Acting Director-General, whose dedication to OLAF was unparalleled. I would like to extend to him my utmost gratitude for the way he managed and contributed to the evolution of the Office.

Although in a transitional period, I am proud to confirm that OLAF maintained a **strong investigative performance** in 2018. The Office focused its efforts on the **areas where it could bring the most added value** to European citizens. Indeed, the cross-border dimension and level of complexity of cases investigated by OLAF makes them **impossible to be tackled by national authorities alone**. Whether in the area of Structural Funds, Customs or Research Funds, OLAF's unique expertise and its team of highly-qualified investigators, digital forensic experts and analysts have helped the Office solve even the most difficult cases and stop organised criminals from defrauding the EU budget. In 2018, OLAF issued 256 recommendations aimed at recovering EUR 371 million.

By turning its investigative experience into anti-fraud policy, notably into **fraud prevention** and legislative work, OLAF supports the EU institutions in constantly improving the protection of EU financial interests. In 2018, OLAF worked with Commission Directorates-General on the revision of the Commission's Anti-Fraud Strategy, and is now steering its implementation. The strategy aims to enhance data analysis to support evidence-based anti-fraud policy measures and promotes more efficient anti-fraud controls based on the comprehensive examination of fraud risks. In practice, I envisage this leading to OLAF further developing its analytical capacities and becoming a European Knowledge Centre in fraud prevention and analysis, working at the disposal of the European institutions, as well as that of national authorities.

The past year has also brought us closer to the establishment of the European Public Prosecutor's Office (EPPO). The creation of the EPPO marks a fundamental development in the fight against fraud affecting the EU budget, addressing shortcomings in the current enforcement system and constituting a crucial step towards the creation of a common criminal justice area in the European Union.

I am **personally invested** in ensuring a positive cooperation with the EPPO from day one. However, to become an even stronger partner for the EPPO, OLAF needs the right tools to act in a coherent manner across Member States. This is why, in revising OLAF's legal basis, the Commission has proposed to equip the Office with the means it needs not only to be a reliable and efficient partner to the new European Prosecutor, but also to continue to efficiently protect the EU citizens and their money in an evolving context.

The nature of fraud has been changing significantly over recent years and continues to shift in line with a more digital world, in which e-commerce develops exponentially and activities of criminal groups transcend national borders. In this new landscape, OLAF will work tirelessly to meet the expectations of EU citizens for a European Union which better protects not only their money, but also their health, safety and environment.

This year we mark the 20th anniversary of OLAF in tackling fraud involving EU funds. With an extremely capable and knowledgeable staff, a great reputation among national administrations and law enforcement bodies, OLAF is ready to grow and develop, in order to deliver on its important mandate. It is vital for us that EU citizens know that their money is well protected and that OLAF is there to look out for their best interests!

Ville Itälä
Director-General of OLAF



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The seat of the European Anti-Fraud Office, in Brussels



1. Mission and mandate



MISSION

Detect, investigate and work towards stopping fraud involving European Union funds.

MANDATE

OLAF's mandate is:

- to conduct independent administrative investigations into fraud and corruption involving EU funds so as to protect EU taxpayers' money;
- to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- to develop EU policies to counter fraud.

OLAF investigates matters relating to fraud, corruption and other illegal activities affecting both EU expenditure and EU revenue.

OLAF is part of the European Commission and, as such, under the responsibility of Commissioner Günther Oettinger.

However, in its investigative mandate, OLAF acts in full independence.

In August 2018, following a selection procedure, Mr Ville Itälä took up the position of OLAF Director-General.

With a background in law and experience working as a police commissioner, Mr Itälä kicked off his political career as a Member of the Finnish Parliament, where he focused on fundamental rights. In 2000, he became Minister of the Interior, and in 2001, he was appointed Deputy Prime Minister of Finland.

In 2004, Mr Itälä was elected Member of the European Parliament, a position he held for eight years. During this time, he served, among others, on the Committee on Transport and Tourism and was the Deputy-Chair of the Committee on Budgetary Control.

Before being appointed as Head of OLAF, Mr Itälä worked as a Member of the European Court of Auditors.

WHAT WE DO

OLAF's investigative work broadly involves:

- assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation;
- conducting administrative anti-fraud investigations, where appropriate in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- supporting the anti-fraud investigations of national authorities;

- recommending actions that should be taken by the relevant EU or national authorities;
- monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud and to better tailor the support OLAF provides to national authorities.

Responsibilities for much of EU spending are shared between authorities at European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders and sometimes outside the EU. The detection, investigation and prosecution of fraud against the EU budget can therefore only be conducted in cooperation with a wide range of partners, at national, European and international level.

OLAF cases frequently concern:

- cross-border procurement fraud or corruption in public procurement procedures involving EU financing;
- double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made;

- subsidy fraud in different forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes. Examples include the delivery of the same piece of research to several funding authorities within or beyond EU borders, plagiarism – the copying of research, which has already been undertaken by others, or the deliberate gross disrespect of the conditions of financial assistance;
- customs fraud where fraudsters attempt to avoid paying customs duties (EU own resources), for instance by smuggling goods into the EU.

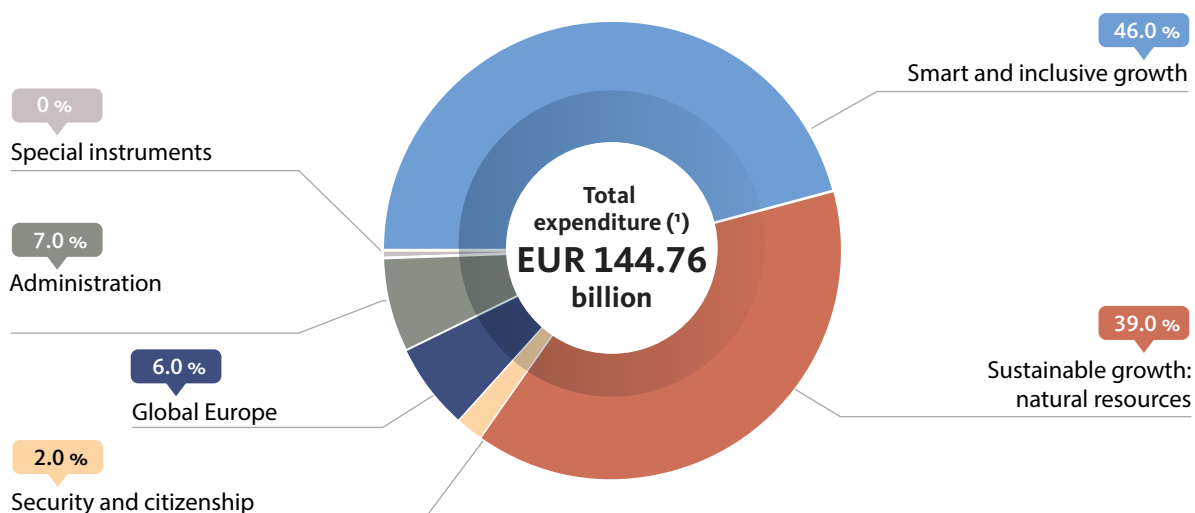
EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, travel and relocation allowances, social security and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures, and of other forms of corruption such as attempts to illicitly influence decision-making and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out so-called “internal” investigations into any allegations of misconduct involving staff and members of the EU institutions.



OLAF investigators and Member State partners during carousel fraud operation



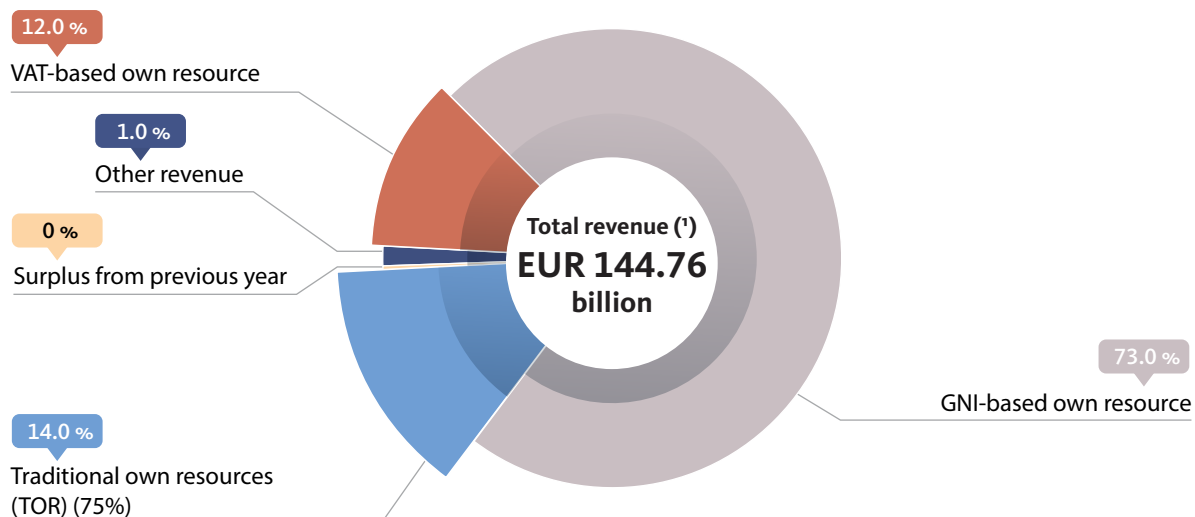
Figure 1: EU expenditure in 2018



(¹) Source: OJ L67, 7.3.2019, p. 13

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

Figure 2: EU revenue in 2018

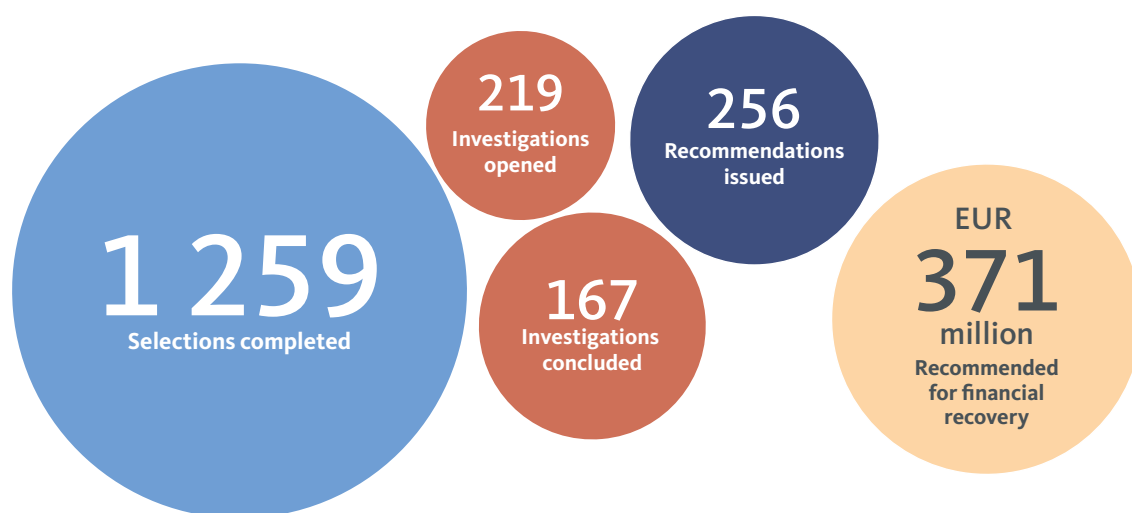


(¹) Source: OJ L67, 7.3.2019, p. 14

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

2. OLAF investigative activity: trends in anti-fraud investigations

Figure 3: OLAF's investigative activity in 2018



2.1. Summary of OLAF's investigative performance in 2018

In 2018, OLAF opened 219 investigations after a process of analysing incoming information in 1 259 selections. It concluded 167 investigations, which led to OLAF issuing 256 recommendations to competent authorities at EU and national level. As a result of the investigations concluded during 2018, OLAF recommended the recovery of EUR 371 million to the EU budget. This money will progressively be recovered by the relevant

authorities at EU and Member State level, so it can go to projects that can improve the lives of all Europeans. For a detailed presentation of these and other performance indicators, please refer to the Annex to this Report.

In Figure 4, you can find a breakdown of the investigations concluded by OLAF in 2018, concerning the use of EU funds managed or spent in whole or in part at national or regional level. This overview presents the geographical focus of OLAF's investigative activity in 2018. Figure 5 shows that, as was the case in previous years, the "structural funds" sector remains at the core of OLAF's investigative activity.



Figure 4: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2018

Country	Cases concluded	
	Total number per country	from which closed with recommendations
Hungary	9	7
Greece	8	6
Poland	8	3
Romania	4	2
Bulgaria	4	2
Italy	4	2
Czechia	4	2
France	3	3
Slovakia	3	2
Croatia	2	2
Jordan	2	2
Kenya	2	2
Ecuador	2	2
North Macedonia	2	1
Syria	2	1
Ukraine	2	0
Gabon	2	0
Belarus, Central African Republic, Egypt, Eritrea, Germany, Guatemala, Guinea-Bissau, Ireland, Ivory coast, Lithuania, Morocco, Mozambique, Myanmar, Portugal, Russian Federation, Sierra Leone, Spain, Turkey, Uganda, United Kingdom, Yemen	23 (1 per country)	11
Total	84	48

Figure 5: Ongoing investigations at the end of 2018, by sector

Reporting sector	2015	2016	2017	2018
Structural Funds	104	69	73	85
Centralised Expenditure	58	59	71	82
EU Staff	37	48	64	65
New Financial Instruments	8	8	18	48
External Aid	66	52	58	44
Customs and Trade	50	60	44	43
Agricultural Funds	36	21	22	33
Social Fund	21	19	5	11
Tobacco and Counterfeit goods	18	8	7	3
Total	398	344	362	414

2.2. Follow the money: OLAF solves complex cases, traces EU money pocketed by fraudsters

For the past 20 years, OLAF has been at the forefront of fighting fraud involving European Union funds. It has solved thousands of complex, transnational cases and recommended several billion euros to be returned to the EU budget. Years of experience and a team of highly-qualified investigators, forensic experts and analysts put the Office in a unique position to identify red flags, spot fraud patterns and efficiently investigate even the most intricate cases. Furthermore, as OLAF's primary goal is to ensure no EU funds are lost to fraud, OLAF experts go to great lengths to trace defrauded funds, often hidden in third countries.

In this chapter, you can find an analysis of some of the most striking trends revealed by OLAF investigations in 2018. This analysis is based on empirical evidence, without amounting to a complete list of investigations concluded by OLAF. However, these trends give an indication of the ways in which fraudsters try to pocket EU money and of the areas most prone to fraudulent activities.

SHELL COMPANIES AND FAKE BUSINESS TRANSACTIONS

Setting up fake companies in order to obtain EU funds seems to be a favourite method for fraudsters, who go to great lengths to disguise falsified business transactions. In recent years, OLAF has investigated an increasing number of cross-border cases involving allegations of fraud with European Regional Development Funds (ERDF), including collusion between beneficiaries and contractors, inflated invoices and shell companies.



For example, during one investigation OLAF concluded in 2018, the Office uncovered fake or incorrect documentation in nine ERDF-funded projects implemented under the Operational Programme "Innovative Economy" and worth more than EUR 4 million. The investigation, which took place in Poland and in Germany, revealed that one Polish person was managing the business activities of four economic operators who were the beneficiaries of the projects. During on-the-spot checks and inspections conducted in Germany, OLAF investigators uncovered that this individual colluded with two German contractors in order for the latter to issue incorrect or false documents that the Polish





beneficiaries would submit to the Managing Authority in Poland. One German contractor confessed that he had issued “courtesy” invoices with artificially increased values and that the service agreements concluded with the main Polish beneficiary were of a fictitious nature. OLAF also established that the invoices used to justify the financial transactions had been issued for goods and services that were not delivered or rendered.

OLAF therefore concluded the investigation with a financial recommendation to the European Commission Directorate-General for Regional and Urban Policy to recover approximately EUR 3.8 million. The Office also issued a judicial recommendation to the Polish District Prosecution Office to take into consideration the results of OLAF's investigation in the context of the ongoing Polish criminal investigation against several individuals charged with subsidy fraud, participation in an organised crime group, money laundering and gaining financial benefits by misleading others. The judicial recommendation further advised extending the Polish criminal investigation to include the two German persons concerned by the OLAF investigation that colluded with the Polish beneficiaries and participated in the offences committed in Poland.



Similarly, in the course of another cross-border investigation concluded by OLAF in 2018, a Polish beneficiary received EUR 8 million from the ERDF to set up an innovative production line in Poland. The production line was delivered to the Polish beneficiary company by its German mother company, which was selected through a tender procedure. The main components of the line, produced by different European companies, were provided by a subcontractor located in Switzerland, belonging to the same group as the German mother company.

Through activities carried out in Germany, Italy, Poland and at the Brussels headquarters, investigators uncovered that the tender procedure by which the beneficiary granted the contract to its mother company had been manipulated. The scope of the competitive procedure was unlawfully expanded and the mother company was granted the contract without a real tender procedure. The purchases of some components of the production line had already started before the official launch of the project and before the tender procedure for the selection of the supplier of the production line. The supply chain of the major components of the production line was complex and OLAF established that this facilitated the price of some components to be increased by about 70%.

OLAF also uncovered close personal and operational links between the companies involved which led to a conflict of interest.

As a result, OLAF concluded its investigation with financial recommendations to the European Commission Directorate-General for Regional and Urban Policy for the recovery of the whole EUR 8 million of EU co-financing and a judicial recommendation to the Polish prosecution services to initiate judicial proceedings in relation to the fraudulent activities.



In another case, OLAF received allegations concerning two closely related companies which had received European Regional Development Funds in order to implement two projects aimed at developing circular broadband networks in rural Hungary. The total value of the two projects, including the ERDF grant and the contributions of the two companies was approximately EUR 12 million.

OLAF investigators discovered that both beneficiaries subcontracted 100% of the works to the same general construction company. This contractor further subcontracted both jobs through a complex chain involving four layers. OLAF established that this complex chain was used to disguise the transfer of EUR 4.9 million back to one of the original beneficiaries in Hungary through a third party in another Member State. In this way, the two beneficiaries created artificial circumstances in order to increase the project value and to receive undue EU funding.

OLAF recommended that the European Commission Directorate-General for Regional and Urban Policy recover the misused amount of roughly EUR 3.6 million. OLAF issued a judicial recommendation to the competent national authorities to initiate criminal proceedings.

DOUBLE-FUNDING IN THE RESEARCH FIELD

The academic and research fields are not exempt from fraud. The cases OLAF concluded in 2018 involved fraudulent double-funding, where researchers either received both EU and national grants for effectively doing the same work or received funds from two different European projects.



For example, one OLAF investigation concluded in 2018 concerned allegations of double-funding for research projects carried out by a big international company. The initial allegations suggested that the company claimed and received funding for the same costs, during the same period, from both EU research funds and from Spanish Torres Quevedo funds.

OLAF investigators went on-the-spot at the premises of the company and acquired digital forensic evidence. Key witnesses and persons concerned were interviewed. OLAF worked together with the Spanish Anti-Fraud Coordination Service, as well as the police, judiciary and Managing Authority, whose cooperation was crucial to the successful outcome of the case.

OLAF's investigation confirmed that the company participated in eight research projects financed by the 7th Framework Programme for Research (FP7), while also obtaining 13 Torres Quevedo funding grants. In fact, the company claimed personnel costs for researchers both from the Torres Quevedo grants and from FP7 grants, without disclosing the existence of the other source of funding. Not only that, but the company specifically submitted declarations to the Spanish authority managing the Torres Quevedo grants indicating the absence of funding from other sources.

OLAF calculated the total financial damage and issued a corresponding financial recommendation to the European Commission Directorate-General for Communications Networks, Content and Technology (DG CNECT). The company repaid to DG CNECT EUR 422 000 and to the Spanish authority managing the national programme the sum of about EUR 960 000. OLAF's investigation also established strong indications that staff of the company committed potential crimes under the Spanish criminal law and therefore issued judicial recommendations to the Spanish judicial authorities. The national court proceedings are still ongoing.



Another OLAF investigation concerned a university in the French Caribbean Islands, which benefitted from several ERDF and ESF-funded projects worth EUR 15 million. In particular, a laboratory located in Martinique, which was part of the university, initiated three projects in the framework of the INTERREG IV Caraïbes Initiative, mostly in partnership with Haiti.

OLAF investigators conducted numerous interviews with the persons concerned, which included high-ranking officials of the university and private contractors closely linked to the staff. OLAF also heard several witnesses, in close coordination



with the French police and Gendarmerie in Martinique, Guadeloupe, Bordeaux and Paris. Several criminal investigations were conducted in parallel with OLAF's administrative investigation.

OLAF investigators discovered that certain individuals had attempted to circumvent EU and national legislation relevant for public procurement, as well as to declare fraudulent mission fees, fake diplomas and sham project activity reports. They also attempted to use false supporting documents to claim the eligibility and reimbursement of costs.

For example, some professors who did not contribute at all to the three projects were allegedly contributing to seminars and missions, the costs of which were charged to the budget of the projects. Several professors received payments from institutional partners, without approval or even knowledge of the university, while being paid full-time by their original employer.

Moreover, one contract was attributed without any procurement procedure to a staff member of the laboratory in Martinique. The use of "creative accounting" practices allowed the laboratory to claim reimbursement for various costs without any link to the subsidised project - such as social events, sporting

clothes, very expensive tools or medical items - or to re-cycle IT costs incurred in the framework of other projects.

OLAF's investigation was concluded with recommendations to the Directorate-General for Regional and Urban Policy and the Directorate-General for Employment, Social Affairs and Inclusion to recover EUR 4.6 million as well as to the competent national judicial authorities. Investigators believe that weaknesses in the management systems of the beneficiary, which was split over three islands, of the Haitian partners and of the French Managing Authorities contributed to the magnitude of the fraud.

INVALID FINANCIAL GUARANTEES AND CONFLICT OF INTEREST IN DEVELOPMENT PROJECTS

While the correct distribution of development aid can make the difference between life and death for thousands of people, development projects can also fall prey to fraudsters. Many of the places where development funds are paid out are not the easiest to work in. The general environment can be fragile and

volatile, subject to frequent and rapid change. This makes the risk of fraud and corruption very high, but also means that investigating is going to be quite difficult.

OLAF investigators uncovered companies and organisations which sometimes use invalid financial guarantees to secure EU funds, which means that poor performance, irregularities and fraud committed during the implementation phase cannot be sanctioned by execution of these financial guarantees.



Conflict of interest also features prominently in external aid cases, sometimes involving large public procurement projects. For example, OLAF received allegations that a local agent employed as a project manager in a European Union Delegation in Latin America was playing a key part in the mismanagement of EU funded projects. OLAF investigators went on the ground to carry out interviews, perform on-the-spot checks and acquire relevant digital evidence. OLAF also collected documentary evidence such as invoices, payments, contracts and correspondence.

Investigators established that some of the local agent's family members were involved in the

implementation of a rural development project he was supervising. In addition, the family received consistent payments from the Foundation that was implementing the project and that was the beneficiary of the EU funds. Moreover, OLAF discovered that the project in question was only partially implemented by the Foundation, that substantial financial irregularities were committed and that almost all of the declared expenses were ineligible.

Additional cases of conflict of interests also surfaced, as the local agent's wife provided consultancy services in the framework of EU-funded projects he was in charge of as evaluator or programme manager. The local agent was also involved in an unauthorised external activity as owner of a commercial company.

Immediately after its mission, OLAF asked the EU Delegation to adopt precautionary measures in order to prevent the local agent from committing further irregularities. The EU Delegation dismissed the local agent, based on the documentary evidence collected by OLAF during the mission, the on-the-spot check at the premises of the Foundation and the interview of the person concerned.

OLAF also issued a disciplinary recommendation concerning the local agent and a financial





recommendation aimed at recovering EUR 400 000 from the beneficiary Foundation.

CORRUPTION AND KICK-BACKS IN THIRD COUNTRIES

To solve complex transnational fraud cases and trace the proceeds of fraud, OLAF often works together with national and international authorities. These authorities recognise OLAF as a trusted partner with unique expertise in managing cases of fraud and corruption with EU funds, and ensuring that the EU budget is well protected.



In one such investigation concluded in 2018, OLAF reached out to the Dutch judiciary to acquire information on a Dutch company which had allegedly used corruption to manipulate several high-value EU tenders. The analysis of digital material provided by the Dutch partners, who had already conducted a criminal investigation concerning corruption in the context of World Bank tenders by the same company, helped OLAF investigators spot similar corrupt practices in a EUR 1.5 million EU-funded project aimed at supplying medical instruments and equipment in Latin America.

Through document analysis and on-the-spot checks, OLAF investigators established that the Dutch company had access to confidential documentation and information prior to the publication of the tender and had paid bribes to a key person working in the organisational structures of the project in Latin America. The company had also relied on the services of their subcontractor and of a local businessman to communicate with the corrupt official and to hide the payment of the bribes.

OLAF concluded the investigation with a financial recommendation to the Directorate-General for International Cooperation and Development (DG DEVCO) to recover the entire amount of EU funds disbursed in the context of the project, a judicial recommendation to the Dutch Prosecutor, as well as an administrative recommendation to DG DEVCO to blacklist the Dutch company so it cannot access EU funds for a certain number of years.



Corruption also lay at the heart of an investigation OLAF conducted in a Balkan country regarding alleged irregularities, fraud and corruption committed in the framework of projects financed through the Instrument for Pre-Accession Assistance (IPA).



OLAF's investigation uncovered a fraudulent scheme, involving governmental institutions and officials, set up in order to obtain financial benefits in exchange for the awarding of EU-funded contracts. An Italian company had set up a network of Balkan partners which unlawfully supported the company in winning EU-funded contracts totalling more than EUR 2 million. Through its partners, the Italian company gained access to confidential information related to the procurement procedures. Additionally, the Italian bidder bribed high-level public administration officials in order to influence the outcome of the work of the evaluation committee which eventually awarded the contract to the bidder.

During the course of the investigation, OLAF worked together with the Special Prosecutor's Office in the Balkan country, the Prosecutor Office in Milan and the Italian Guardia di Finanza. OLAF conducted several witness interviews and carried out an on-the-spot check including a digital forensic operation at the premises of the Italian company.

OLAF concluded its investigation with a financial recommendation to the Directorate-General for Neighbourhood and Enlargement Negotiation (DG NEAR) to recover the entire amount disbursed, and with judicial recommendations to the Italian judicial authorities to consider prosecuting the persons concerned.

CIGARETTE SMUGGLING AND ILLEGAL TOBACCO FACTORIES

OLAF has a unique investigative mandate to combat tobacco smuggling into the EU which causes huge revenue losses to the budgets of the EU and of the Member States. In complex cross-border cases in particular, OLAF brings significant added value by helping coordinate anti-smuggling operations carried out by customs and



OLAF and Member State Customs work together to keep our borders safe

law-enforcement agencies across Europe and beyond. OLAF works to ensure that contraband cigarettes are seized, evaded duties are recovered, criminal smuggling networks are dismantled and perpetrators brought to justice. International information exchange and collaboration facilitated by OLAF led to seizures of more than 307 million cigarettes in 2018. Also based on detailed information provided by OLAF, four illegal factories were raided in Greece and Spain, which led to large seizures of tobacco and to over 40 arrests.

For the past years, OLAF has been paying particular attention to smuggling by passengers travelling by air and who carried significant amounts of cigarettes in their luggage.



For example, OLAF received information from reliable sources regarding potential smugglers departing from third country airports and destined for the EU, allegedly smuggling significant quantities of cigarettes in their luggage.

OLAF investigators decided that concerted and strategic action should be taken. Therefore, OLAF opened a case targeted at increasing controls and

enhancing information exchange between the relevant enforcement authorities. As a result, OLAF received information on 377 air passengers which led to 157 seizures totalling 3.5 million cigarettes. Some of the perpetrators were “frequent flyers” who were entitled to carry excess luggage and used this facility to assist in the smuggling of the cigarettes. The purchase, transport, dissemination and sale of the illicit cigarettes in the countries of destination were organised by criminal groups based in Eastern Europe with connections to Western European criminals who received and distributed the cigarettes.



In 2018, OLAF also focused on transit fraud involving the misdeclaration of cigarettes from Turkey. Two major anti-smuggling operations facilitated by OLAF resulted in the seizures of more than 130 million cigarettes by Belgian and Dutch authorities. The cigarettes, originating from a Turkish company, had arrived in the ports of Antwerp and Rotterdam either mis-described as other goods or declared to be in transit to a non-EU country. Smugglers tried to unlawfully discharge the cigarettes during their road transport between the port of arrival and the declared port of departure from the European Union.



As a result of OLAF intelligence, the Dutch Fiscal Intelligence and Investigation Service seized 45 million cigarettes, two trucks and EUR 130 000 in cash. In addition, the operation also led to the dismantling of an illegal cigarette production site.

SMUGGLING WATER PIPE TOBACCO



In October 2018, OLAF started monitoring movements of water pipe tobacco declared under the EU transit system, as it was considered to be at a high risk of smuggling into the EU. As a result of this monitoring operation, in November OLAF identified a suspicious consignment originating in Turkey and declared as destined for the United Kingdom.

OLAF's analysis revealed that the consignee did not actually exist, so OLAF investigators shared this information with France, Germany and Italy, the Member States that the shipment was transiting. OLAF also coordinated the exchange of information between the Member States involved, which confirmed that the goods were in France after the consignment had arrived from Turkey through Italy and Germany.

It was discovered that the transit document had been closed in Germany using false documents, and that the water pipe tobacco had been declared as "machinery."

As a result of the information provided by OLAF, in November the French National Customs Operation Unit seized approximately seven tons of water pipe tobacco and arrested three persons.

OLAF identified a further two suspicious shipments of water pipe tobacco transiting the EU and destined for North Africa, which were subsequently diverted to Lithuania. The cooperation with the Lithuanian Customs Criminal Service on these shipments resulted in approximately three more tons being seized.

OLAF AT THE HELM OF TRANS-EUROPEAN JOINT CUSTOMS OPERATIONS

In addition to its investigations concerning cases of revenue fraud, OLAF coordinates large-scale Joint Customs Operations (JCOs) involving EU and international operational partners. JCOs are targeted actions of limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or on identified trade routes. In 2018, OLAF co-organised or provided support in five Joint Customs Operations. The Virtual Operations Coordination Unit (VOCU) module of the Anti-Fraud Information System (AFIS) was used for the secure exchange of information in four of these JCOs. The Permanent Operational Coordination Unit (POCU) in OLAF was used to support Poseidon. This JCO was financed by OLAF.

Operation Silver Axe III was coordinated by Europol with support from OLAF, and led to the seizure of 360 tons of illegal or counterfeit pesticides. Numerous police, customs and plant protection authorities from 27 countries participated in the Operation. As part of the Operation, checks took place at major seaports, airports and land borders, as well as at production and repacking facilities in the participating countries.

During the operational phase, OLAF selected 181 suspicious shipments of pesticides coming from third countries (mainly China), that were either declared as being in transit in the EU or declared as being for export from the EU to another third country (Russia, Ukraine, Moldova, Turkey). These suspicious shipments were notified to the participating national and third country customs authorities by OLAF directly or via Europol.

For example, OLAF asked Hungarian and Slovak customs to intercept a suspicious consignment of 20,400 kg pesticides (thiamethoxam 350 g/l) on its way from China to Hungary via Ukraine. The shipment containing unmarked packaging (no indication of producer, country of origin, trade name) was

Figure 6: Cigarettes seized with the support of OLAF (rounded to million sticks)

Year	2014	2015	2016	2017	2018
Coordination and investigation cases/Exchange of information	168	602	458	470	302
JCOs	132	17	11	75	48
Total	300	619	469	545	350

successfully seized at Szolnok by Hungarian customs officers (NTCA) and the experts from the National Food Chain Safety Office (NFC SO). The real customs value of the shipment exceeded USD 240 000. The retail value of the genuine pesticide would exceed USD 1 million. In addition, OLAF also contributed to stopping another suspicious shipment of 5.4 tons of pesticide (thiacloprid) initially transported under a customs transit regime from Turkey to Germany and later on from Germany to Czechia.

Joint Border Control Operation (JBCO) Janus was co-organised by the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) and OLAF. The operation targeted the smuggling of tobacco products at the EU Eastern border and resulted in the seizure of more than seven million cigarettes.

Joint Action Hansa, an operation driven by United Kingdom customs in co-operation with Europol, targeted the internal movement of illegal excisable goods, mainly cigarettes. The action resulted in the seizure of 41 million cigarettes and 11.5 tons of raw tobacco.

JCO Marco was a regional maritime surveillance operation coordinated by French customs, which targeted the detection of illicit trafficking of sensitive goods by sea, in the area of the Atlantic.



Data analysis to facilitate the work of customs authorities

During 2018, OLAF started a Hercule III-funded project, working with the European Commission's Joint Research Centre, to support and facilitate the analytical work of customs services in Member States in order to effectively and efficiently use data and analytical approaches to address fraud in the customs area.

Activities in this first year focused on establishing a community of practice among Member States' customs and included a consultation on needs and priorities, two workshops to discuss current practices and agree on areas of interest and five visits to Member States to share information about their analytical projects and associated challenges.

The positive feedback from the community clearly showed that this project has already had a positive impact in strengthening the know-how and collaboration among experts. The findings affirm that customs fraud, notably in the context of e-commerce, remains a priority for all EU customs administrations, some of whom address this priority by investing substantial resources in data analysis and obtain important results. On the other hand, organised crime groups are involved in some areas of customs fraud and often their illegal activities span several risk areas (undervaluation, mis-declaration of origin, mis-description of goods, illicit tobacco, etc.), they act in multiple Member States and exploit the structure of the EU single market. This project will be continued in 2019 with focus on specific research projects and support activities discussed and agreed with Member States' customs.



2.3. OLAF's investigative mandate within the EU institutions

OLAF has a unique mandate to carry out internal investigations into the EU institutions, bodies, offices and agencies for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office investigates serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of EU officials liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of Members of institutions and bodies. Indeed, any perceived lack of integrity within the institutions presents a reputational risk not only to the institutions themselves, but also to the European project as a whole. OLAF also works with the EU institutions and bodies to help them detect, prevent and address any such possible cases.



For example, an OLAF investigation concluded in 2018, revealed that a former Member of an EU Institution carried out many “missions” which were not related to the performance of his/her duties, and used the institution’s funds for representation expenses and for private events. The initial allegations were submitted to OLAF by the EU Institution in question. The investigation also established that the Member was absent from the institution for 128 days without any justification and that the fuel cards, put at the Member’s disposal, were also used for activities that were not linked to the fulfilment of his/her mandate. The use of the institution’s resources for private purposes is not in compliance with the applicable financial rules and ethical guidelines.

In this light, OLAF recommended disciplinary measures and the recovery of more than EUR 500 000.

In addition, OLAF issued a judicial recommendation taking into account that the Member deliberately misrepresented the private nature of at least five significant missions. These facts may constitute a criminal offence pursuant to the applicable criminal law and OLAF issued a corresponding judicial recommendation.

The investigation revealed that the Member failed to declare his/her external activities related to the management board of a national political party and his/her position as managing director of a real estate company. The Member also transmitted confidential special reports to unauthorised persons.

In 2018, OLAF also dealt with a significant number of cases related to EU Agencies as well as to Delegations to third countries.



One OLAF investigation stemmed from an anonymous source reporting the alleged misconduct by the Executive Director of an EU Agency. The allegations referred to irregularities in procurement procedures and to alleged mismanagement of financial and human resources.

OLAF investigators looked into specific cases of procurement where exception procedures were used despite the fact that the conditions for their use were not met. OLAF established that the Executive Director failed to ensure that specific procurement procedures were conducted in line with the principles of sound financial management, open competition and transparency. This

Figure 7: Investigations into EU staff and members of the institutions concluded in 2018

Institution, body office, agency	Cases concluded	
	Total number	of which, concluded with recommendations
European Commission	9	7
European Parliament	8	2
Agencies	5	3
European Court of Justice	1	1
European Court of Auditors	1	1
European External Action Service	2	2
Committee of the Regions	1	1
Total	27	17

resulted in an unjustified expenditure for the Agency and exposed the Agency to a high risk of litigation.

OLAF also examined specific cases of expenditure, including settlement agreements with Agency staff members. These were found to be excessive, inappropriate, against the interests of the Agency and against the sound financial management principle.

In relation to the mismanagement of human resources, OLAF established that the Executive Director abused his position as line manager in relation to recruitment procedures, termination and non-extension of contracts, working conditions, task assignments and non-respect of the positions of his line managers.

In his behaviour towards members of staff, the Director undermined the personal and professional dignity of those who raised concerns in relation to the regularity and appropriateness of his decisions.

In light of the OLAF investigation and mounting pressure from the staff of the Agency, the Executive Director resigned from his position, which was welcomed by the Management Board of the Agency. OLAF recommended the recovery of a substantial amount from the Executive Director and invited the Agency to determine other specific amounts resulting from unjustified expenditure. OLAF addressed recommendations for disciplinary action to the Agency's Management Board concerning its former Executive Director. Recommendations were also issued against several members of staff.





3. Focus chapter: OLAF protects EU money from the claws of organised criminals

In recent years, OLAF investigations have become more and more complex. Instead of localised fraud, set in one region or country, OLAF investigators are faced with increasingly transnational cases, with fraudsters operating across several Member States and sometimes beyond them. Organised criminals defraud EU funds and abuse EU and national rules by hiding their tracks and activities around Europe. They skillfully exploit every possibility to try to appropriate EU funds by manipulating procurement procedures, receiving agricultural grants for plots of land they did not farm, or misdeclaring imports to avoid paying customs fees. In this chapter, we will delve deeper into the workings of organised criminals attempting to steal EU money and show you how OLAF goes after these groups across EU borders. OLAF intervention is frequently the only chance that Europe has to protect its money and ensure EU funds go to legitimate projects which improve the lives of European citizens. Work begins often by detecting situations that look suspicious only if seen from a cross-border perspective. OLAF can put together information and data that would not

necessarily appear illegal if looked at from a national perspective only.

3.1. Fraud in the promotion of agricultural products

In the past years, OLAF investigators have been dealing with an increase in a subset of cases - those of alleged fraud in the promotion of EU agricultural products. Fraudsters try to circumvent EU rules by setting up fake companies to act as bidders in tender procedures or to pretend to supply services or to help inflate invoices. Defrauded funds are then laundered through bank accounts, usually in third countries.



For example, OLAF concluded a string of investigations relating to the same perpetrators who were applying similar methods to defraud EU funds in a large number of



Figure 8: Four-Step EU Funds Fraud



projects aimed at promoting EU dairy products in Europe and in third countries. The perpetrators, operating through a Brussels-based company and via a network of shell companies, would approach trade associations in the Member State offering to help them secure EU funding – a “turn-key” solution for the successful approval of their proposals, as well as practical support for their future implementation. The fraudsters would even go as far as to lend the “applicants” the 20% co-funding contribution of the beneficiary and the related 15% performance guarantee required by the relevant legislation. In this manner, some agricultural producers’ associations obtained EU funding to organise and implement promotion activities of agricultural products in Europe and in third countries such as the United Arab Emirates, Russia, Australia, Kazakhstan, and Ukraine. The fraudsters would then create a circle of shell companies under their control, to fulfil the roles of tenderers, suppliers and implementing body for the beneficiaries.

Through more than 30 on-the-spot checks in different Member States, as well as interviews with witnesses and persons concerned and forensic data acquisition, OLAF investigators got to the bottom of the case. They discovered that the fraudsters were colluding with the beneficiaries and other commercial partners and manipulating tender procedures by using misleading documents and resorting to kick-back payments. These fraudsters would then use shell companies, which had neither operating premises nor employees, in order to inflate prices for services

that were only partly, or sometimes never delivered. Money was then laundered through bank accounts in Europe and in third countries such as Ukraine and the British Virgin Islands. In particular, with the support of the Belgian national authorities, OLAF was able to uncover that one of the persons concerned received high amounts in his bank accounts, which he transferred almost immediately, without any kind of economic justification or business purposes.

OLAF’s investigations were concluded with financial recommendations to the European Commission Directorate-General for Agriculture and Rural Development to recover EUR 7.7 million and prevent the disbursement of an additional EUR 7.3 million, and judicial recommendations to the Prosecutor’s Offices of Brussels and Sofia.

3.2. False farmers and ghost herds

When it comes to fighting complex fraud cases perpetrated by highly-organised criminals, experience comes in handy. OLAF investigators are not only dedicated, they also have years of practice behind them. This helps them quickly identify patterns and apply the knowledge they have gathered to not only solve cases quicker, but to identify new potential areas of fraud.

As outlined in last year’s report, for example, OLAF has looked into suspected fraud involving ineligible applications for EU agricultural subsidies in Italy. This became known as the “False farmers” case, as fraudsters



had submitted aid applications under the names of deceased persons, with false lease contracts and using land that was ineligible for agricultural subsidies. In this instance, OLAF and the Italian law enforcement authorities uncovered not only a very elaborate and wide-ranging fraud scheme, but also possible links to Mafia organisations.

Fearing that the same fraud pattern could have been used by criminals in other European countries, investigators looked everywhere in Europe. Their instincts were right, as it became clear that this “False farmers” scheme has been exported beyond the borders of Italy.



For example, OLAF has been looking into systematic abuses regarding direct payments to individual farmers in France.

OLAF investigators discovered claims for EU support for large and remote plots of land that were not actually farmed, claims for plots of land belonging to other individuals who had not granted appropriate permission, the so-called “agro-pirate” cases, or for “ghost-herds”, which are animals that were never properly identified and unlikely to exist. OLAF also uncovered claims for EU support for plots of land where no entitlements for farming could be provided

by the beneficiary or simply claims for plots that were not even farmed.

In the course of one investigation, OLAF discovered that claims were submitted for several years in Corsica for parcels of land in mountainous areas without any suitable infrastructure that would allow for farming, such as access track, water supply, corrals or feeding facilities. Fraudsters also submitted applications for parcels of land despite the fierce opposition of the legitimate owners, or for herds which were not properly tagged or even non-existent.

In another investigation, OLAF could identify an application for payment submitted by a full-time hairdresser for very steep cliffs where no animal had ever set foot. Still another application was submitted by a farmer for a tiny parcel of land belonging to the managing authority itself.

OLAF investigators conducted interviews with the persons concerned, carried out on the spot checks and held numerous operational meetings with the Directorate-General for Agriculture and Rural Development (DG AGRI) and the national managing authorities, external services of the Ministry of Agriculture, judicial authorities and the police.

As a result, investigators not only uncovered several fraud cases, but also put together evidence that the complexity of the successive layers of

legislation applicable to agricultural payments, updated annually, was an important factor in creating legal uncertainty and led to difficulties in properly implementing, monitoring and controlling where the money goes exactly.

OLAF concluded its investigation with a financial recommendation to the Directorate-General for Agriculture (DG AGRI) for the recovery of roughly EUR 536 000, as well as with an administrative recommendation to improve the management system of direct subsidies in Corsica, in order to prevent further abuses. OLAF's investigation also triggered an audit by DG AGRI, additional targeted inspections by national authorities and various expert missions by the French General Inspectorates.



Claiming EU funds for plots of land is not the only way organised criminals try to pocket EU cash. OLAF investigators have also noted an increase in cases where several entities act in a concerted manner in order to fraudulently access EU funds. OLAF discovered that established agricultural operators in Bulgaria, who were past beneficiaries of EU agricultural funds, attempted to expand their operations and holdings by creating and using new, and seemingly independent, operators.

The fraud scheme operated in the following manner: an established known operator reaches the limit for the total eligible cost for EU financial support for his holding or group of holdings. As a result, this operator cannot legitimately obtain further funding to expand his business. Instead, other "independent"

entities, which are actually under the control of the initial operator, apply and obtain EU funds.

The new "independent" operators are either set up especially for this purpose, or they already exist through a creative legal restructuring that makes them appear like they are not under any formal control. In reality, they are managed by the operator: they usually share an equity provider, guarantor, creditor or landlord, and they have an identical or complementing core business. Also, many times, the physical location of their holding, the address for correspondence and their choice of suppliers and outlets are the same as that of the established operator.

This type of fraud is not only damaging for EU financial interests, but it also distorts free and fair competition, prevents the growth of agricultural operators and stems private initiatives. The combined financial impact of the cases OLAF has analysed so far is roughly EUR 10 million.

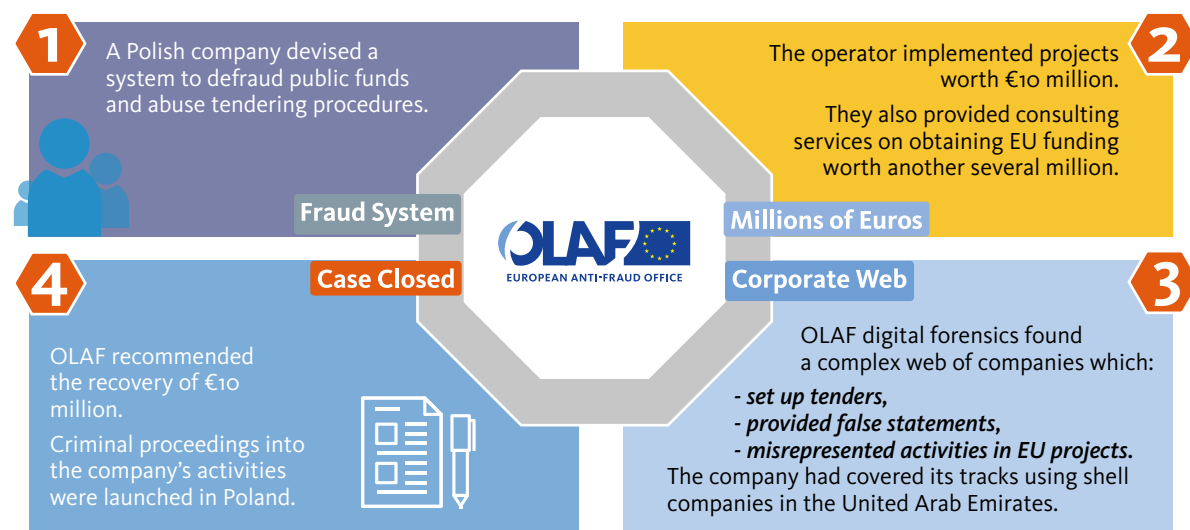
3.3. Organised crime in IT projects



Some criminals go to great lengths to pocket EU cash. OLAF discovered that an economic operator in Poland had devised a whole system aimed overwhelmingly and increasingly at defrauding public funds and systematically abusing tendering procedures.

OLAF investigators found out that the economic operator had implemented 10 projects with an overall

Figure 9: Fraud in the IT field





value of about EUR 10 million, and which were likely to have been affected by fraud or irregularities. Most of the funds went towards IT-centred work, including projects concerning the creation or the acquisition of software. In addition, OLAF realised that the economic operator provided consulting services on obtaining EU funding, which meant that dozens of additional EU co-funded projects, worth millions of euros in public funding, could be affected by fraud as well.

Given the vast scope of the company's activities, OLAF decided that only a complex digital forensic analysis would give investigators the possibility to determine whether the activities were fraudulent and to reconstruct the whole picture of the fraud.

Following the analysis of the data, OLAF uncovered an intricate fraud scheme, conducted with the involvement of many employees. Investigators discovered an orchestrated system of companies which systematically rigged tenders, provided false statements of facts towards managing authorities, misrepresented the activities conducted within EU co-funded projects and led external stakeholders into committing irregularities or fraud. The group consisted of companies which were formally independent but in reality formed one economic body. Additional companies owned by employees of the economic operator and collaborating third party economic operators completed the picture. The existing connections between the companies were concealed from the Polish authorities through the use of shell companies from the United Arab Emirates. The apparent suppliers employed the same staff as the person concerned or provided paper services to the person concerned in order to circulate the money.

OLAF concluded its investigation with a financial recommendation to the Directorate-General for Regional and Urban Policy and a judicial recommendation to the Polish General Prosecutor. Criminal proceedings into the company's activities were launched in Poland.

3.4. OLAF stops organised crime group trying to pocket money for refugee camps

With conflicts in Syria and in many other parts of the world forcing millions of people to flee their homes and to seek refuge elsewhere, the European Union stepped up its efforts as a leading donor, providing emergency assistance, such as medical and food aid, water and shelter. However, reports started coming in that several refugee centres were badly maintained and that the conditions did not live up to the standards of funding provided. OLAF started looking into the matter, to ensure that there is no foul play. An investigation OLAF concluded into a project financed by the European Refugee Fund (ERF) for the management of accommodation centres for asylum seekers and refugees in Italy revealed that the situation was dire.



Not only did OLAF's investigation uncover irregularities in the execution of the public procurement and little control over the implementation of the project, but it also exposed outright fraud in declaring the quantity of meals supplied to the asylum-seekers, refugees and people in need accommodated at the centres, who were often left starving or nourished with food products bordering the limits of edibility. OLAF's investigation also unveiled connections among companies, interaction with criminal organised groups and serious crimes aimed at manipulating public procurement and illegally obtaining public funding. In particular, OLAF uncovered that the awarding body delegated the execution of the entire project to its local partner, in breach of public procurement rules, withholding a lump-sum of 5%. The two bodies had entered into a private agreement that was never notified to the contracting authority, which therefore could not perform the necessary checks. Several breaches of the Italian Public Procurement Code were detected, which ultimately led to the violation of traceability of financial flows, including the required anti-mafia checks. The competent Anti-Mafia Public Prosecutor's Office of Cantazaro in Italy has launched an investigation against 84 persons concerned, as it is believed they could be linked to mafia groups.

OLAF investigators conducted on-the-spot checks, held coordination meetings and cooperated with the local Unit of the Guardia di Finanza, the competent Italian judicial authorities, and received



significant technical support from the Italian National Anticorruption Authority.

As a result, OLAF recommended that the Directorate-General for Migration and Home Affairs (DG HOME) of the European Commission exclude from funding nearly EUR 1.2 million, the full amount of the EU contribution, and issued a judicial recommendation to the competent District Anti-Mafia Directorate to take into consideration OLAF's findings in the framework of the ongoing criminal proceedings.

3.5. OLAF tackles VAT fraud with high-value electronics

VAT fraud is a major problem throughout the EU. While trade facilitation regimes allow for VAT to be paid in the Member State the goods are destined for, this can be abused by fraudsters to avoid paying duties altogether. Criminals come up with complex carousel schemes, whereby the same goods are bought and resold several times via middlemen. Each time, the amount of tax owed increases but the company either disappears or becomes insolvent before the tax authority can collect

the accumulated VAT. The fraudulent financial profits from these schemes are then often laundered.

OLAF is mandated at European level to protect the financial interests of the EU from fraud. In this context, in 2018, OLAF supported the efforts of Italian and Romanian law enforcement officials in putting an end to a fraudulent pattern involving high-value electronics.



Working together, the Romanian National Anti-corruption Directorate (DNA), the Italian Guardia di Finanza and OLAF

discovered that a complex carousel fraud scheme was set up to evade VAT duties on the sale of electronic devices. Fraudsters would avoid paying VAT to Italian authorities using shell companies throughout Europe and foreign bank accounts to hide their identity. The amount of evaded VAT is estimated at around EUR 30 million.

OLAF supported the Italian Prosecutor by liaising with the Romanian authorities and alerting them to the fact that the fraudsters were using Romanian frontmen and companies. In October 2018, the three bodies organised a joint operation in which they searched the homes and offices of several individuals



Figure 10: Carousel fraud to evade paying VAT



in Romania. Eight persons suspected of being part of a transnational organised criminal group have been interviewed by law enforcement officials.

A European Investigative Order was addressed by the Italian Prosecutor to the Romanian judicial authorities. Romanian magistrates consequently allowed Italian Guardia di Finanza officers to carry out joint searches in Romania, together with the DNA. OLAF investigators participated in the operation on the ground.

3.6. Further successes in string of undervaluation cases

For the past several years, OLAF has been fighting a very particular type of fraud - the undervaluation of textiles and footwear entering the European Union and going through customs clearance in several Member States, such as the United Kingdom, Slovakia, Czechia and Greece. While several EU customs procedures allow

importers to clear their goods at the customs point of their choice, rather than at the point of entry into the customs territory, organised criminal networks are apt at identifying those entry points where they perceive the controls to be more lax.

This was clearly evident throughout 2017 and 2018 with a substantial increase in the volume of such goods being brought into countries like Greece and Hungary, and a corresponding decrease in the volumes that were being declared for import into the Member States that had been previously targeted, but where authorities had taken action. OLAF's investigation uncovered a direct correlation between implementing risk profiles, which prompt customs officers to deal with the risk indicated, such as to physically examine a container or to check the customs declaration and accompanying documents, and diminishing traffic.

The latest in these undervaluation cases was concluded concerning the fraudulent import of textiles and shoes into Greece between 1 January 2015 and 31 May 2018.

OLAF carried out an extensive analysis of all customs declarations presented in Greece for all imports of textiles and shoes from China between 2015 and 2018. As a result, OLAF found that there was organised and systematic fraudulent undervaluation of these products at import in the period concerned in Greece.

Based on its findings, OLAF issued a financial recommendation to Greek customs to recover the sum of EUR 202.3 million in lost customs duties. In concluding the case, OLAF also sent a judicial recommendation to the Office of the Public Prosecutor against Financial Crimes in Greece asking it to take OLAF's findings into account in its ongoing separate judicial investigations into particular cases of such fraudulent imports into Greece.

The closure of this case brings the total number of undervaluation cases that OLAF has concluded in the past two years to six. In these six cases combined, OLAF has made financial recommendations totalling over EUR 2.5 billion amounting to the customs duties

denied to the EU budget. The associated estimated financial losses in VAT payments, which would be due to national budgets and part of which would also be due to the EU budget, are of an even greater amount.

This string of cases uncovered by OLAF shows that organised networks of fraudsters are targeting the EU as a whole by selecting those entry points where they perceive the entry to be easier at one particular time. Both the Member States and the EU as a whole are victims of this organised crime. There is a clear need for more cooperation between customs offices in the Member States in order to deal in a coordinated way with these criminal networks.

OLAF continues to work closely with the various services of all Member States affected by this irregular trade. Such work comprises ongoing investigations, early warnings and alerts to Member States in relation to surges in suspicious trade flows, precautionary measures to be taken by Member States and other actions designed to combat this large-scale organised fraud.





4. OLAF on the European and international scene

4.1. OLAF relations with its partners

Both from an investigative and policy-making perspective, the work carried out by OLAF can only lead to tangible results on the ground if the Office succeeds in joining forces with other European and international institutions to engage in the global fight against fraud and corruption. In 2018, OLAF continued to develop existing partnerships and to enter into arrangements with new partners worldwide.

A. ADMINISTRATIVE COOPERATION ARRANGEMENTS AND INTERNATIONAL EVENTS WITH KEY PARTNERS

Administrative Cooperation Arrangements (ACAs) are instrumental in helping OLAF to foster close relations with investigative bodies and other non-investigative partners engaged in the fight against fraud. In 2018, OLAF concluded two ACAs with international partners, namely the African Development Bank and the Office of the Inspector General of the U.S. Agency for International Development (USAID).

OLAF stepped up its international engagement by organising several events with partner authorities, such as the Anti-Fraud Coordination Service (AFCOS) seminar in the Western Balkans, and the anti-fraud workshop with competent Ukrainian authorities.

In addition, OLAF participated in numerous international events, such as the annual conference of the European Partners against Corruption/European Anti-Corruption Contact-point Network (EPAC/EACN), the Forum of General Inspections of African States (FIGE), the Conference of International Investigators (CII) and in the meeting of the Syria Investigations Working Group, which comprises national and international authorities providing humanitarian assistance to Syria.

B. ADVISORY COMMITTEE FOR COORDINATION OF FRAUD PREVENTION (COCOLAF)

OLAF steers and chairs the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), composed of representatives of Member States' authorities. The 2018 annual COCOLAF meeting provided an opportunity to exchange views on the main developments in the fight against fraud and the preparation of the Article 325 TFEU Report on the "Protection of the European Union's financial interests — Fight against fraud 2017".

In 2018, the specific COCOLAF subgroups worked on:

- discussing OLAF cooperation with AFCOS, both from an investigative and from a policy perspective;
- exchanging best practice and developing a common framework for fraud prevention and detection;
- sharing the results of analyses about main fraud and irregularity trends and patterns and working on developing a "Methodology for country profiles in the anti-fraud area";
- sharing media strategies and organising communication activities on fraud prevention and deterrence.

C. MUTUAL ASSISTANCE AND ANTI-FRAUD CLAUSES IN INTERNATIONAL AGREEMENTS

Cooperation with third countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance in customs matters. Such agreements provide the required legal basis in the context of Article 19 of Regulation 515/97 for the exchange of information with third countries on fraud or irregularities. Agreements with more than 80 third countries are currently in place, including with major EU trade partners, like the US, China or Japan. In 2018, the agreement with New Zealand entered into force. In addition, negotiations have been finalised with Mercosur (Argentina, Brazil, Paraguay and Uruguay).



OLAF Director-General Ville Itälä chairing AFCOS 2018 meeting

and Chile, and are ongoing with Australia, Indonesia, Uzbekistan and Kyrgyzstan.

These free trade agreements usually contain an anti-fraud clause which allows for a temporary withdrawal of tariff preference for a product in cases of serious customs fraud and a persistent lack of adequate cooperation to combat it. OLAF represents the EU in negotiations of the clause. In 2018, negotiations on the clause were completed with Mexico and Mercosur, and good progress was made in ongoing negotiations with Australia, Chile and Tunisia. Discussions with Andorra on strengthening its tobacco control framework also moved forward.

Since February 2017, Article 12 of WTO Trade facilitation Agreement (Bali Agreement) has provided for an additional possibility to exchange information with third countries with the purpose of verifying an import or export declaration where there are reasonable grounds to doubt the truth or accuracy of the declaration. At the end of 2018, the WTO Agreement counted 139 members. OLAF is monitoring progress in implementing this article.

4.2. The Hercule III Programme: a key tool in supporting the fight against fraud across the EU

OLAF is responsible for the management of the Hercule III Programme which supports actions and projects that aim to protect the financial interests of the EU. The Programme has a budget of over EUR 100 million for the period 2014-2020. It is implemented on the basis of annual work programmes setting out the budget and the funding priorities for a given calendar year. The annual work programme for 2018 made a budget of EUR 15.35 million available for the purchase of, for example, specialised technical equipment by law enforcement agencies in the Member States, such as customs or police forces. The financial support was used for the purchase of a wide range of technical equipment, like scanners used in harbours or airports, digital forensic software and hardware, or for the purchase and training of sniffer dogs. The law enforcement authorities were also assisted in their operations and investigations through procured



access to commercial databases. The Programme also supported conferences, seminars and training events attended by staff of national administrations, law enforcement agencies and NGOs in order to strengthen mutual cooperation or the exchange of best practice. The Programme also funded two sessions of digital forensics and analysis training aimed at improving the skills of anti-fraud professionals in collecting, securing and analysing evidence from digital devices.



Vehicle scanner purchased by Finnish customs through the Hercule Programme managed by OLAF

5. Monitoring the actions taken by the recipients of OLAF recommendations

5.1. Financial monitoring

OLAF INVESTIGATIONS LEAD TO SIGNIFICANT FINANCIAL RECOVERIES

Financial recommendations are addressed by OLAF to the EU institutions or national authorities providing or managing EU funds. The aim of such financial recommendations is to seek the recovery of defrauded EU funds to the EU budget. The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that given year. The amount of recommended recoveries is therefore not an indication of the overall fraud level in Europe, but relates to specific investigations OLAF has finalised in a particular year.

As a result of the investigations it concluded in 2018, OLAF has recommended the recovery of EUR 371 million to the EU budget.

It is worth highlighting that OLAF is not itself responsible for the recovery of these funds. Relevant authorities at EU and Member State level can retrieve this money from the beneficiaries of the funds, national managing authorities or paying agencies in a number of ways, including direct recovery, offsetting, deduction, de-commitment, programme closure or clearance of accounts.

FINANCIAL IMPACT OF OLAF'S INVESTIGATIONS IN THE OVERALL DETECTION OF IRREGULARITIES ACROSS EU

Member States are responsible for most of EU spending and they also manage the collection of the EU's customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and supports them through an active exchange of information and via targeted trainings.

Under sectoral regulations, Member States have to report any irregularity or suspicion of fraud⁽¹⁾ they detect exceeding EUR 10 000 to the European Commission. An analysis of these data is compiled in the Commission's Annual Report on the protection of the EU financial interests (the so-called "PIF Report").

In parallel with data concerning Member States' detections, OLAF also gathers data on the number of investigations it has concluded and which have led to financial recommendations.

In recent annual Reports, OLAF presented a comparative analysis in the areas of Traditional Own Resources (TOR) and shared management, providing an overview of the number of fraudulent and non-fraudulent irregularities detected by national authorities, compared to the financial recommendations issued by OLAF in the same areas. In this year's Report, the analysis covers

Figure 11: Amounts recommended by OLAF for financial recovery in 2018 (in million euros)

	2012	2013	2014	2015	2016	2017	2018
Amounts recommended	284	403	901	888	631	3 095	371

(¹) A case can be defined as fraud only after a definitive sentence is issued by a competent judicial authority. This can take a few years following the detection and reporting of the case to the Commission.



a period of five years, from 2014 to 2018. The impact of investigations is shown as a percentage of the total Traditional Own Resources that authorities have collected for the years 2014-2018 and as a percentage of the total payments made under the two main areas of shared management by each Member State. The results obtained by OLAF during the same period are presented next to those of national authorities².

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States.

Figure 12 shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources between 2014 and 2018 and the percentage that their financial impact represents in terms of the gross TOR collected by Member States and made available to the EU budget. OLAF results are shown alongside those of national authorities.

Figure 13 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management, European Structural and Investment Funds and Agriculture, from 2014-2018 and their financial impact expressed as a percentage of the total payments for the years 2013-2017, divided by Member State. OLAF results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations are making in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent. In terms of Traditional Own Resources, OLAF financial recommendations would represent 2.67% of the gross TOR collected, compared to 2.05% for all Member States together. This means that, for this period, OLAF financial recommendations exceed the entire financial impact of the investigative and control activities of the Member States. The OLAF results are significantly influenced by the conclusion of a string of investigations linked to the undervaluation of imported goods. These results also highlight OLAF's commitment to utilising resources effectively and concentrating on cases where its input would bring most added value.

OLAF results are also significant in the shared management areas, where the financial impact of the activities of all Member States together accounts for 2.01% of payments, while OLAF alone recommended the recovery of 0.45% of payments. In this area, OLAF financial recommendations would represent 18%-22%³ of the entire impact of investigative and control activities. There are particular countries where the financial impact of OLAF cases is particularly significant and, at times, even higher than that of national investigations.

⁽²⁾ Results by the Member States and OLAF may partially overlap. OLAF results are extracted from the OLAF Case Management System, and represent the total sum of financial recommendations issued at the end of the investigations. Data concerning Member States is extracted from the Irregularity Management System (IMS) for the two expenditure areas and from the OWNRES system for TOR. Data used in this report needs to be considered as provisional. Final data is published in the "Report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests — Fight against fraud" which will be published in September 2019.

⁽³⁾ The range has been calculated assuming, for the lower limit, that OLAF results are not included in those reported by the Member States, while for the highest limit, the assumption is the opposite - that OLAF results are fully included in those reported by the Member States.

Figure 12: Member State/OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2014-2018

Traditional Own Resources (TOR) 2014-2018				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % TOR collected
	N	%	N	%
Austria	320	2.69%	8	0.23%
Belgium	1 092	0.95%	28	0.58%
Bulgaria	94	0.78%	15	1.08%
Croatia	72	1.63%	5	0.12%
Cyprus	32	0.63%	10	0.45%
Czechia	420	2.25%	17	1.34%
Denmark	353	1.60%	15	0.49%
Estonia	40	1.59%	5	0.12%
Finland	176	1.24%	7	0.11%
France	1 733	2.45%	23	0.34%
Germany	9 279	2.17%	36	0.23%
Greece	224	6.84%	18	22.13%
Hungary	167	1.56%	12	0.14%
Ireland	166	1.25%	5	0.06%
Italy	668	1.05%	33	0.20%
Latvia	118	4.40%	9	1.40%
Lithuania	224	2.54%	13	0.94%
Luxembourg	0	0.00%	0	0.00%
Malta	13	3.68%	3	1.24%
Netherlands	2 331	3.34%	45	1.80%
Poland	756	0.91%	21	0.45%
Portugal	172	3.23%	18	0.87%
Romania	282	2.78%	26	1.09%
Slovakia	85	0.78%	9	50.11%
Slovenia	57	0.76%	11	0.33%
Spain	1 614	2.22%	34	0.79%
Sweden	587	0.93%	14	0.29%
United Kingdom	4 624	2.18%	40	10.96%
Total	25 699	2.05%	480	2.67%



Figure 13: Member State/OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and Agriculture for the period 2014-2018

Shared Management: Cohesion and Natural Resources 2014-2018				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	370	0.37%	2	0.02%
Belgium	315	0.46%	1	0.02%
Bulgaria	1 072	1.92%	27	0.42%
Croatia	189	0.95%	2	0.34%
Cyprus	82	0.74%	0	0.00%
Czechia	2 665	2.86%	7	0.06%
Denmark	144	0.27%	0	0.00%
Estonia	412	1.58%	0	0.00%
Finland	155	0.12%	0	0.00%
France	1 291	0.30%	10	0.01%
Germany	1 567	0.31%	4	0.37%
Greece	2 206	2.50%	17	0.31%
Hungary	2 886	1.31%	52	3.84%
Ireland	1 120	1.88%	0	0.00%
Italy	4 117	1.33%	21	0.35%
Latvia	517	2.36%	1	0.01%
Lithuania	1 110	2.05%	3	0.11%
Luxembourg	2	0.02%	0	0.00%
Malta	91	2.53%	0	0.00%
Netherlands	777	0.79%	4	0.04%
Poland	5 103	1.89%	22	0.12%
Portugal	2 723	2.04%	10	0.42%
Romania	5 563	3.23%	66	0.40%
Slovakia	1 649	19.29%	14	2.29%
Slovenia	261	1.59%	1	0.14%
Spain	10 995	3.31%	7	0.43%
Sweden	175	0.20%	0	0.00%
United Kingdom	2 596	0.57%	6	0.05%
Total	50 153	2.01%	277	0.45%

5.2. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcome of its cases, be it indictments, dismissals or other judicial measures, if any.

According to Article 11 of Regulation No. 883/2013⁴, at the request of the Office, the national judicial authorities concerned must send OLAF information on the action taken on the basis of its judicial recommendations.

Based on the monitoring carried out in 2018, OLAF noted that around 36% of the cases it submitted to national judicial authorities have led to indictments.

While judicial authorities are independent and while the legal architecture may vary at Member State level, OLAF has worked on understanding the reasons why national judiciaries dismissed some of the cases OLAF had submitted.

While it is not for OLAF to question the validity of national prosecutors' decisions to dismiss individual cases on particular grounds, it appears that article 11 paragraph 2 of Regulation 883/2013 is not a sufficient legal basis to allow all Member States' judicial

authorities to use OLAF reports as evidence in trial. Therefore, in numerous Member States, after receiving the OLAF final report, prosecutors carry out all the investigation activities once again in order to acquire admissible evidence.

Sometimes, despite considerable investigative efforts deployed by the Office, its limited investigation powers and practical possibilities do not allow to collect conclusive evidence of a criminal offence.

As regards internal investigations, whereas for OLAF any infringement committed by EU staff is regarded as a very serious matter, irrespective of the prejudice to the EU budget, the priorities of the national judiciaries may be different.

Finally, there are sometimes differences of interpretation of EU and national law between OLAF and national authorities. In 2016, OLAF started to address these differences, through bilateral meetings with the relevant judicial authorities. This work continues to date. OLAF liaises with Member States on an ongoing basis in order to improve follow-up at national level.

⁽⁴⁾ Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation



Figure 14: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2012 and 31 December 2018

Member state	No decision taken by JA* so far	Decision taken by JA			Indictment rate
		Total	Dismissed	Indictment	
Austria	2	4	3	1	25%
Belgium	11	20	11	9	45%
Bulgaria	9	13	12	1	8%
Croatia	3	2	1	1	50%
Cyprus	3	2	2	0	0%
Czechia	4	7	6	1	14%
Denmark	1	3	2	1	33%
Estonia	0	2	1	1	50%
Finland	1	3	3	0	0%
France	11	4	3	1	25%
Germany	14	19	15	4	21%
Greece	16	10	2	8	80%
Hungary	20	20	11	9	45%
Ireland	1	2	2	0	0%
Italy	21	23	12	11	48%
Latvia	1	4	3	1	25%
Lithuania	2	6	2	4	67%
Luxembourg	5	7	4	3	43%
Malta	1	5	0	5	100%
Netherlands	5	13	8	5	38%
Poland	14	9	2	7	78%
Portugal	6	8	5	3	38%
Romania	20	84	59	25	30%
Slovakia	5	12	9	3	25%
Slovenia	3	1	0	1	100%
Spain	10	17	11	6	35%
Sweden	0	3	2	1	33%
United Kingdom	19	16	12	4	25%
Grand Total	208	319	203	116	36%

* In the category of no decision taken, we include also those cases that are still in the so-called "reporting period". When OLAF sends a judicial recommendation to a Member State, the competent authority has to report on the actions taken following the recommendation within 12 months.

5.3. Disciplinary monitoring

EU INSTITUTIONS TAKE ACTION TO FOLLOW UP ON OLAF'S INTERNAL INVESTIGATIONS

The disciplinary recommendations issued by OLAF concern serious misconduct of EU staff or members of the EU institutions and are directed to the authority

having disciplinary powers in the institution concerned. When making such recommendations, OLAF does not specify the type of action that should be taken. The appointing authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the appointing authority may join several recommendations resulting from different investigations and, subsequently, impose one single sanction.

Figure 15: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2016 and 31 December 2018

Recipient of recommendation	Total	No decision taken so far	Decision taken	
			No case is made	Action taken
Agencies	9	0	4	5
Committee of the Regions	1	1	0	0
Council of the European Union	1	0	0	1
EULEX Kosovo	1	0	1	0
European Commission	18	6	5	7
European Court of Auditors	2	0	0	2
European Court of Justice	2	1	1	0
European Economic and Social Committee	1	0	1	0
European External Action Service	3	1	0	2
European Investment Bank	1	0	0	1
European Parliament	7	4	0	3
Total	46	13	12	21



6. Policies to fight fraud

In addition to its investigative work, OLAF plays an active role in the development of the anti-fraud policies of the European Union. The Office is regularly at the forefront of drafting and negotiating legislative texts concerning the protection of the EU's financial interests against fraud and corruption. It is thanks to its solid investigative expertise that OLAF can support the EU institutions in furthering a sound legal framework to protect the EU budget and taxpayers' money.

6.1. Improving fraud prevention and detection at EU level: the new Commission Anti-Fraud Strategy of 2019

The Commission's Corporate Governance Package⁵ of 21 November 2018 highlighted the need to improve the EU institutions' knowledge of the main causes of fraud, as well as of the newest trends in this domain. It called for strengthening the corporate oversight of the fight against fraud in the Commission services.

From a longer-term perspective, the fight against fraud needs to meet emerging challenges under the coming multiannual financial framework (MFF) 2021–2027. This will require a new, enhanced approach to preventing, detecting and investigating fraud at EU level.

This is why, throughout 2018, OLAF worked with Commission Directorates-General and executive agencies on a revision of the Commission's Anti-Fraud Strategy. The new Strategy was adopted in April 2019.

The new Commission Anti-Fraud Strategy (CAFS) is based on an evaluation of the prior Strategy in place since 2011, as well as on a fraud risk assessment that was carried out by OLAF with the active involvement of Commission departments and Executive agencies. Such departments and agencies are responsible for their own internal control systems and are thus in the frontline

of the fight against fraud. The evaluation highlighted in particular the need to adapt to an evolving situation (new funding schemes, new fraud trends, development of IT tools, etc.). The 2019 CAFS also takes into account recommendations made by the European Court of Auditors in its Special Report 01/2019 "Fighting fraud in EU spending: action needed" (published on 10 January 2019)⁶.

The two priority axes of the 2019 CAFS aim at strengthening the Commission's capabilities in the strategic analysis of fraud data and OLAF's role in coordinating fraud risk management by Commission services and executive agencies.

Coherence between the anti-fraud strategies of Commission Directorates-General will be ensured in the future through mandatory quality control by OLAF. As a new task, OLAF will also monitor the implementation of anti-fraud strategies at service level.

Reliable, complete and accurate data and their analysis form the basis of well-grounded policy-making. OLAF already collects and analyses data on fraud and other irregularities, notably in the customs area and in the domain of shared management, where Member States spend EU funds according to EU rules. However, the quality of these data needs to improve further and the analysis of fraud risks based on these data should become more comprehensive, in order to contribute to a more efficient deployment of anti-fraud controls.

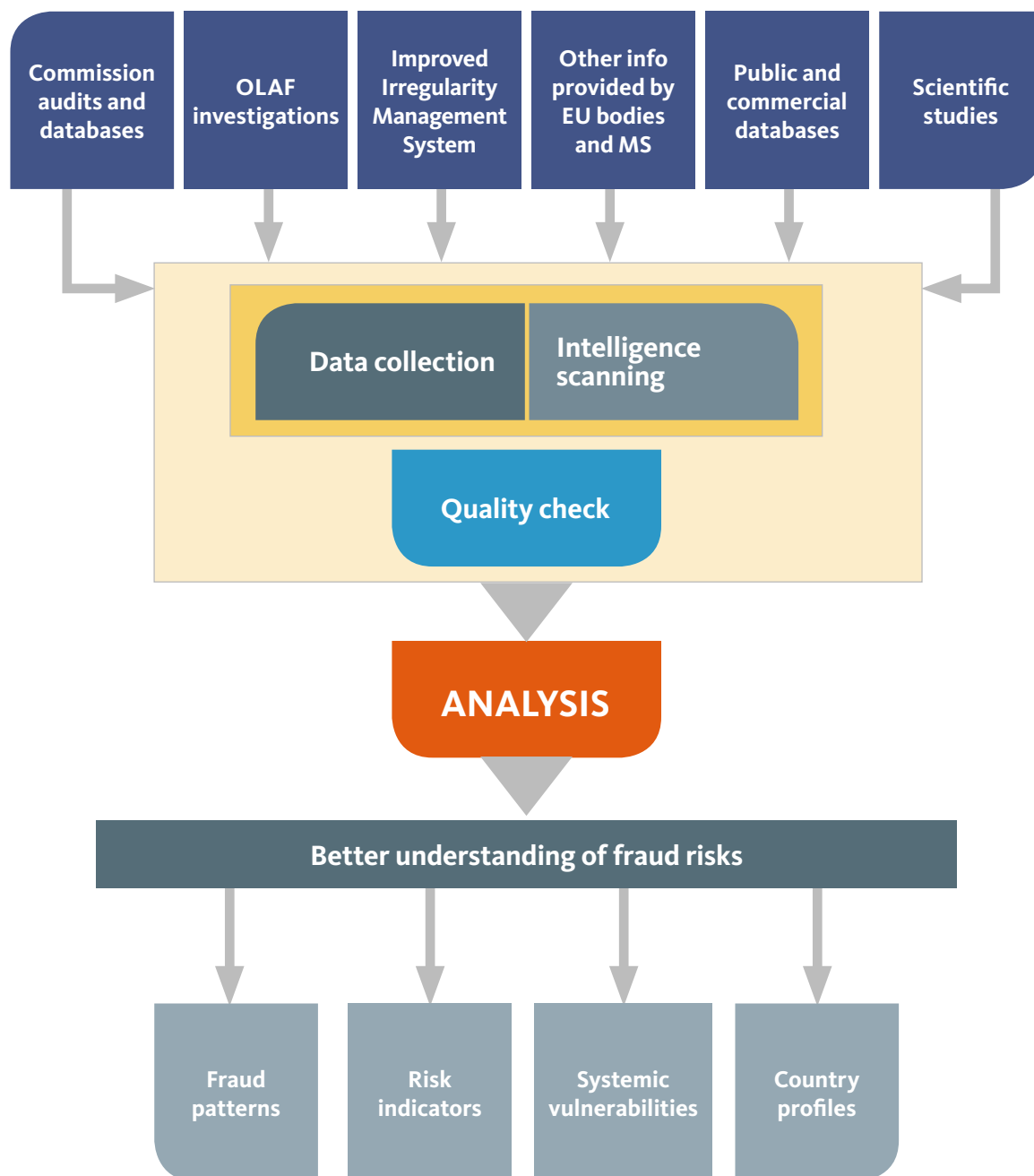
Ultimately, this strengthened analysis aims to improve prevention, detection and investigation, for example through better data on fraud patterns and systemic vulnerabilities, which can be acted upon through developing risk indicators tailored to specific sectors or regions and widening knowledge about fraudulent activities in general.

All Commission services and Executive agencies will contribute to the implementation of the new CAFS 2019, which will be coordinated by OLAF.

⁽⁵⁾ Communication to the Commission on Streamlining and strengthening corporate governance within the European Commission (C(2018) 7704 final) and Communication to the Commission on Governance in the European Commission (C(2018) 7703 final).

⁽⁶⁾ <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=48858>

Figure 16: Enhancing data collection and analysis





6.2. Revision of the OLAF Regulation (EU, Euratom No. 883/2013)⁷

The Regulation concerning investigations conducted by the European Anti-Fraud Office (“the OLAF Regulation”)⁸ is the main legal instrument governing OLAF’s investigative activities. In May 2018, the Commission adopted a proposal to amend it. Against the backdrop of the creation of the European Public Prosecutor’s Office (EPPO), the proposal seeks to ensure that OLAF is equipped to work closely with the EPPO to detect and investigate fraud across the EU and to ensure strong complementarity between criminal and administrative action at Union level. The proposed changes are also intended to clarify OLAF’s tools for the conduct of administrative investigations with a view to ensuring their effectiveness, responding to the findings of the evaluation of the OLAF Regulation, which was concluded in October 2017⁹.

For the future OLAF-EPPO relationship, the proposal sets the framework for a close and complementary cooperation, so that all available means are used to protect the Union budget. While the EPPO will conduct criminal investigations, OLAF will continue conducting administrative investigations which – in the Member States participating in the EPPO – will have a particular emphasis on facilitating recovery and preventing further harm to EU finances through administrative measures.

The proposal also contains a number of targeted changes to enhance the effectiveness of OLAF investigations. These are essential changes necessary to strengthen the framework for OLAF investigations, in order to maintain a strong and fully functioning OLAF that complements the EPPO’s criminal law approach with administrative investigations. The focus is on areas where, today, the lack of clarity of certain provisions in the current OLAF Regulation results in obstacles which hinder OLAF’s effective operations. This regards,

notably on-the-spot-checks and inspections, access to bank account information, as well as VAT fraud and the admissibility of OLAF-collected evidence. The amendments aim to clarify OLAF’s legal framework and would allow it to operate in an effective and more coherent manner in all its investigations.

To ensure both a seamless transition to the new institutional framework and an effective cooperation between OLAF and the EPPO, the amended regulation should be in force by the time the EPPO becomes operational¹⁰. The legislative negotiations on the proposal with the co-legislators started in 2018 with a detailed analysis of the European Commission’s proposal in the Council working party for combatting fraud.

6.3. The European Public Prosecutor’s Office

Over a year has passed since the publication of the Regulation on the creation of the European Public Prosecutor’s Office (EPPO)¹¹. The establishment of a strong, efficient and independent EPPO represents a priority for the Commission and particularly for OLAF, as co-responsible Commission service. The creation of the EPPO marks a fundamental development in the fight against fraud affecting the European Union’s budget, and it constitutes a crucial step towards the creation of a common criminal justice area in the European Union.

With the establishment of the EPPO by the end of 2020 drawing closer, many crucial developments have taken place in 2018: the interim Administrative Director was appointed, the vacancy notice for the selection of the European Chief Prosecutor was published in November 2018 and the recruitment procedure is ongoing, as well as the selection process for the European prosecutors in the Member States. Additionally, the Netherlands and Malta have officially joined the EPPO under enhanced cooperation, which makes a total of 22 participating Member States.

⁽⁷⁾ COM (2018) 338 final - 2018/0170/COD

⁽⁸⁾ Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No. 1074/1999, OJ L 248, 18.9.2013, p. 1–22.

⁽⁹⁾ Commission Report on the Evaluation of the application of Regulation No. 883/2013, COM(2017)589 final.

⁽¹⁰⁾ This is currently envisaged for the end of 2020.

⁽¹¹⁾ Regulation (EU) 2017/1939

6.4. Horizontal provisions on the Protection of the Financial Interests of the Union (PIF provisions) within all MFF Commission Proposals

In 2018, in close cooperation with spending and central Commission services, OLAF introduced standard provisions on the protection of the financial interests of the European Union in all the Commission's legislative proposals for the post-2020 spending programmes under direct, indirect and shared management. These provisions reflect requirements laid down in the Financial Regulation and recall, inter alia, that the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of fraud and other irregularities. Any person or entity receiving Union funds is obliged to fully cooperate in the protection of the Union's financial interests, to grant the necessary access rights to the Commission, OLAF, the EPPO and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

6.5. A new anti-fraud financial programme

In May 2018, the Commission adopted a proposal for a Regulation establishing a new EU Anti-Fraud Programme, destined to be the successor of the Hercule III Programme for the period 2021-2027.

The proposal for the EU Anti-Fraud Programme is an ambitious project, combining the long-standing Hercule programme that has supported the fight against fraud since 2004 with two other long-established activities in the anti-fraud area: the Anti-Fraud Information System (AFIS), that supports Member States customs authorities in their mutual administrative assistance to prevent and detect customs fraud, and the Irregularity Management System (IMS) that provides an IT platform for the Member States to report detected irregularities to the detriment of the EU budget.

In other words, the new EU Anti-Fraud Programme will include funding for an improved Hercule III programme, as well as for AFIS and IMS. The proposed combination

will create flexibility from a budgetary and management point of view and improve operational synergies between the combined activities. It should allow the Programme to better adapt to new and unforeseen needs during the seven years of the next Multiannual Financial Framework.

6.6. Strengthening the EU's policy on fighting illicit tobacco trade

OLAF not only works to fight illicit tobacco trade from an operational point of view, but contributes to the development of EU policies in this area.





On 23 March 2018, OLAF and the European Economic and Social Committee jointly organised a conference in Brussels on fighting illicit tobacco. The conference gathered 130 stakeholders from policy-makers to law enforcement and customs services, health NGOs, consumer organisations, academics and industry. It showed that the illicit tobacco trade is a major challenge to society in general, affecting the EU's tax, health and security policies. A holistic approach is needed to effectively combat the illicit tobacco trade and this will arguably require measures targeting both the supply (e.g. by strengthening international customs cooperation) and demand side (e.g. by raising consumer awareness) of the illicit market. In this respect, the importance of the Protocol to Eliminate Illicit Trade in Tobacco Products (FCTC Protocol) as a new key tool to fight the illicit tobacco trade at the global level was highlighted.

The first Meeting of the Parties to the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products was held in Geneva in October 2018. This was an historic event marking the entry into force of the Protocol as a dedicated global anti-smuggling treaty. The event is the culmination of years of EU engagement, with OLAF as lead service, beginning with the inception of the Protocol through its negotiation phase and ending with its entry into force on 25 September 2018.

The EU remains committed to the success of the FCTC Protocol and will actively contribute to the

work leading up to the second Meeting of the Parties in 2020, focusing on securing the supply chain of tobacco products and international cooperation. The EU will continue to promote ratification of the Protocol, especially in relevant source and transit countries on major smuggling routes.

On 7 December 2018, the Commission also presented the Second Action Plan to fight the illicit tobacco trade. The Action Plan builds further on the Strategy presented in 2013¹² but also updates it in a number of aspects. Covering the period 2018-2022, the Second Action plan proposes:

- To fully exploit the potential of the new FCTC Protocol as a global instrument and forum to curb the illicit tobacco trade, by taking a leading role in its implementation, following the entry into force of the Protocol on 25 September 2018;
- To engage key source and transit countries via the various frameworks for cooperation available to the EU, so as to limit the supply actually arriving at our borders;
- To focus on some of the key input materials going into the illicit manufacture of tobacco products, ranging from raw tobacco and cigarette filters to manufacturing and packing equipment; and
- To raise awareness among consumers of the dangers of buying illicit tobacco products and the direct links to organised crime, as a means to reduce demand.

⁽¹²⁾ COM/2013/0324 final

7. Relations with the Supervisory Committee

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. Its members are appointed by common agreement of the European Parliament, the Council and the Commission.

The current Members are: Mr Jan Mulder (Chairman), Mr Petr Klement, Ms Grażyna Stronikowska, Ms Helena Fazenda and Mr Rafael Muñoz. In line with Regulation No. 883/2013, the Members are supported by a Secretariat provided by the European Commission.

The Director-General of OLAF keeps the Supervisory Committee regularly informed about the activities of the Office, the implementation of OLAF's investigative function and the follow-up to investigations.

In 2018, in accordance with Regulation 883/2013, OLAF made available to the Committee 486 documents with information on investigations lasting more than 12 months. OLAF also informed the Committee of judicial recommendations transmitted to the national judicial authorities, and of OLAF cases in which information was sent to national judicial authorities at the dismissal

of the case. The Committee and its Secretariat had full access to 64 case files in OLAF's case management system in 2018.

On the basis of the information provided by OLAF, the Committee delivers Opinions to the Director-General of OLAF and reports to the EU institutions. In 2018, the Supervisory Committee delivered its Opinion 1/2018, concerning the OLAF Preliminary Draft Budget for 2019, and provided comments to the European Parliament and the Council on the amendment of Regulation 883/2013.

In its Opinions, the Supervisory Committee issues recommendations to the Director-General. OLAF reports annually to the Committee on the state of implementation of these recommendations. In its 2018 reporting, OLAF assessed five recommendations out of ten as implemented, four as ongoing and one as not applicable.

Details of the Committee's work can be found in its annual activity report. This report and OLAF's responses, as well as other information, are publicly available on the OLAF website.



8. Data protection, legality checks and complaints

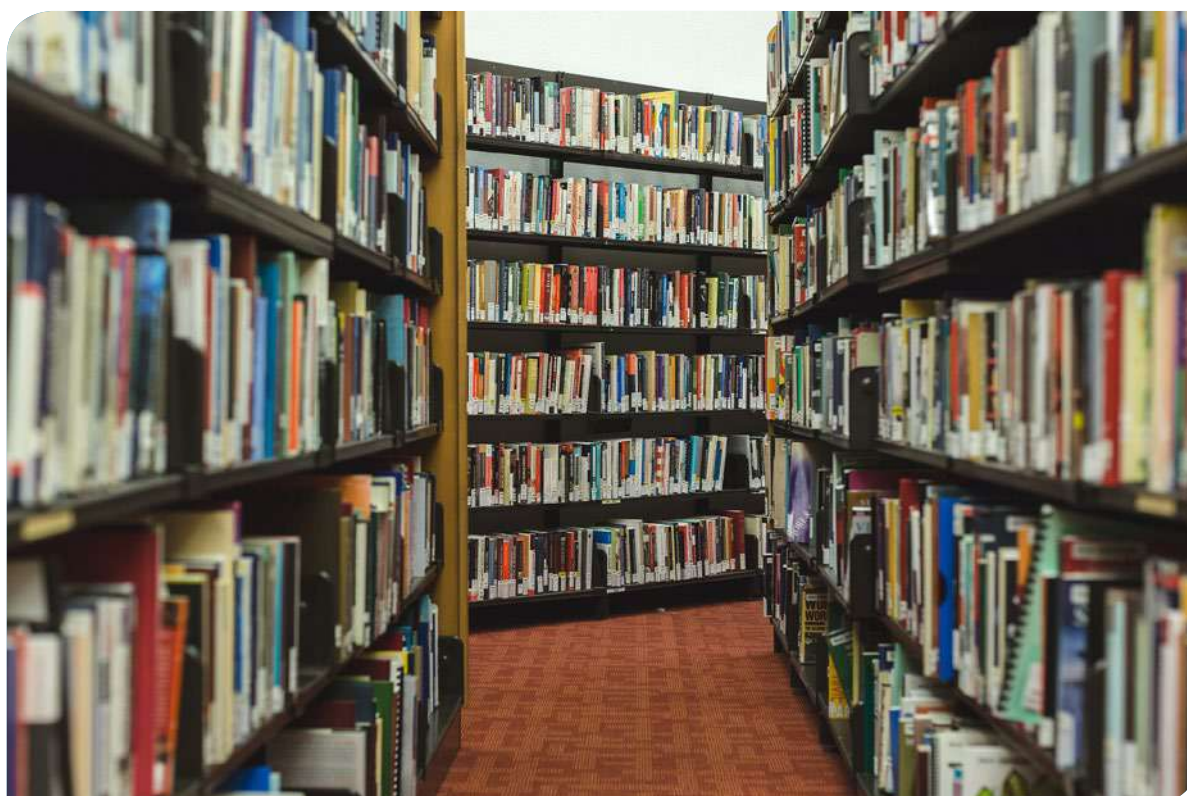
The protection of personal data has always been a high priority for OLAF. Since OLAF was set up as an independent investigative body, it has taken all necessary measures to ensure effective implementation of the requirements of the applicable legal framework, including recommendations of the European Data Protection Supervisor (EDPS). The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media. OLAF appoints its own data protection officer (DPO) who provides advice and assists OLAF in applying high data protection standards.

In December 2018, the new Data Protection Regulation for EU institutions 2018/1725¹³ entered into force. OLAF has committed to lead by example. OLAF

conducted awareness-raising activities internally and took measures to efficiently implement the new data protection rules. In this context, the Commission adopted a Decision laying down internal rules concerning the processing of personal data by OLAF¹⁴. This initiative ensures compliance with the fundamental right to protect personal data as set out in Article 8 of the Charter, while enabling the Office to secure the confidentiality of its investigations as well as to ensure the protection of the rights and freedoms of persons concerned, witnesses and informants. The Decision lays out the conditions under which OLAF informs data subjects of any activity involving processing

⁽¹³⁾ OJ L 295, 21.11.2018, p. 39–98

⁽¹⁴⁾ Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council, OJ L 315, 12.12.2018, p. 41



of their personal data and handles their rights of access, rectification, erasure, restriction of processing and communication of a personal data breach. The involvement of OLAF's DPO (or, where applicable, the Commission DPO or the agency DPO) throughout the whole procedure ensures an independent review of the applied restrictions. In addition, the codification of OLAF's established practices and procedures in the mentioned Decision ensures a high degree of legal certainty to all data subjects, thus also complying with the "quality of law" requirements developed by case law.

In 2018, OLAF maintained its commitment to ensure the timely provision of relevant information to data subjects. OLAF received and handled 11 requests for access to personal data as well as two requests for erasure. They were all handled in a timely manner. There were no new complaints received from the EDPS during 2018. An allegation reported of an alleged breach was not substantiated.

OLAF RECEIVES VERY LOW NUMBER OF COMPLAINTS ON ITS INVESTIGATIVE ACTIVITY

COMPLAINTS TO OLAF

Persons affected by an OLAF investigation may address a complaint directly to the Director-General of OLAF. This is without prejudice to the citizens' right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the EU or national courts.

In 2018, the Director-General received five complaints from persons involved in different OLAF investigations about issues relating to the handling of their procedural guarantees. They have been followed up by the competent services in the Office.

Officials and other EU staff may also complain to OLAF under Article 90a of the Staff Regulations against any act adversely affecting them in connection with OLAF investigations. In 2018, OLAF provided a substantiated reply to Article 90a complaint received at the end of 2017.

EUROPEAN OMBUDSMAN

In 2018, the European Ombudsman opened 16 new inquiries concerning OLAF. Two of the new inquiries concerned procedural guarantees in OLAF investigations. One of them was closed in the course of the year without a finding of maladministration. In that same case, the Ombudsman also found that OLAF could have better explained why it had taken certain investigative steps rather than others and therefore made two suggestions for improvement to OLAF in that regard.

Seven of the new inquiries concerned the lack of reply by OLAF to citizens' requests. As OLAF eventually replied to these requests, the Ombudsman closed six of these inquiries in the course of the year, with the conclusion that OLAF has settled the matter.

Five other new inquiries opened in 2018 concerned requests for public access to documents based on Regulation No. 1049/2001¹⁵. The Ombudsman closed four of these inquiries in the course of the year, with the conclusion that OLAF did not act with maladministration when it refused to grant public access to the requested documents. In one of these cases, the Ombudsman also made two suggestions for improvement to OLAF about how to deal with such requests.

Two other inquiries opened in 2018 concerned the access to an investigation file by the person concerned, and OLAF's decision not to open an investigation respectively. The Ombudsman completed these inquiries with the conclusion that OLAF's refusal to give individual access to its investigation file to a person concerned and OLAF's decision not to open the investigation in question were justified.

In 2018, the Ombudsman also closed four inquiries opened in previous years.

SIGNIFICANT CASE LAW BY THE EUROPEAN COURTS

Issues related to OLAF investigations were also raised before the European Courts in a very limited number of cases. Usually, this occurs in the context of litigation against measures taken by the Commission or other institutions, bodies or agencies based on

(¹⁵) OJ L 145, 31.5.2001, p. 43–48



OLAF recommendations, such as financial recovery or disciplinary procedures.

In the case of *Sigma Orionis v Commission*¹⁶, the Court clarified which law applies during on-the-spot checks and inspections by OLAF.

The Court ruled that, in the absence of opposition by the economic operator, on-the-spot checks and inspections are conducted by OLAF on the basis of Regulation No. 883/2013 and Regulation No. 2185/1996¹⁷, as well as based on written authorisation of the Director-General of OLAF.

Union law supersedes national law when a matter is regulated by Regulations No. 883/2013 or No. 2185/1996.

Moreover, the Court found that the provisions in Regulation No. 2185/1996 concerning the possible opposition of the economic operator concerned to a check do not include the existence of a “right to oppose” but simply provide that the check may be imposed on the economic operator through the assistance of national authorities and on the basis of national law.

With regard to procedural guarantees, the Court recalled that OLAF must respect fundamental rights as laid down in Union law, in particular in the Charter.

The important clarification by the Court of law that applies during on-the-spot checks helps increase the efficiency of OLAF investigations.

⁽¹⁶⁾ Judgment of the General Court of 3 May 2018 in case T-48/16, *Sigma Orionis SA v European Commission*.

⁽¹⁷⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities



European Court of Justice in Luxembourg

9. Staff and Budget

INVESTING IN STAFF

In the context of the general reductions in staff and budget in the EU public service, the number of OLAF staff members continued to decrease in 2018. At the end of 2018, the total number of staff members and available vacancies at OLAF stood at 389, a 4% decrease compared to 2017. Despite this, OLAF did its utmost to maintain the staff resources allocated to the fight against fraud and to its anti-fraud policy work, with staff cuts mainly impacting overhead functions such as HR, finance and ICT infrastructure management.

OLAF staff members have had to adapt to a structural increase in workload, while maintaining the quality and efficiency of investigations. In a context of limited resources, OLAF counts on the wide range of skills and diverse professional background of its staff. Dealing

efficiently with a high number of investigations in various fields and countries requires a high level of expertise, knowledge of a broad range of languages, as well as commitment to defending taxpayers' interests. Two specialist competitions in the investigation field were finalised in 2017, providing OLAF with a list of 45 laureates possessing the relevant professional experience and qualifications. In 2018, OLAF almost doubled the number of people it recruited, going from 23 the previous year to 42.

OLAF continuously invests in career development. OLAF staff have the opportunity to participate in European Commission or external training, coaching sessions or lunchtime debates and workshops, which further their professional and personal development. OLAF is also committed to investing in the training of its managers, to ensure excellent leadership.



OLAF Directors and Director-General

Figure 17: Number and breakdown of OLAF staff from 2011 to 2018

	2011	2012	2013	2014	2015	2016	2017	2018
Establishment posts occupied	351	347	350	362	356	336	318	318
Establishment posts vacant	33	35	34	18	11	24	32	27
External staff	53	53	56	59	55	55	55	44
Total	437	435	440	439	422	415	405	389

Figure 18: Organisational chart (31.12.2018)

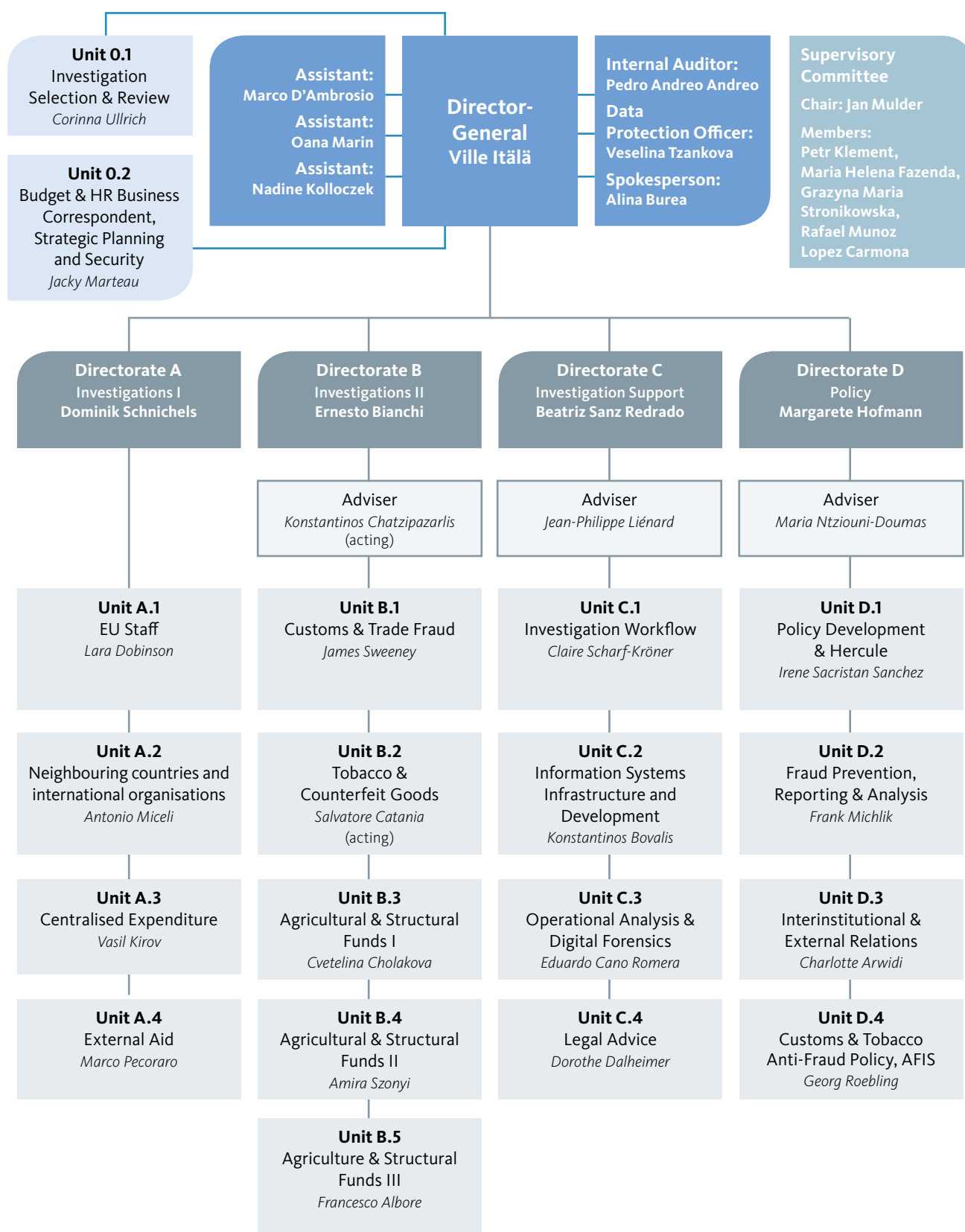




Figure 19: OLAF's administrative budget in 2018 (million euros)

EU staff	40.9
Infrastructure	7.0
ICT	4.9
External agents (contract staff, seconded national experts and interims)	2.5
Missions	1.4
Anti-fraud Measures	1.9
Training, meetings and Committees	0.5
Total	59.1



10. Statistical annex: additional data on OLAF investigative activity

This annex presents additional detailed data relating to OLAF's investigative activity in 2018, as a complement to the key indicators already mentioned in chapters 2 and 5.

Figure 20: OLAF's investigative performance

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Incoming information	975	1041	1264	1294	1417	1372	1136	1295	1211
Investigations opened	152	146	431	253	234	219	219	215	219
Investigations concluded	136	154	266	293	250	304	272	197	167
Recommendations issued	172	175	199	353	397	364	346	309	256

Figure 21: Selections completed and their duration*

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Selections completed	886	926	1770	1247	1353	1442	1157	1111	1259
Average duration (in months) of selection phase	6.3	6.8	1.4	1.8	2.0	1.7	1.7	2.4	2.6

* Since a new case management system was introduced at the end of 2016, the processing of new incoming information required more time. This explains why the average duration of selections has increased to 2.6 months in 2018. It is expected that the average duration of selections will decrease.

Figure 22: Average duration of closed and ongoing investigations (in months)

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Average duration of investigation	20.8	22.4	17.3	17.5	18.1	18.7	17.2	15.8	16.4
Average duration of selection corresponding to these cases	6.4	6.9	6.3	4.3	2.9	2.3	1.7	1.8	2.2
Total average duration of cases	27.2	29.3	23.6	21.8	21.0	21.0	18.9	17.6	18.6

Figure 23: Average duration of closed investigations only (in months)

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Average duration of investigation	22.9	27.0	22.5	22.3	23.3	25.1	23.2	21.9	23.1
Average duration of selection corresponding to these cases	5.6	6.1	7.5	5.9	3.6	2.8	1.8	1.7	1.9
Total average duration of cases	28.5	33.1	30.0	28.2	26.9	27.9	25.0	23.6	25.0

Figure 24: Percentage of ongoing investigations lasting more than 20 months

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Percentage of ongoing investigations lasting more than 20 months	41%	38%	22%	30%	30%	22%	20%	22%	22%

Figure 25: Recommendations issued

Type of recommendation	2010	2011	2012	2013	2014	2015	2016	2017	2018
Financial	62	63	116	233	253	220	209	195	168
Judicial	67	73	54	85	101	98	87	80	48
Disciplinary	10	16	25	24	15	16	18	10	18
Administrative	33	23	4	11	28	30	32	24	22
Total	172	175	199	353	397	364	346	309	256

Figure 26: Incoming information by source

Source	2010	2011	2012	2013	2014	2015	2016	2017	2018
PRIVATE	594	767	889	889	959	933	756	889	807
PUBLIC	381	274	375	405	458	439	380	404	404
Total	975	1041	1264	1294	1417	1372	1136	1293	1211



Figure 27: Incoming information from Member States in 2018

Member State	Public source	Private source	Total
Austria	1	3	4
Belgium	6	12	18
Bulgaria	3	45	48
Croatia	0	26	26
Cyprus	0	1	1
Czechia	0	21	21
Denmark	0	4	4
Estonia	0	0	0
Finland	1	2	3
France	2	14	16
Germany	1	28	29
Greece	3	26	29
Hungary	1	32	33
Ireland	0	6	6
Italy	0	23	23
Latvia	2	1	3
Lithuania	3	3	6
Luxembourg	0	2	2
Malta	0	3	3
Netherlands	2	3	5
Poland	0	35	35
Portugal	1	12	13
Romania	2	56	58
Slovakia	3	24	27
Slovenia	1	3	4
Spain	5	27	32
Sweden	0	3	3
United Kingdom	0	6	6
Total	37	421	458





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The **OLAF** report **2019**

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http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

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The **OLAF** report **2019**

**Twentieth report of the
European Anti-Fraud Office,
1 January to 31 December 2019**

DISCLAIMER

OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents such case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

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<http://olaf.europa.eu>

Reporting fraud to OLAF

http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

Complaining about an OLAF investigation

http://ec.europa.eu/anti-fraud/olaf-and-you/complaints-olaf-investigations_en

Requesting information on OLAF

http://ec.europa.eu/anti-fraud/contacts/general-enquiries_en

Visiting OLAF

http://ec.europa.eu/anti-fraud/contacts/request-visit_en

Media: http://ec.europa.eu/anti-fraud/contacts/media-enquiries_en

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Executive summary

OLAF: DETECT, INVESTIGATE, PROTECT

In 2019, the investigations carried out by the European Anti-Fraud Office (OLAF) ranged from unravelling complex frauds involving machinery bought using EU funds and manipulated tender procedures, to major joint customs operations targeting consumer goods and cigarettes. An increasing number of cases involve environment-related projects, in line with the EU's increased focus on green and sustainable policies.

OLAF'S INVESTIGATIVE PERFORMANCE IN 2019

- ▶ OLAF concluded 181 investigations, issuing 254 recommendations to the relevant national and EU authorities
- ▶ OLAF recommended the recovery of €485 million to the EU budget
- ▶ OLAF opened 223 new investigations, following 1 174 preliminary analyses carried out by OLAF experts

TRENDS IN ANTI-FRAUD INVESTIGATIONS

The transnational dimension of its work allows OLAF to form a unique view of the picture of the changing nature of fraud across Europe. Some of the most striking trends revealed by OLAF investigations during the course of 2019 include:

- ▶ collusion and manipulation of procurement
- ▶ cross-border schemes that make detection more difficult
- ▶ frequent targeting of projects in third countries
- ▶ continued targeting of research funding
- ▶ smuggling and counterfeiting involving complex cross-border networks.

OLAF'S FIGHT AGAINST SMUGGLING

In addition to its investigation and coordination cases, in 2019 OLAF co-organised or provided support to 13 joint customs operations and has made significant progress in its efforts to fight the illicit trade in tobacco products by helping national authorities seize more than 251.4 million cigarettes.

CONTRIBUTION TO THE EU POLICIES TO FIGHT FRAUD

OLAF is regularly at the forefront of negotiating legislative texts concerning the protection of the EU's financial interests against fraud and corruption. In 2019, OLAF was instrumental in the adoption of the new Commission anti-fraud strategy.



Foreword

It is with great pleasure that I present the latest edition of the annual report of the European Anti-Fraud Office (OLAF). 2019 was my first full year in charge of OLAF and it also marked the 20th anniversary of its creation, the culmination of two decades of dedication and determination by OLAF staff to defend the interests of European citizens. For 20 years, OLAF has put its unique expertise and experience to the benefit of the EU, ensuring that taxpayers' money is properly spent and fighting fraud, corruption, smuggling and counterfeiting wherever we find it.

In our increasingly interconnected world fraudsters operate across borders, and their fraud schemes have become increasingly sophisticated and hard to detect for national authorities acting on their own. Our investigations and knowledge do not stop at national borders, and this is a tangible asset. OLAF makes a difference and the numbers speak for themselves: over the course of 2019, we concluded 181 investigations, we issued recommendations to the relevant national and EU authorities for the recovery of €485 million to the EU budget and we opened 223 new investigations.

Over the years, we have learned to adapt quickly to uncover the ever-changing and creative fraud patterns that seek to exploit the money made available to achieve the priorities of the EU. As these priorities evolve over time, so do fraud patterns. For example, one growing trend over the last few years has been an increase in fraud involving EU funds for environmental or sustainability projects. You will find more details of OLAF's work in this area in Chapter 3. Sustainable development, tackling climate change and protecting our environment are key priorities for the European Union, and OLAF plays its part in supporting this objective. Fraud affecting environment-related projects is doubly damaging: not only is precious taxpayers' money being stolen, but the environmental or sustainable benefits that the investments are supposed to bring are also being lost. The European Union has some of the most ambitious environmental targets and standards in the world: making sure EU funding is invested correctly in helping to meet and maintain them is a vital part of the battle against climate change.

2019 was a year of reflection on how OLAF could and should face the start of its third decade. We have discussed throughout OLAF and with our numerous stakeholders – European Commission services, the European Parliament, Member State authorities and international organisations – the ways in which we can work using a new, more agile and flexible model to prevent losses and damage to the EU budget and to focus on new priorities such as health, safety, and the environment. The new organisation chart that took effect on 16 June 2020 will make OLAF fit to face new challenges and new opportunities, such as the beginning of the operations of the European Public Prosecutor's Office, with which we are looking forward to working particularly closely.

Cooperation with other institutions and organisations has always been at the heart of what we do at OLAF, from coordinating with national authorities on cross-border cases to developing Europe-wide approaches to tackling fraud. Cooperation is vital for our work: we need fast and reliable access to the right data in order to analyse it and to exploit it for operational purposes as well as for strategic analysis. I am happy to see that our efforts to cultivate effective contacts with our stakeholders have continued to pay off. I want OLAF to work as a centre of knowledge against fraud. We will make greater use of the latest

technologies, including artificial intelligence, not only to assist investigations, but also to strengthen our fraud prevention and analysis work and to detect and share our knowledge of gaps in the law and in administrative practices.

By reinforcing our role as a centre of knowledge against fraud, we are contributing to identifying risk-management problems related to EU financial interests at an early stage. This could be a basis for issuing warnings when problematic patterns start to emerge.

The focus of this report is the work of 2019, but the world it reflects has subsequently changed almost beyond recognition. The annual report for 2020 will have a different focus, reflecting the unique circumstances in which OLAF and everyone else has worked as a result of the coronavirus pandemic. At the time of writing, the EU is slowly emerging from confinement, and the focus is on ensuring we all bounce back together – economically, socially and environmentally – as quickly as possible. The European Union's recovery plan will see EU funding put to work like never before, helping our societies to get back on their feet after the unprecedented events of the first half of 2020. We also need to rely on genuine facemasks, sanitisers, test kits, medicines and vaccines as a precondition to restarting the EU.

OLAF will continue to play its unique and vital role in helping to keep the EU safe, healthy and fit for the future. We stand ready to deploy our arsenal of tools to ensure that not a cent of the EU budget is lost to fraud, that EU businesses do not suffer unfair competition from cheap substandard imports that do not pay taxes and that EU citizens are safe from dangerous products, including those that they increasingly buy online.

Ville Itälä
Director-General of OLAF



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The seat of the European Anti-Fraud Office, in Brussels

1. Mission and mandate



MISSION

Detect, investigate and work towards stopping fraud involving European Union funds.

MANDATE

The European Anti-Fraud Office's (OLAF's) mandate is:

- to conduct independent investigations into fraud and corruption involving EU funds so as to ensure that EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- to develop EU policies to counter fraud.

COMPETENCES

OLAF can investigate matters relating to fraud, corruption and other offences affecting EU financial interests concerning:

- all EU expenditure – the main spending categories are European Structural and Investment Funds, agricultural policy and rural development funds, direct expenditure and external aid;

- some areas of EU revenue, such as money from customs duties or value added tax (VAT)

OLAF can also carry out investigations into suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission and, as such, under the responsibility of the Commissioner for Budget and Administration. In 2019, that position was occupied by Commissioners Günther H. Oettinger and Johannes Hahn.

However, in its investigative mandate, OLAF acts with full independence.

WHAT WE DO

OLAF's investigative work broadly involves:

- assessing incoming information of potential investigative interest to determine if there are sufficient grounds for OLAF to open an investigation;
- conducting administrative anti-fraud investigations, where appropriate in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;

- ▶ supporting the anti-fraud investigations of national authorities;
 - ▶ recommending actions that should be taken by the relevant EU or national authorities;
 - ▶ monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud and better tailor the support OLAF provides to national authorities.
- ▶ double funding, whereby, through deceit, a project is funded several times by different donors, who are unaware of the contributions the others made;
 - ▶ subsidy fraud in various forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes, including by delivering the same piece of research to several funding authorities within or beyond EU borders, plagiarism (the copying of research that has already been undertaken by others) or the deliberate gross disrespect of the conditions of financial assistance;
 - ▶ customs fraud, in which fraudsters attempt to avoid paying customs duties (EU own resources), for instance by smuggling goods into the EU.

Responsibilities for much of EU spending are shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The same applies to the customs duties or VAT-related parts of EU revenue. The detection, investigation and prosecution of fraud against the EU budget and the recovery of unduly spent amounts or evaded customs duties can therefore only be conducted in cooperation with a wide range of partners, at national, European and international levels.

OLAF cases frequently concern:

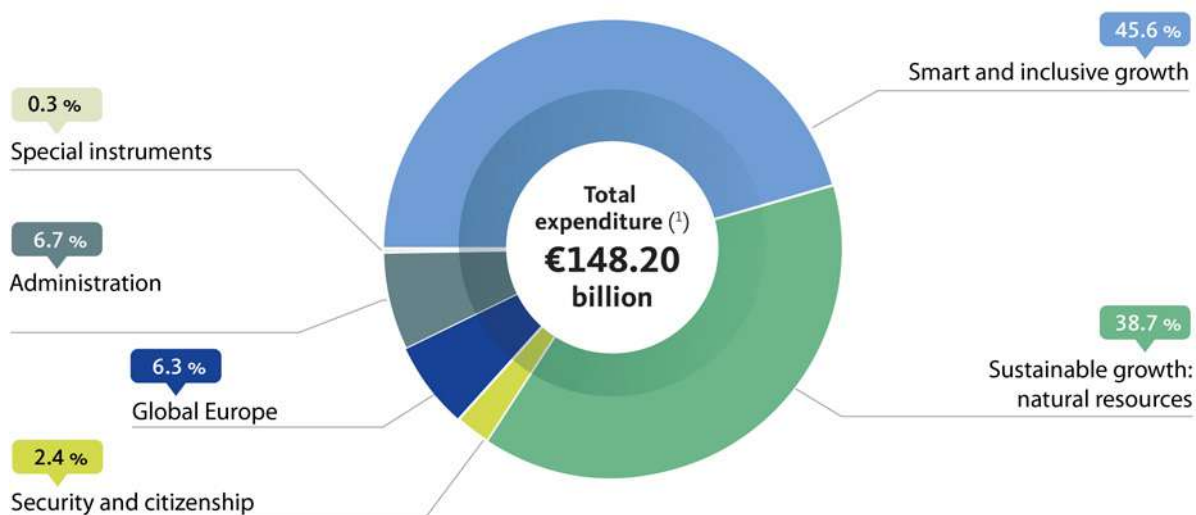
- ▶ cross-border procurement fraud or corruption in public procurement procedures involving EU financing;

EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, travel and relocation allowances, social security and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures, and of other forms of corruption such as attempts to illicitly influence decision-making and recruitment procedures. To some degree, these risks are increased by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out what are known as internal investigations, into any allegations of misconduct involving staff and members of the EU institutions.





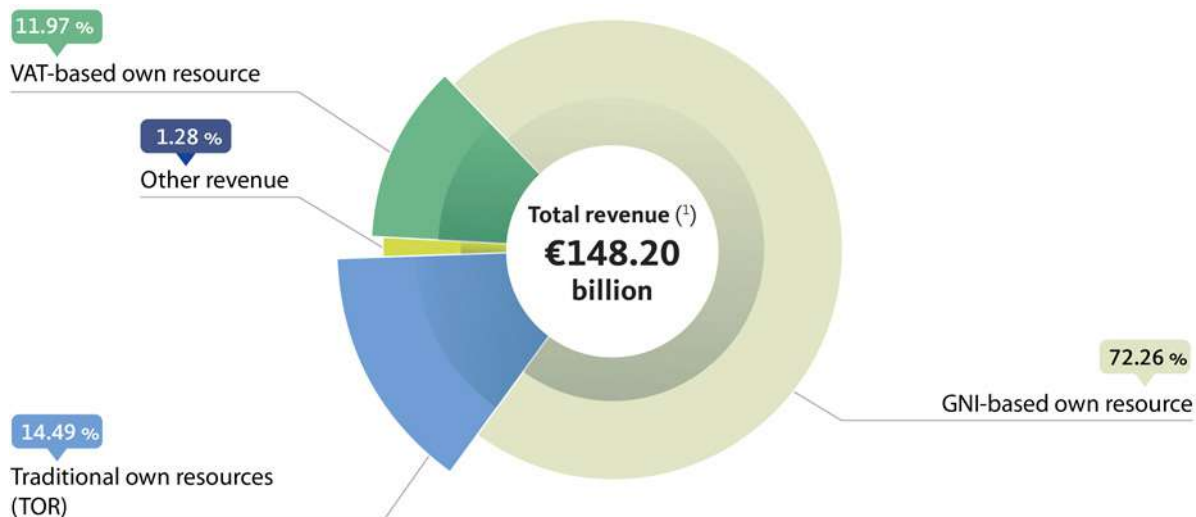
Figure 1: EU expenditure in 2019



(¹) Source: OJ L67, 7.3.2019, p. 13

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

Figure 2: EU revenue in 2019

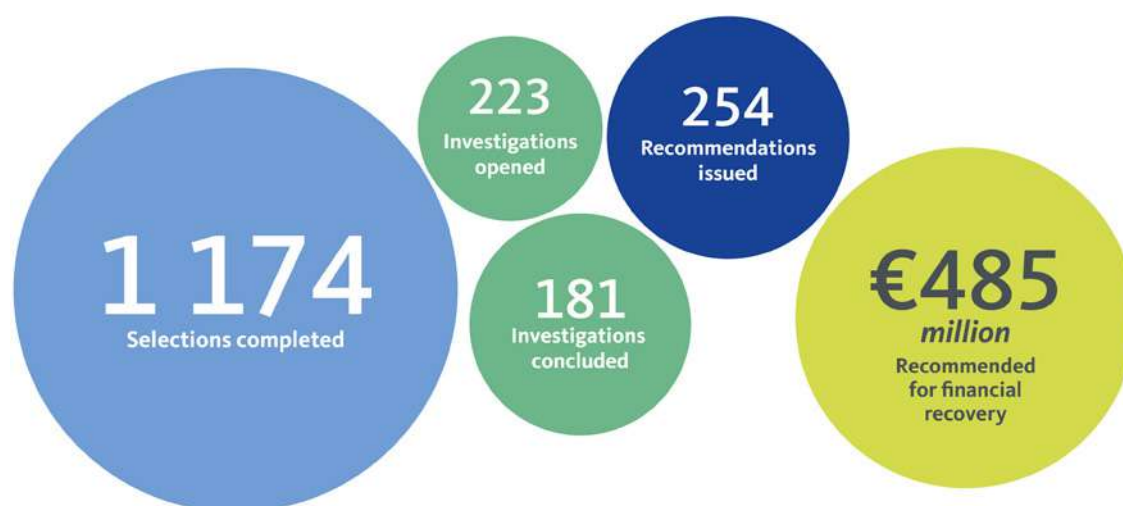


(¹) Source: OJ L67, 7.3.2019, p. 14

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

2. OLAF's investigative activity: trends in anti-fraud investigations

Figure 3: OLAF's investigative activity in 2019



2.1. Summary of OLAF's investigative performance in 2019

OLAF's investigative performance in 2019 (Figure 3) was broadly in line with previous years. On the basis of incoming information from both private and public sources, some 1 174 case selections were made during the year, leading to a total of 223 investigations being opened. Some 181 were concluded during the year, leading to OLAF issuing 254 recommendations to competent authorities at EU and national levels. The majority of these recommendations concern the recovery of EU funds – nearly €485 million in 2019 – by

the relevant authorities at EU and Member State levels. OLAF also issued a limited number of judicial, disciplinary and administrative recommendations in 2019. For a detailed presentation of these and other performance indicators, please refer to the annex to this report (Chapter 10).

Table 1 shows the breakdown of the investigations concluded by OLAF in 2019 concerning EU funds managed or spent in whole or in part at national or regional level. Table 2 shows that, as was the case in previous years, the European Structural and Investment Funds account for the majority of OLAF's investigative activity.



Table 1: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2019

Country	Cases concluded	
	Total number per country	of which closed with recommendations
Romania	11	9
Italy	9	7
Greece	7	2
Poland	7	4
Bulgaria	7	5
Hungary	5	2
Czechia	3	3
North Macedonia	3	0
Spain	3	0
Croatia	3	1
Belgium	2	1
Portugal	2	2
Syria	2	1
Slovakia	2	2
Ukraine	2	0
Tunisia	2	1
Turkey	2	1
Jordan	2	1
United Kingdom	2	1
Kosovo	2	1
Albania, Algeria, Austria, Burundi, Cambodia, Denmark, Estonia, Ethiopia, France, Georgia, Kenya, Latvia, Lebanon, Mauritius, Nigeria, Palestinian Territories, Saint Lucia, Serbia, Slovenia, Sudan, Thailand, Zambia	22 (1 per country)	13
Total	100	57

Table 2: Ongoing investigations at the end of 2019, divided by sector

Reporting sector	2015	2016	2017	2018	2019
Structural Funds except European Social Fund	104	69	73	84	88
Centralised expenditure	58	59	71	82	82
EU staff	37	48	64	65	74
Customs and trade	50	60	44	43	57
External aid	66	52	58	44	47
Agricultural funds	36	21	22	33	42
New financial instruments	8	8	18	48	32
European Social Fund	21	19	5	11	13
Tobacco and counterfeit goods	18	8	7	3	10
European Maritime and Fisheries Fund	0	0	0	0	5
Cohesion Fund	0	0	0	0	3
Asylum, Migration and Integration Fund	0	0	0	1	1
Emergency Assistance Grant Scheme	0	0	0	0	1
Fund for European Aid to the Most Deprived	0	0	0	0	1
Total	398	344	362	414	456

2.2. Follow the money: OLAF solves complex cases, traces EU money pocketed by fraudsters

Fighting fraud, counterfeiting, smuggling and other illegal activities has been the core business of OLAF for more than 20 years. Working on its own initiative and in cooperation with organisations from across the EU and around the world, OLAF has a wealth of experience in identifying the trends in the constantly evolving area of fraud. As fraudsters become ever more sophisticated, and schemes ever more complex and international, OLAF's experienced investigators, forensic experts and analysts have to go to ever more complicated lengths to tackle them.

Below are some of the trends highlighted by OLAF staff in the course of their investigations in 2019. It is not a complete list of all the investigations completed by OLAF but rather an overview of the main types of fraudulent activity detected by the office during the year.

2.2.1. Collusion and manipulation of procurement

One of the main trends identified during the year was fraudsters using the procurement and tendering process to gain access to EU funds for illegal purposes.

SIPHONING OFF MONEY FROM SYRIA

Perhaps the most high-profile case in this regard concerned a well-known non-governmental organisation (NGO) involved in supporting EU humanitarian aid efforts in Syria. The EU is a leading donor to the global humanitarian aid efforts in Syria, where millions of people are in need of medical and food aid, water and shelter, with significant sums available to support projects working in this field managed by the European Commission's Directorate-General for European Civil Protection and Humanitarian Aid Operations.

OLAF began investigating the NGO in question in May 2016 on suspicion of corruption and manipulation in the public procurement procedures funded by the EU in order to provide emergency assistance to civilians affected by the conflict in Syria. The NGO had received nearly €19 million in EU funds from the European Commission through four separate grant agreements



In the search for hard evidence, OLAF performed an on-the-spot check, together with forensic data acquisition, at the NGO's headquarters. Investigators found evidence of corruption by two former staff members of the NGO, who had set up a sophisticated fraud that was used to siphon taxpayers' money away from the humanitarian crisis in Syria and into their own pockets and those of their collaborators. The investigation also found evidence of significant shortcomings in the way that the NGO had administered EU money.

OLAF's investigation was concluded at the end of 2019 with a recommendation to recover nearly €1.5 million. The two individuals identified by the investigation remain at large.

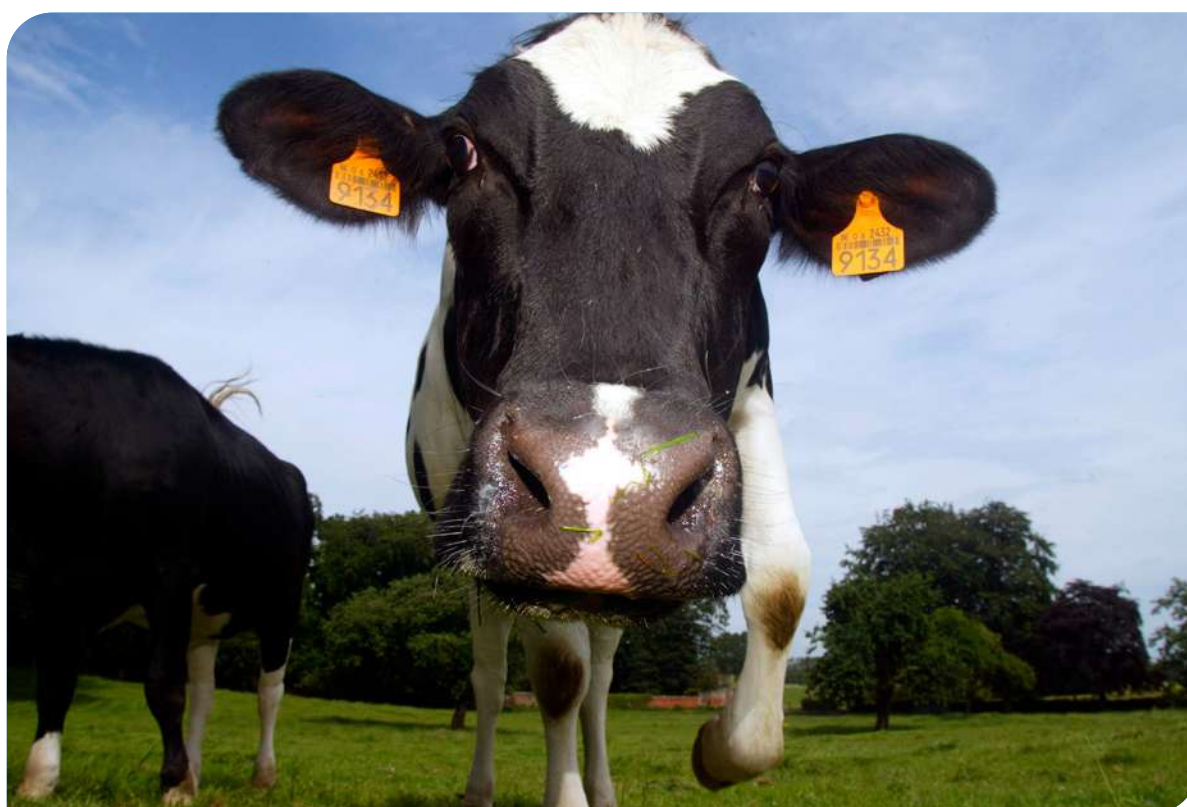
FOOD, FARMING AND RURAL DEVELOPMENT FUNDS DEFRAUDED

Each year significant sums of EU money are invested from the European Agricultural Guarantee Fund in promoting EU agricultural and food products in countries outside the European Union. Several investigations completed by OLAF in 2019 showed how manipulation of the tendering process and collusion

between individuals and organisations are also a recurring theme in this area of EU funding.

In one case, for example, OLAF uncovered a complex fraudulent scheme designed and executed by the owner and manager of just one EU-based company. The individual concerned first secured the collaboration of several other companies and individuals under her direct or indirect influence, with the goal of undermining the public procurement procedure. Two such procedures were successfully manipulated in her favour, giving her effective control over both the organisation responsible for implementing the promotional programme in that country and the one responsible for evaluating the correct implementation of the scheme.

The implementation of the scheme itself was also affected by irregularities, with inflated prices, kickback payments, money laundering and other serious irregularities, fraud and other criminal activities. In particular, the implementing body would pretend that the promotional activities had been carried out by certain companies for a certain amount and present bogus invoices and supporting documents to support these claims. Although the promotional activities did indeed take place – including



among others advertising campaigns and stands at food fairs – they were carried out by other companies and for considerably lower prices than those invoiced. Finally, OLAF also discovered that the implementing body designated by the public procurement procedure had not in fact coordinated any of these activities itself, but one of the companies with which it was colluding had done so, in clear breach of the law.

As a result of this investigation, OLAF recommended to the European Commission's Directorate-General for Agricultural and Rural Development that it should ensure that around €2 million in EU funding be recovered. OLAF also issued a judicial recommendation in this particular case.

A similar case of manipulation of tenders was discovered in an investigation carried out into no fewer than eight related projects in Poland. The projects were funded with around €5.2 million in co-financing from the European Regional Development Fund.

OLAF's investigation found that, over a period of six years, the three different companies involved in the project had used fake and inflated invoices, manipulated tendering procedures and falsified project documentation to obtain the EU funding. The owners of these three companies, or their relatives, owned several other companies that were directly or indirectly involved in the implementation of the projects.

In most of the projects, the tender procedures were highly irregular; in many cases, only one offer was provided. If the beneficiary received several offers, one was usually from a company owned by a relative or, if three offers were required, they stemmed from the same group of companies. Sometimes, the companies of the people concerned acted as suppliers to the companies that won the calls for tender. Sometimes the allegedly independent companies provided their offers from the same email address, or shared a postal address or office.

The investigation also showed that prices accepted by the beneficiaries were inflated and the entire procedure was based on fraud. For example, if a company owned by one of the people concerned bought an item, for instance a tool, for €4 000, it would then lease that tool to the intermediary company for €4 500 per month. This intermediary company would then win a call for tender to hire out tools on long-term contracts (i.e. for periods of over one year); one of these contracts concerned the same tool, which would be hired out at a cost of €4 800 per month. The inflated costs at each

stage benefited every company or intermediary, to the detriment of EU funds.

OLAF closed the case in December 2019 with a judicial recommendation to the national authorities and a financial recommendation to the European Commission's Directorate-General for Regional and Urban Policy to recover just over €1.1 million in EU financing.

MACHINERY PURCHASES IN THE SPOTLIGHT

A separate case concerned another EU fund – the European Regional Development Fund – but a similar attempt to undermine the procurement and tendering process, this time in the area of textile manufacturing (Figure 4).

OLAF carried out four interconnected investigations concerning the fraudulent commercial relationships between companies working in this field. The initial allegations centred around knitting machines that were being sold under EU co-funded projects at more than double their market price. The software to run these machines, which is always provided free of charge, was also being sold within the projects at an extremely high price.

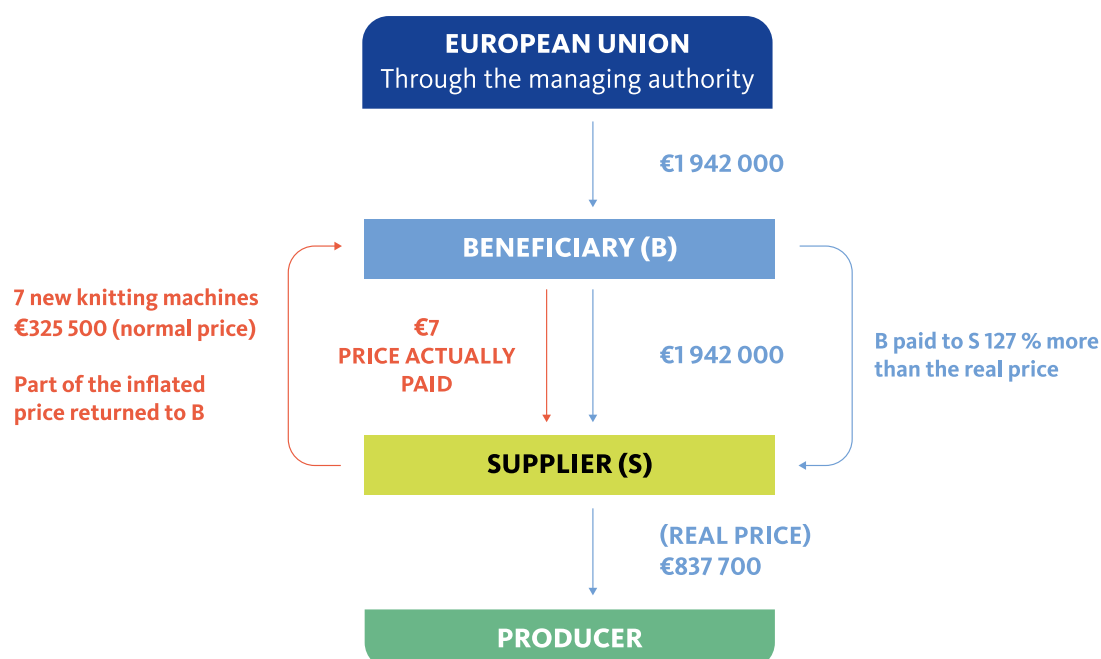
During its investigation, OLAF discovered that the supplier and the beneficiary of the EU funds had colluded to sell and buy the machines at an inflated price, effectively undermining the entire procurement process from the start by making false offers and fraudulent agreements and offering kickbacks. OLAF's investigations discovered that all four EU co-funded projects had been implemented in the same way, with each one using a different method for 'returning' the inflated amounts. In one case, for example, the supplier agreed to buy worthless second-hand machines at inflated prices and then either sold them for minimal prices or sent them straight for scrap. In another, the fraudulent scheme was even set out in perfect detail in a confidential agreement signed by the two parties.

OLAF completed all four investigations by making financial recommendations worth €3.3 million, and judicial recommendations to start proceedings against six individuals and five legal entities. In 2019, the Bucharest courts sentenced the people involved in the schemes, who had admitted their guilt, to 16 months in prison (suspended for two years).



Figure 4: The complex knitting machine fraud

A variety of frauds were used in the four cases to obtain the funds; shown here are two examples – massive discounting (left side) and over-inflated invoices (right side).



CROSS-BORDER SCHEMES MAKE DETECTION MORE DIFFICULT

A similar case from Latvia also involved fictitious machinery sales, inflated invoices and a cross-border scheme that made the fraud more difficult to detect. In 2018, OLAF received fraud allegations concerning a project to develop a wooden toy factory through the acquisition of seven woodworking machines via a contractor based in Lithuania. The project was supported by the European Agricultural Fund for Rural Development.

OLAF established that the entire project was tainted with irregularities and fraud, a tissue of lies and half-truths involving artificial transactions and fake invoices. OLAF discovered that not a single one of the project-related machines was supplied by the company to which the contract was awarded following a manipulated tendering process. In fact, the sister company of the beneficiary had imported and paid for five of the seven project-related machines from a company in Asia (rather than Lithuania, as stated on the documentation). This purchase was kept secret from the Latvian authorities.

At the same time, artificial invoices were used to substantially increase the alleged cost of the machines, allowing the beneficiary to avoid the obligation to contribute financially to the project.

These fraudulent actions were made possible only because of the involvement of the Lithuanian 'contractor' appointed as a result of the manipulated tendering procedure. The simple fact of dealing with a company based in a different EU Member State made detecting and uncovering the fraud far more difficult and time-consuming.

OLAF closed the case in December 2019 with a recommendation to the European Commission's Directorate-General for Agricultural and Rural Development to recover more than €87 500 of EU funding, which had been fraudulently spent. It also recommended that the national competent authorities take judicial proceedings against the individuals and companies concerned.



PROJECTS IN THIRD COUNTRIES ALSO TARGETED

The manipulation of procurement procedures was also used to defraud schemes funded by EU money outside the European Union. Working closely with the Jordanian Integrity and Anti-Corruption Commission in Amman for the first time, OLAF discovered that the organiser of an EU-funded electoral observation project in Jordan had a clear conflict of interest in the procurement process, and had embezzled project funds intended for the allowances of the election observers. OLAF recommended that €124 313 be recovered.

A separate case in Albania also highlighted the manipulation of the tendering process linked to one EU-funded project there. The company that won the tender had benefited from confidential information ahead of the procedure, giving it a competitive advantage. The information was found to have been leaked by a former contractor of the EU that had assisted the Albanian authorities in preparing the tender documentation. The OLAF investigation concluded with recommendations to exclude both companies from receiving EU funds, and to recover the full amount of the contract, roughly €900 000.

2.2.2. Research funding a continued target

As in previous years, fraud against research funding was a particular focus of OLAF's work in 2019.

One particular case concerns two companies, both beneficiaries of EU funds, which systematically defrauded the system to maximise their profits. OLAF's investigation established that the two companies, which were incorporated in two different EU Member States, were linked through their shareholders and directors. The companies were beneficiaries of a number of research grants managed by the European Commission, EU agencies (the Research Executive Agency, REA, the Innovation and Networks Executive Agency, INEA, and the Executive Agency for Small and Medium-Sized Entities, EASME) and joint undertakings, with money coming from both the EU's 7th Framework Programme and its successor research programme, Horizon 2020.

OLAF's investigation discovered that the two companies had maximised their profit by claiming the maximum possible funding for each of the various projects they were involved in, irrespective of the real work done. They also declared and obtained funding for the costs of non-existing contractors. OLAF established



that the two companies had also made undue payments to consultancies and other companies linked to the owners of the beneficiaries.

Furthermore, information and documents obtained by OLAF confirmed that one of the companies had transferred significant amount of the EU funds received under the research grants to its affiliated company in a Latin American country. This money was then invested in a real estate project entirely unrelated to the intended use of the money.

OLAF's investigation concluded with recommendations to the European Commission, EU agencies and joint undertakings to recover a total amount of around €2.5 million. OLAF also sent recommendations to the judicial authorities of the two Member States where the criminal acts were alleged to have occurred; these recommendations called for criminal investigations to be opened on the grounds that fraud and forgery were suspected during the implementation of the EU research projects.

2.2.3. Taking on the counterfeiters

Counterfeit goods can pose a significant risk to human health and safety, as well as to the environment. Each year OLAF investigates a number of cases of counterfeiting, many involving complex cross-border networks, and 2019 was no exception. Several major counterfeiting cases concluded during the year.

OLAF received information in January 2019 about the dismantling of an illegal factory in China producing counterfeit shampoo. However, a large cargo of shampoo had already left the factory by sea prior to its being dismantled, and OLAF feared it might be headed for Europe. OLAF monitored the shipment's journey

out of the Chinese ports from mid-January, tracing its complex route, which included passage and stops in different ports – in China, Korea, Mexico and Colombia – and loading and unloading on various vessels.

OLAF experts kept a close eye on the containers using specialised software, which gathers real-time data from vessels and ports around the world. When it became clear that there was a real risk of the shipment being diverted before it reached its stated final destination in Venezuela, OLAF alerted national authorities in Colombia and Mexico, and recommended the search and seizure of the goods. In close cooperation with OLAF and with particular support from Spanish customs, the Colombian and Mexican authorities found a staggering 400 tonnes of fake shampoo, enough to fill several swimming pools, with an estimated retail value of €5 million had it ever reached the European market.

Another high-level case from 2019 involved counterfeit mechanical parts that, had they been sold in Europe, could have posed a serious health and safety risk. Bearings such as the ones at the heart of this case are fundamental for the machine industry and are used in everything from cars and planes to electric generators and everyday household appliances such as refrigerators, vacuum cleaners or washing machines.

In this case, OLAF monitored movements of suspect exporters located in Asia, alerted the Member States about suspicious companies and transmitted the information to the European countries to which the bearings were sent. Based on OLAF's information, over six tonnes of counterfeit bearings were seized in 10 Member States.

2.2.4. Tackling cigarette smuggling remains a priority

Cigarette smuggling causes huge yearly losses to Member States and the EU in evaded customs duties and taxes. Smuggled tobacco respects no rules, and poses great risks to both consumers and businesses. It undermines anti-smoking and public health campaigns, and violates the strict rules that the EU and Member States have on manufacturing, distribution and sale. International information exchange and collaboration facilitated by OLAF led to seizures of more than 250 million cigarettes in 2019.



ILLEGAL TOBACCO FACTORIES

One feature of OLAF's work in 2019 was the continuing battle against cigarette counterfeiting – illicit production of cigarettes within the EU itself. In this specific area, OLAF brought significant added value to a number of criminal investigations taking place in a number of EU countries by helping coordinate operations by customs and law enforcement agencies across Europe and beyond.

Starting from the seizures of counterfeited cigarettes in the EU, OLAF carried out a number of investigations aimed at identifying illicit factories in the EU and dismantling the criminal organisations behind them. As a direct result of OLAF's investigations, authorities were able to dismantle two illegal cigarette factories in Slovakia and in Hungary, seize 2.4 million cigarettes and 52 tonnes of tobacco, and arrest 68 people. Machinery and other materials necessary for cigarette production were also seized.

NEW FOCUS ON WATER PIPE TOBACCO

Since 2018, OLAF has been monitoring more closely the smuggling of water pipe tobacco. Much of this tobacco is declared under the EU transit system, transported via the EU to other countries, but with a high risk of being smuggled illegally into the EU while en route.

In particular, in 2019 OLAF launched a number of investigations into suspicious water pipe tobacco consignments that had entered an EU Member State via a third country. OLAF's in-depth analysis uncovered that a remarkable number of consignments had entered the EU and been stored in a free zone warehouse and then apparently destroyed at the request of the consignment's owner. As this behaviour appeared unusual, to say the least, OLAF decided to examine one of the consignments in May 2019. Investigators discovered that 85 000 kg of counterfeit water pipe tobacco was being stored in the warehouse; the goods were duly seized. As a result of OLAF's investigations, two other Member States seized a combined total of 9 000 kg of fake water pipe tobacco, while a further 15 000 kg was seized in another country outside the EU. Further investigations revealed that all the tobacco originated from the same source. The tax loss related to this illegal business was estimated at almost €14 million.

During the course of 2019, OLAF received information on a number of other suspicious water pipe tobacco

consignments. In one case, for example, tobacco from the United Arab Emirates and destined for Kazakhstan was transported via both Germany and Latvia, a suspiciously circuitous route. The goods were intercepted in Latvia and a subsequent laboratory examination revealed that the packages did not contain nicotine at all but a red jelly-like glycerine substance, weighing over 5 000 kg.

In a separate case, Estonian customs seized a consignment of 748 kg of water pipe tobacco in November 2019 after the brand owner, supported by information from OLAF, signalled its concerns about possible counterfeiting.

COOPERATION WITH OTHER EU BODIES ON CIGARETTE SMUGGLING

As in previous years, OLAF cooperated closely with a number of international organisations also working on tobacco smuggling.

OLAF strengthened its cooperation with Europol, the European Union's law enforcement agency, and Eurojust, the EU agency for criminal justice cooperation, in 2019. In November, OLAF took part with both agencies in a major anti-smuggling operation, during which 18 people suspected of money laundering and the illegal trade in and storage of around 670 tonnes of tobacco were arrested. The operation saw 29 searches take place in Italy, Poland, Belgium, the United Kingdom and the Netherlands.

In 2019, OLAF also took part in the Task Force Tobacco meeting organised by the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM), alongside all the EU Member States that have borders with those two countries. These countries are key routes for cigarette smuggling to the EU.

OLAF also supported EUBAM in the joint border control operation Scorpion, which targeted cigarettes originating from duty-free shops in the breakaway Transnistria region. The competent authorities of Moldova, Romania and Ukraine participated in this operation, which resulted in an improved intelligence picture and in 115 seizures of a total of more than 15 million cigarettes, 4.245 kg of raw tobacco and 233 kg of water pipe tobacco.

Taking the lead on joint customs operations

In addition to its investigations concerning cases of revenue fraud and counterfeiting, OLAF coordinates large-scale joint customs operations (JCOs) involving EU and international operational partners. JCOs are targeted actions of limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or on identified trade routes. In 2019, OLAF was involved in 13 JCOs: two major JCOs were led by OLAF itself, while the office co-organised or supported operations in 11 others. Among the JCOs carried out in 2019 were the following.

HYGIEA

This JCO coordinated by OLAF targeted the international trade in fast-moving consumer goods (personal hygiene products, detergents, cosmetics, etc.). All EU Member States, Norway, 11 Asian countries (Bangladesh, China, Indonesia, Japan, Malaysia, Mongolia, Pakistan, the Philippines, Singapore, Thailand and Vietnam) and Europol participated in the operation. Around 200 000 items of counterfeit perfume, toothpaste and cosmetics, 120 tonnes of counterfeit detergents, shampoos and nappies and more than 4.2 million other counterfeit goods (battery cells, footwear, toys, tennis balls, shavers, electronic devices, etc.), as well as 77 million cigarettes and 44 tons of counterfeit water pipe tobacco, were seized by the Asian and EU customs authorities.



findings reveal that Asian e-commerce platforms are still responsible for the majority of counterfeit sales. Drug trafficking takes place mainly through the dark web, where technology is used to keep buyers and sellers anonymous.

POSTBOX II

This ground-breaking European operation led by OLAF and Belgian customs led to the breaking up of a gang of online criminals trafficking drugs, counterfeit goods – including medicine – and endangered animal and plant species. Involving customs experts from 22 Member States and Europol, the operation focused on criminals working on both the open and the dark web, and led to 2 320 seizures, the opening of 50 case files and the identification of 30 suspects in Member States. In the initial phase of the operation, customs authorities checked mail and courier service packages for prohibited items. More than 500 packages were seized in Belgium alone, followed by Italy with 460 seizures and Ireland with 304. These initial seizures were followed by the creation of an expert cyber patrol, which raided both the open and the dark web, as well as social media sites, in search of the perpetrators of the crimes. The main

SILVER AXE IV

This JCO is a joint operation by OLAF and Europol targeting the smuggling of pesticides, which poses a threat to the environment, the agricultural sector and ultimately the health and safety of consumers. OLAF identified 120 suspicious shipments of pesticides coming from third countries, mainly China, that were either declared as being in transit through the EU, or declared for export from the EU to a third country – usually Russia, Ukraine, Moldova or Turkey. The fourth Silver Axe operation led to the seizure of 550 tonnes of illegal or counterfeit pesticides, large enough to cover a surface of 50 000 km² – the size of Estonia. Numerous police, customs and plant protection authorities from 29 countries participated in the operation.

2.3. OLAF's investigative mandate within the EU institutions

The risk to the reputation of the EU as a whole due to any perceived lack of integrity within the institutions is significant, potentially undermining not only the institutions themselves but the European project as a whole. This is why OLAF has a unique mandate to carry out internal investigations into the EU institutions, bodies, offices and agencies for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the EU. OLAF investigates serious matters relating to the discharge of professional duties that would constitute a dereliction of the obligations of EU officials liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies. OLAF also works with the EU institutions and bodies to help them detect, prevent and address any such possible cases.

A number of cases concluded in 2019 concern the EU institutions, notably the European Parliament but also the European Commission and the European Economic and Social Committee.

2.3.1. MEPs' declarations under the spotlight

Failure to correctly declare expenditure is one particular trend. For example, one member of the European Parliament (MEP) allegedly contracted his partner as his assistant, who also provided services to the MEP through a company she owned. OLAF's investigation established that the assistant had never moved to Brussels to work for the MEP, or provided any relevant services to him. Nor did she declare to the Parliament her ownership of the company that allegedly provided services to the MEP. OLAF was in fact unable to find any evidence that the company in question provided any services to the MEP. OLAF recommended to the Parliament that it recover more than €200 000 from the MEP and his partner, corresponding to the amount paid to the assistant and invoiced by the company. OLAF also recommended that disciplinary proceedings should be initiated.

Another case involving an MEP concerned irregularities in declarations of travel expenses made since 2009. A number of inconsistencies were discovered with regard to the MEP's claims regarding travel by plane and car, and to the payment of subsistence allowance.

After an on-the-spot check of the travel agency that had booked the plane tickets, OLAF discovered that the agency had modified the tickets after issuing them in





order to inflate the actual cost of the flights by €2 792. The investigation was unable to establish whether or not the MEP was aware of these modifications. As for the expenses claimed for car travel, OLAF identified irregularities concerning the mileage, itinerary and travel time declared, to the estimated amount of €10 342. OLAF also noted that the MEP had failed to declare as his place of residence the place where he actually lived, choosing instead another location in his country of origin in order to increase his subsistence allowance by €86 461.

OLAF issued a recommendation to the European Parliament to recover an estimated amount of €99 595 from the MEP, as well as an administrative recommendation regarding the rules on travel expenses relating to car trips and payment of the subsistence allowance. As OLAF could only verify a sample of the business trips concerned, it also recommended that the Parliament check all the trips of the MEP in question. Finally, since the behaviour of the MEP and the travel agency concerned could have constituted an infringement of the national criminal code, OLAF also recommended that the relevant judicial authorities initiate judicial proceedings. A criminal investigation into this matter is currently ongoing.

2.3.2. European political parties and foundations

Two unrelated but similar cases concern the activities of EU political parties and their affiliated political foundations. One case concerned the operations of the EU political party Movement for a Europe of Liberties and Democracy and its affiliated Foundation for a Europe of Liberties and Democracy. Both were supported by grants from the European Parliament, but OLAF's investigation discovered that both were used by their members to obtain unlawful gains for themselves or for others. OLAF also found that the rules linked to the awarding of the grants by the Parliament were frequently disregarded, resulting in unlawful, irregular and ineligible spending of the money. OLAF estimated the financial loss to the European Parliament at €583 047, of which €127 626 has already been recovered. OLAF considers that the persons who approved the expenditure within the party or foundation should be held personally responsible for the damage caused to the EU budget, and recommended to the Parliament that the money should be recovered from them, as the political party and foundation are in liquidation.

The second investigation concerned suspected breaches of rules on financing of EU political parties and

foundations, in this case established under Belgian law as non-profit organisations. OLAF discovered that the political party in question had used a substantial part of the grant awarded to it by the Parliament in 2015 to finance national political parties indirectly, which is explicitly prohibited under the rules of the Parliament. The party also made payments to a Belgian company in a situation of conflict of interest. Moreover the investigation showed that the foundation had presented expenditure items in 2015 that were considered indirect financing of a national political party and referendum campaign in a Member State. Grants awarded in 2016 were also affected: both entities and their representatives failed to submit their final reports to the European Parliament, leading to the issuing of debt notes for the total amount of the pre-paid financing. OLAF issued a recommendation to the Parliament to recover more than €1.9 million from both the 2015 and 2016 grants. Again the persons within the party approving the expenditure were considered to be personally responsible. A criminal investigation is still ongoing.

2.3.3. Other institutions

The European Parliament is not the only institution concerned by this trend. One case closed in 2019 concerned an international judge working in Kosovo, for an EU body. OLAF established that the judge had failed to declare a second full-time contract with the European Commission, where he was employed as a key expert in a technical assistance project. Instead, he had declared work for the Commission project when in fact working for the EU body, used information technology (IT) services provided by the EU body for his other activity, accepted double payment for the same working days and failed to declare his revenues to his national tax authorities. OLAF issued a recommendation to recover around €50 000.

Another case concluded in 2019, this time concerning a member of the European Economic and Social Committee (EESC), focused on inconsistent travel declarations. OLAF uncovered a number of frauds. The member had submitted forged supporting documents (in the form of e-tickets) for his travel, declaring air travel in business class when in fact the travel had been with low-cost airlines in economy class. The forged tickets also falsified the arrival and departure dates to give the impression of overnight stays, when in fact each trip had taken place in a single day. This allowed the member to claim an additional subsistence allowance.

The member also declared his place of residence as a village 250 km from the airport in the capital city of his home country, while in fact it was in the capital itself. This allowed him to claim a car allowance of €250 per return flight.

The total amount of unjustified payments was around €91 000. The member paid back the amount, but OLAF also sent a recommendation to the EESC to take

appropriate disciplinary measures against the member. The rules of the EESC at the time did not provide for a disciplinary procedure unless the member in question was convicted of fraud affecting the financial interests of the EU in his home country. OLAF also recommended that the case be sent to the judicial authorities in the member's home country.

Table 3: Investigations into EU staff and members of the institutions concluded in 2019

Institution, body, office or agency	Cases concluded	
	Total number	of which closed with recommendations
European Parliament	16	14
Europol	2	0
European Union Rule of Law Mission in Kosovo	2	2
European Commission	2	1
EESC	2	2
European External Action Service	1	0
Eurojust	1	1
Agencies and bodies	1	0
European Investment Bank	1	1
Total	28	21

3. Focus chapter: the growing threat of environmental fraud

With the EU's political agenda focused clearly on environmental issues and the creation of a sustainable future, increasing amounts of EU funding are being invested in environment-related policies and projects. However, as these investments in environmental and sustainability projects increase, so does the risk of potential fraud. At the same time, fraudulent and illegal activity risks seriously undermining Europe's efforts to cut emissions and improve air or water quality, as well as potentially increasing the impact of global warming and the danger to people's health.

Over the past few years, OLAF has investigated an increasing number of cases of fraud or other illegal activities with an environmental or sustainability element, underlining that, as sustainability has risen up the EU agenda, so it has sadly become a new avenue for fraudsters. From mispending of EU funds intended for green products to counterfeiting and smuggling of products with the potential to harm the environment and health, a selection of these cases can be found below.

3.1. Volkswagen, EIB and Dieselgate

Perhaps the most well-known case with an environmental impact in which OLAF has been involved was the so-called Dieselgate scandal. This centred around 'defeat devices' that the German automobile manufacturer Volkswagen AG (VW) was found to have installed in its cars to effectively bypass strict EU rules on emissions by making the vehicle respond differently in testing from actual driving conditions. This effectively meant that VW was undermining EU efforts to improve air quality by enabling its diesel cars to produce higher than permitted levels of emissions and deliberately rigging the engines to allow these emissions to go undetected.

OLAF got involved after allegations in the press in October 2015 about the possible misappropriation of European Investment Bank (EIB) funds by VW in the development of these defeat devices. A €400 million loan from the EIB had been awarded to a VW project called Antrieb RDI, which was designed to support

the car maker's research on how to reduce emissions. OLAF's investigation established that, rather than spending the EU funding on the vitally important task of improving vehicle technology to reduce emissions, it was instead partially spent on designing VW's EA 189 engine, on which the defeat device was deployed.

One of the primary conditions imposed by the EIB ahead of granting the loan in 2008 was the sharing of specific information on the environmental impact and on all important circumstances or important risks that could influence the operational results of the project. OLAF's investigation established that, at the time the loan was granted, some of the VW managers and staff involved in the project were fully aware of the difficulties faced by the new EA 189 engine in reaching the stringent emissions standards, and of the development and use of the defeat device to overcome the problems by cheating the tests.

However, this information was never shared with the EIB, either before the loan was approved or at any time during which EU money was being used in the development of the project. Had it been so, the EIB confirmed, it would never have granted the loan or would have requested full repayment in advance of the due date. By failing to share this vital information with the EIB, VW was found to be in breach of its contractual obligations towards the bank.

The bank reached a settlement with VW in November 2018, which closely followed OLAF's recommendations,



including among others the exclusion of VW from EIB funding for 18 months, and a contribution from the car maker of €10 million to environmental and/or sustainability projects across Europe.

3.2. Trade in endangered species

In recent years OLAF has also noted strong growth in environment-related issues in the conduct of many of its customs investigations and operations. These range from cases arising under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), or involving the ban on the trade in certain types of protected wood, to cases involving the false description at import into the EU of products such as biodiesel in order to manipulate national targets for renewable energy creation or to obtain subsidies and tax breaks from national governments.

In one case related to CITES, OLAF is working very closely with Member States and Europol in the battle against the illegal trade in European glass eels. These are protected under the convention but in recent years organised crime groups have smuggled millions of young glass eels out of the EU to Asia, where they are farmed to maturity and then resold on the world market (including back to the EU), with huge profits to be made by the smugglers.

A second CITES case saw OLAF and Member States working together fighting the illegal logging and smuggling of precious wood and timber from Myanmar into the EU. In this case, a number of Member States collectively approached OLAF to assist them with enquiries regarding suspected imports into the EU. OLAF is very well placed, through its administrative powers, to conduct checks in Member States on both the nature of the imports and the end use of the products concerned.

As a precious resource, wood is often at the root of fraudulent or illegal activities. In another case, OLAF has worked with a number of Member States investigating allegations of the import and end use of wood from certain protected forests in Ukraine. Enquiries in this very important case are ongoing in three Member States in particular.

3.3. Biodiesel dumping

Other examples of OLAF investigating cases with environmental impact show the growing number of cases in recent years in which the Office has investigated the illegal dumping of biodiesel from the world market into the EU.

Apart from such cases being primarily concerned with breaches of the anti-dumping duty measures imposed and the financial consequences that stem from them, OLAF has found that many of them also include an important 'green' element in that the biodiesel concerned is often also falsely described as having been obtained from used cooking oil. This is done so companies can illegally claim various national subsidies and tax breaks that are available for the declared use of such products in order to meet national renewable energy creation targets in various Member States.



In other words, in addition to financial fraud being committed on two levels, this type of product misdescription and use also seriously undermines the EU's renewable energy and broader climate change targets.

One case offers a typical example of what can and does happen in this sector. OLAF was informed that a Norwegian company was exporting to the EU very large quantities of biodiesel purportedly produced from used cooking oil of Canadian origin. The source alleged to OLAF that in fact the biodiesel imported from Norway was not from Canada but had been made in the United States, and should therefore have been subject to



payment of anti-dumping and countervailing duties when imported into the EU.

The source also alleged that the biodiesel was not produced from used cooking oil and that, as a result, when it was traded in the EU it was being illegally counted against certain national renewable energy target levels and also probably benefiting from national subsidies and/or tax breaks.

As a result of its enquiries, conducted in close cooperation with the United States, Canada, Norway and EU Member States, OLAF found that the biodiesel in question had been produced from soya bean oil that had been exported from the United States to Canada, where it was mixed with small quantities of vegetable oils, and re-exported to Norway and then on into the EU. Over 150 000 tonnes of biodiesel was involved in this irregular trade.

OLAF also established that all the operations were managed and controlled by a single Swiss company, which also controlled the Canadian and Norwegian companies involved. The financial impact of the case was calculated to be €62 million in lost anti-dumping duties. Although OLAF also found that the product was then falsely declared in the EU as being produced from used cooking oil and irregularly used to claim benefit from renewable energy schemes, it was unable to assess the economic impact.

OLAF is also actively involved in a very large case in which the value of palm oil is being under-declared when it is imported into the EU. Apart from the obvious customs and associated VAT fraud being committed, another major concern is the likely source of the products, with the suggestion being that the massive increase in palm oil production and trading comes at the expense of forests, which are regularly cleared to make space for such production in the main exporting countries concerned.

3.4. EU funding for environmental projects a particular target

Structural and research funding is increasingly being used to support environmental projects across Europe. But it is also frequently the target of fraudulent activity as well, effectively resulting in a double loss for European citizens: the loss of EU funding to the

fraudsters is coupled with the loss of investment in real projects aimed at tackling the climate crisis.

AQUACULTURE FARMS WITH NO WATER

This is not a new problem; in fact OLAF has seen cases of environmental projects being defrauded for several years. One case from 2013, for example, concerned a beneficiary of five EU-funded aquaculture projects in Romania who received subsidies for surfaces that were never covered by water. The five projects were two aquaculture farms situated in a Natura 2000 natural reserve and three projects under which EU funding was to be used to support the transformation of traditional aquaculture farms into certified organic farms.

OLAF's investigation confirmed the initial allegations about the false projects, which were fabricated with the sole purpose of obtaining the EU funds through fraudulent means. The case was closed in 2017 with a recommendation to recover 100 % of the EU funding, nearly €1.3 million, which was successfully done by the European Commission's Directorate-General for Maritime Affairs and Fisheries.

FOREST FIRE DETECTION FUNDS DEFRAUDED

In a similar vein, a more recent case involving research funding shows to just what extent money intended to support environmental projects for the benefit of everyone can be put to altogether less altruistic purposes. OLAF's investigation concerned an environmental research project, funded by the Research Executive Agency (REA) and designed to develop a system that would facilitate forest fire detection – a real benefit for both citizens and the environment. A consortium of five small and medium-sized enterprises based in Ireland, France, Spain and Romania was supposed to carry out the project.

However, REA became concerned that some claims for personnel costs submitted by the consortium might be false. OLAF established that the consortium had never in fact had the operational capacity to carry out the project; in reality the initial funding application and the subsequent progress reports were based on lies and false documents.

Digging further, the investigators established that the vast majority of the EU funding had simply been



siphoned off by the consortium members. Most of the stolen money was spent on an entirely different project – a casino/hotel project in another EU country that never went beyond the initial ideas stage but could not have been further removed from the initial purpose of the EU funding. OLAF recommended that the REA recover €410 000 from the consortium; in addition, the competent judicial authorities were asked to initiate judicial proceedings against the persons involved..

WATER AND WASTEWATER MANAGEMENT FREQUENTLY TARGETED

Several cases investigated by OLAF and completed in 2019 focus on water and waste management infrastructure projects intended to benefit local communities across the EU.

One particularly complex cross-border case focused on a project based in Romania. Working alongside the Romanian National Anticorruption Directorate, OLAF uncovered a network of fraud and money-laundering activities linked to an EU-funded project for water supply and wastewater infrastructure. The project,

which was valued at €102 million, had as its beneficiary a local public water supply company.

OLAF's investigation took it first to Germany, where it carried out a number of on-the-spot checks and interviews with persons concerned and witnesses, and analysed banking transactions with a view to identifying the real destination of the EU funds allocated to the project.

It was found that, following the tender procedures that took place within the project, the beneficiary awarded two work contracts to a joint venture between a Romanian company and a German construction firm. The Romanian firm was the leader of the venture, controlling 70 % of the business, and was the sole recipient of all the EU money from the beneficiary.

During the course of its investigation, OLAF found the German company was in fact not aware of its supposed role in this joint venture, the tender procedure, the EU-funded project or the work allegedly taking place in Romania. In fact, in order to prove that it had the capacity to carry out the contracted work, the Romanian company had created a fictitious joint venture, using the name, reputation, experience and financial situation of



the German company to help it win the tenders without the German company ever being aware of its name being used in this way. Not surprisingly, therefore, the German company never received any payments from its Romanian 'partner' in the fictitious joint venture, or indeed from any other sources in relation to this project.

The Romanian company did more than rely on the reputation of its alleged partner, however. OLAF's investigation also discovered that the Romanian company had falsely claimed to have carried out a number of similar projects in the past, to prove that it had the capacity to manage the project and met the minimum qualification requirements in the award procedure. In fact, the Romanian company had never completed any projects related to works in water supply and wastewater infrastructure.

Having successfully convinced the beneficiary of the EU funding that it had the capacity and experience to manage the contract, and notably after receiving large amounts of money from the EU funding, the Romanian company simply abandoned the works. The

contracts for both the water and wastewater plants were cancelled, delaying as a result the much-needed environmental improvements that they would bring.

OLAF also analysed the financial flows related to the EU money invested in this project and given to the Romanian company, allowing it to trace the real destination of the money. OLAF was able to provide the Romanian prosecutors with additional information to support their criminal case against the perpetrators of the fraud and the money laundering. OLAF also made a recommendation to the European Commission's Directorate-General for Regional and Urban Policy to recover more than €6 million.

Water and wastewater treatment also featured at the centre of two separate cases in Croatia that OLAF completed in 2019.

The first investigation concerned two separate contracts, one a service contract related to a new sewage and wastewater treatment plant in a coastal town and the other a construction contract for four wastewater



treatment plants and plants for the solar drying and composting of sludge. The value of the contracts was about €40 million. Following a series of on-the-spot checks, OLAF discovered that in the first case there was a conflict of interest between the company performing the works and the one supervising them. In fact, the two companies were related, as they were held by the same entity as owner and majority shareholder. In the second case, OLAF detected an infringement of public procurement rules. Both irregularities led to a financial recommendation to the Directorate-General for Regional and Urban Policy to recover €7.25 million.

The second OLAF investigation concluded in 2019 concerned a project worth €60 million to improve a water management system by modernising and extending the water supply and sewage network and to construct a wastewater treatment plant in a different Croatian town. OLAF launched an investigation after initial allegations that the funds allocated for the project had in fact been used for a different project altogether, that payments had been made for equipment that was never delivered and that payments made to the contractor were in fact due to subcontractors.

The investigators carried out on-the-spot checks and one witness interview. The investigation disproved these allegations, but did uncover irregularities in the paperwork that had allowed the project to be considered exempt from municipal taxes. In effect, the public tender documentation concerning the works contract for the design and construction of the wastewater treatment plant was not compliant with the national legal framework. This effectively meant that some bidders may have been misled, making higher (and therefore less competitive) offers for the work, as they included estimates for the municipal tax.

Since several similar projects may be affected by the same irregularity in Croatia, OLAF issued an administrative recommendation to ensure the compliance of the procurement notices with the current legal framework and, where appropriate, to ensure the recovery of any EU funds spent irregularly.

INFLATED PRICES FOR WASTE MANAGEMENT PROJECT

Meanwhile, a case in Slovakia focused on a project designed to enhance the separation of biodegradable waste. In 2017, OLAF opened an investigation concerning allegations of possible irregularities in the

contract awarded for the purchase of equipment and machinery for the project. Specifically, the project aimed to purchase containers to ensure the separation of biodegradable waste from general municipal waste, and was supported by outreach and promotion activities to increase citizens' ecological awareness and their participation in responsible waste management.

OLAF conducted several on-the-spot checks at the premises of the beneficiary, the supplier and the public procurement consultant company. The investigation identified several irregularities in the project, mostly due to mismanagement and low involvement of the project beneficiary in the project life cycle.

The analysis of the project documentation revealed inflated prices, sometimes two, three or four times higher than the market prices for which the project supplier actually purchased certain items. OLAF detected profit margins on the supply ranging from 23 % to 471 %, which indicated overpricing and the breach of the principle of sound financial management.

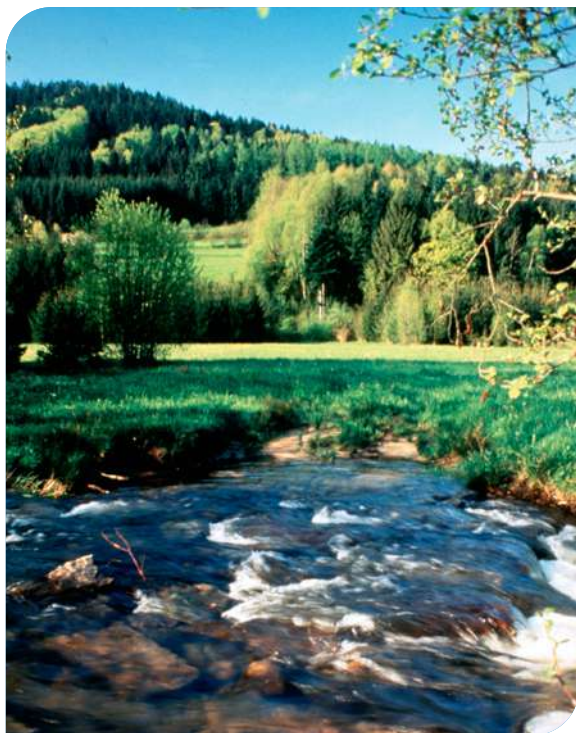
Based on its findings, OLAF issued a financial recommendation to recover more than €1.14 million in EU financing.

3.5. Fake green credentials

While many cases focus on fraud committed against genuine green projects, one case concluded in 2019 also highlights that fraud can also involve faking green credentials in order to obtain EU funding.

The case dates back to 2017, when OLAF was first informed that a Belgian city allegedly put forward false arguments to have the construction of a road financed under the European Regional Development Fund because it could help reduce CO₂ emissions. The construction of the road was part of a project considered to be of great economic importance for the region and a unique occasion to obtain EU funding.

The OLAF investigation showed that, despite systematically negative evaluations by the officials involved in the project selection process, which underlined that there were no green credentials to justify using EU funding to build a new road, the project was still accepted and granted the funding. The managing authority responsible for distributing the funds used, in effect, the views of a 'friendly' member



of an ad hoc committee of experts, appointed to make recommendations on the allocation of funding to such projects, to overturn all the previous negative recommendations. The effect was to let economic concerns prevail over the ecological objectives of the measure.

As a precautionary measure, OLAF alerted the Directorate-General for Regional and Urban Policy to the indications of irregularity and, when the investigation was concluded in 2019, recommended that no payment be made to the city concerned for this project, where the environmental benefits of investing EU money were far from clear.

3.6. Manipulation of tenders at work again

Flawed public procurement was at the centre of another fraud related to the European Agricultural Fund for Rural Development, and in particular to the supply of machinery. In this case, the beneficiary of the EU funds launched a procurement procedure for a very specific piece of machinery used to produce pellets used as an environmentally friendly heating material.

OLAF discovered that the tender was eventually granted to a company with direct links to the firm benefiting from the EU funding: in fact, a representative of the winning bidder was found to work for a company of which the beneficiary was a legal representative.

Further irregularities were found in the supply chain of the machine itself. The company that won the tender to supply the machine pretended that a component was missing and needed to be procured elsewhere. This was a subterfuge to inflate the price of the machine: the manufacturer in fact sold the machine with all its parts intact to another company, owned by the beneficiary of the EU funds, which then sold it to the winner of the tender, which then in turn sold it back to the beneficiary. In other words, the machine never in fact changed ownership – the ‘sale’ was effectively an exchange of invoices, each more expensive than the last.

OLAF concluded that none of the costs declared by the beneficiary were in fact eligible for EU funding, and recommended that the European Commission’s Directorate-General for Agriculture and Rural Development ensure the recovery of the entire amount of the EU contribution: €110 000.

4. OLAF on the European and international scene

4.1. OLAF's relations with its partners

Efficient cooperation with its partners is essential for OLAF's investigative and policy work. With this in mind, OLAF works hard to foster good relations and cooperation with the widest possible range of current and future partners on the European and international scenes.

Examples of successful and expanded cooperation with many of these partners can also be found elsewhere in this report.

4.1.1. Working closely with the Member States and European Commission services

OLAF works closely with national authorities in Member States, on both investigative and policy matters. In 2019, the Director-General of OLAF visited seven Member States (Bulgaria, Finland, France, Germany, Italy, Spain and Sweden) and met with high-level officials (ministers, secretaries of state, directors-general) from national authorities and investigative services, including customs agencies, police, tax administrations, judicial authorities and anti-fraud coordination services. The visits to Member States contributed to enhancing investigative cooperation, including assistance to OLAF's investigations, improving reporting of irregularities to OLAF and following up OLAF's recommendations, and preparing for the establishment of the European Public Prosecutor's Office (EPPO).

In its mission to protect the EU's financial interests against fraud and corruption and to stop fraudsters from pocketing EU money, OLAF collaborates with other European Commission services, as well as with other institutions, bodies and agencies. In 2019, in addition to the frauds involving EU funds and joint customs operations targeting consumer goods and cigarettes, OLAF intensified its activities in environment-related projects. As a result, OLAF actively collaborated with its European partners to increase OLAF's involvement in the delivery of the European Green Deal objectives,



OLAF hosted a visit from the Italian Carabinieri in April as part of its ongoing cooperation with national authorities

particularly as regards environmental fraud and food fraud.

The Director-General of OLAF met bilaterally with 21 Directors-General of the Commission as well as with other international organisations (the EIB, Eurojust, Europol, the European External Action Service and the European Union Intellectual Property Office). Those meetings set the basis for new areas of cooperation and better synergies between OLAF and its partners. They focused mainly on enhancing operational cooperation (e.g. through joint operations, exchange of information and data analysis) and improving the development and coordination of anti-fraud measures (e.g. assisting other Directorates-General in adapting their anti-fraud strategies to the new Commission anti-fraud strategy (CAFS), providing training).

4.1.2. Administrative cooperation arrangements with international partners

Administrative cooperation arrangements (ACAs) are a key tool in helping OLAF foster close relationships with investigative bodies and other non-investigative partners engaged in the fight against fraud. In 2019, OLAF signed an ACA with the European Court of Auditors (ECA) and worked on a number of new



arrangements with international bodies and authorities from within the EU Member States and third countries.

At the international level, OLAF took part in a number of events:

- the Organisation for Economic Co-operation and Development Global Anti-Corruption and Integrity Forum in Paris (March 2019), which focused on data analytics as a tool in the fight against corruption;
- the Conference of International Investigators hosted by the United Nations High Commissioner for Refugees in Geneva (November 2019) on the upcoming challenges for investigative arms of international organisations;
- and the annual conference of the European Partners against Corruption/European Anti-Corruption Contact-point Network in Stockholm (December 2019), where OLAF notably stressed the need for strengthened cooperation.

Within Europe, in 2019, OLAF stepped up its coordination and cooperation efforts with partner authorities from the EU Member States, candidate countries and future candidates. These included:

- a conference with representatives from all Member States on new provisions on protecting the EU's financial interests (June 2019);
- an Anti-Fraud Coordination Service (AFCOS) seminar in Skopje (September 2019) with EU Member States and candidate countries to discuss the role of and tools for national agencies in fraud prevention and links with investigations;
- an AFCOS meeting in Brussels (October 2019) with the partner authorities from the EU Member States, notably to discuss the future of AFCOS in the EU Member States;
- a pilot group meeting in Brussels with African partner authorities (October 2019) on strengthening cooperation in the fight against fraud and corruption; and study visits for relevant authorities from Albania and North Macedonia.

4.1.3. **Advisory Committee for Coordination of Fraud Prevention**

OLAF steers and chairs the Advisory Committee for Coordination of Fraud Prevention (Cocolaf), composed of representatives of Member States' authorities. The 2019 annual Cocolaf meeting provided an opportunity



OLAF Director-General Ville Itälä at the anti-fraud coordination services seminar in October

to exchange views on the main developments in the fight against fraud and the preparation of the report on the Protection of the European Union's financial interests – Fight against fraud 2018 under Article 325 of the Treaty on the Functioning of the EU (the PIF Report).

In 2019, the specific Cocolaf subgroups worked on:

- ▶ exchanging best practices and developing a common framework for fraud prevention and detection;
- ▶ developing a methodology for country profiles in the anti-fraud area;
- ▶ sharing the results of analyses about the main trends and patterns in fraud and irregularity;
- ▶ discussing OLAF's cooperation with AFCOS, from both an investigative and a policy perspective;
- ▶ sharing media strategies and organising communication activities on fraud prevention and deterrence.

4.1.4. Mutual assistance and anti-fraud clauses in international agreements

Cooperation with third countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance in customs matters. OLAF currently has agreements with more than 80 third countries, including with major EU trade partners, such as the United States, China or Japan. In 2019, negotiations were finalised with Andorra, Azerbaijan and Kyrgyzstan, and were ongoing with Australia, Indonesia and Uzbekistan. The negotiating directives for an agreement with Belarus on customs cooperation and mutual administrative assistance were also prepared during the year, with the European Council authorising the opening of negotiations in December.

In 2019, OLAF also made sure that the guarantee agreements that the Commission had concluded with various Member State and international development banks under the European Fund for Sustainable Development included all required anti-fraud provisions and mechanisms. More specifically, OLAF systematically took part in the negotiation of these instruments and introduced a new set of provisions aimed at catering for both the anti-fraud requirements of the 2018 Financial Regulation and OLAF investigators' practical concerns when conducting investigations.

OLAF also made progress in 2019 on negotiations linked to anti-fraud clauses in free trade agreements. Most free

trade agreements contain an anti-fraud clause that allows a temporary withdrawal of tariff preference for a product in cases of serious customs fraud and a persistent lack of adequate cooperation to combat it. OLAF represents the EU in any negotiations related to this clause, and in 2019 took part in fruitful discussions with Australia, Chile, Indonesia, New Zealand and Tunisia.

Since February 2017, the World Trade Organization Trade Facilitation Agreement (Bali Agreement) has also provided for an additional possibility to exchange information with third countries with the purpose of verifying an import or export declaration where there are reasonable grounds to doubt the truth or accuracy of the declaration. At the end of 2019, 148 members were signatories to the agreement, and OLAF continues to monitor progress in implementing this article.

4.2. The Hercule III programme: a key tool in supporting the fight against fraud across the EU

OLAF is responsible for the management of the Hercule III programme, which finances projects designed to protect the EU's financial interests. More than €100 million is available to fund the programme for the period 2014–2020. The programme is implemented on the basis of annual work programmes setting out the budget and the funding priorities, and in 2019 some €15.89 million was set aside, mainly to support the work of national and regional authorities in the Member States, such as customs or law enforcement agencies. This financial support was used for the purchase of a wide range of technical equipment, such as scanners used in harbours or airports, digital forensic tools, investigation tools or automated number plate recognition systems.

The law enforcement authorities were also assisted in their operations and investigations by the procurement of access to commercial databases. The programme also financed conferences, seminars and training events attended by staff of national administrations, law enforcement agencies and NGOs in order to strengthen mutual cooperation and the exchange of best practices in the protection of the EU's financial interests. The programme also funded two sessions of digital forensic and analyst training aimed at improving the participants' skills in collecting, securing and analysing evidence from digital devices in a rapidly evolving technological environment.



OLAF Director-General Ville Itälä and European Parliament President David Sassoli, September

5. Monitoring the actions taken by the recipients of OLAF recommendations

5.1. Financial monitoring

The EU's ability to ensure that funding is spent correctly and for the benefit of all – and to effectively recover money put to fraudulent use – is key to improve support for and trust in the EU and its institutions. OLAF's work in tackling fraud, and in particular its recommendations to recover the considerable sums of money defrauded from the EU budget, can play a major role in effectively communicating the successes of the European project.

Yet there is often a significant gap between the amounts OLAF recommends should be recovered and the actual sums returned to the EU budget. The European Parliament has repeatedly asked the European Commission to provide information on amounts actually recovered following financial recommendations resulting from OLAF investigations. In its 2019 special report *Fighting Fraud in EU Spending: Action needed*, the ECA also recommended that a robust fraud-reporting system be put in place, flagging the important gap that currently exists between recommended and recovered amounts.

The Commission is committed to meeting these various demands to improve the level of follow-up given to OLAF recommendations by the Commission and its executive agencies, in order to obtain a comprehensive picture of the situation and to identify the systemic reasons for under-implementation of recommendations.

The Commission's Corporate Management Board has taken responsibility for this process. At its meeting of 27 November 2019 the Board asked Commission services to strengthen their follow-up and provide relevant information to both OLAF and the Directorate-General for Budget to improve corporate oversight. The

objective is first to obtain a clear picture on the state of play of past recommendations, and then to establish a robust control system for the future. OLAF's aim is to be able to report on the amounts actually recovered following financial recommendations resulting from OLAF investigations as of the OLAF report for 2020.

5.2. Financial impact of OLAF investigations in the overall detection of irregularities across Europe

Member States are responsible for most EU spending and they also manage the collection of EU customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and supports them through active exchange of information and targeted training.

Under sectoral regulations, Member States have to report to the European Commission any irregularity or suspicion of fraud ⁽¹⁾ they detect exceeding €10 000. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU's financial interests (the 'PIF Report').

⁽¹⁾ A case can be defined as fraud only after a definitive sentence is issued by a competent judicial authority. This can take a few years following the detection and reporting of the case to the Commission.

Table 4: Amounts recommended by OLAF for financial recovery 2015-2019 (€ million)

	2015	2016	2017	2018	2019
Amount recommended	888	631	3095	371	485



In parallel with data concerning Member States' detections, OLAF also gathers data on the number of investigations it has concluded and that have led to financial recommendations.

In recent annual reports, OLAF has presented a comparative analysis in the areas of traditional own resources (TOR) and shared management, providing an overview of the number of fraudulent and non-fraudulent irregularities detected by national authorities, compared with the financial recommendations issued by OLAF in the same areas. In this year's report, the analysis covers a period of 5 years, including 2019. The impact of investigations is shown as a percentage of the total TOR that authorities have collected for 2015–2019 and as a percentage of the total payments made under the two main areas of shared management, namely European Structural and Investment Funds and agriculture, by each Member State. The results obtained by OLAF during the same period are presented next to those of national authorities ⁽²⁾.

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States.

Table 5 shows the number of irregularities or fraud cases detected in the area of TOR between 2015 and 2019 and their financial impact as a percentage of the gross TOR collected by Member States and made available to the EU budget. OLAF's results are shown alongside those of national authorities.

Table 6 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas

of shared management between 2015 and 2019 and their financial impact expressed as a percentage of each Member State's total payments. OLAF's results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations are making in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent. In terms of TOR, OLAF's financial recommendations would represent 2.72 % of the gross TOR collected, compared with 1.59 % for all Member States together. This means that, for this period, OLAF's financial recommendations exceed the entire financial impact of the investigative and control activities of the Member States. The OLAF results are significantly influenced by the conclusion of a string of investigations linked to the undervaluation of imported goods. These results also highlight OLAF's commitment to utilising resources effectively and concentrating on cases where its input would bring most added value.

OLAF's results are also significant in the shared management areas, where the financial impact of the activities of all Member States together accounts for 1.84 % of payments, while OLAF alone recommended the recovery of 0.34 % of payments. In this area, OLAF's financial recommendations would represent 16 % to 18 % (18 % to 21 % for the EU-27) ⁽³⁾ of the entire impact of investigative and control activities. There are particular countries where the financial impact of OLAF cases is particularly significant and, at times, even higher than that of national investigations.

⁽²⁾ Results of the Member States and OLAF may partially overlap. OLAF results are extracted from OLAF's case management system, and represent the total sum of financial recommendations issued at the end of the investigations. Data concerning Member States is extracted from the irregularity management system for the expenditure areas and from the OWNRES system for TOR.

⁽³⁾ The range has been calculated assuming, for the lower limit, that OLAF results are not included in those reported by the Member States, while for the highest limit the assumption is the opposite: that OLAF results are fully included in those reported by the Member States.

Table 5: Member State and OLAF detection of irregularities and their financial impact in the area of TOR, 2015–2019

Traditional own resources 2015–2019				
Member State	Member States		OLAF	
	Number of detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Number of investigations closed with recommendations	Financial recommendations as % of TOR collected
Austria	246	1.50 %	6	0.54 %
Belgium	1 055	0.33 %	25	0.52 %
Bulgaria	8	0.02 %	10	0.70 %
Croatia	38	0.37 %	7	0.15 %
Cyprus	7	0.03 %	6	0.38 %
Czechia	384	1.64 %	13	0.96 %
Denmark	332	0.93 %	15	0.59 %
Estonia	17	0.76 %	4	0.03 %
Finland	174	1.86 %	7	0.06 %
France	1 208	0.80 %	20	0.31 %
Germany	7 434	1.95 %	29	0.22 %
Greece	85	0.59 %	16	19.35 %
Hungary	121	1.38 %	9	24.47 %
Ireland	129	0.79 %	7	0.00 %
Italy	521	0.41 %	26	0.19 %
Latvia	53	1.71 %	5	0.43 %
Lithuania	100	1.13 %	9	0.13 %
Luxembourg	11	0.36 %	0	0.00 %
Malta	4	0.74 %	3	1.16 %
Netherlands	2 298	3.45 %	45	1.74 %
Poland	419	0.54 %	20	0.19 %
Portugal	101	1.47 %	16	0.71 %
Romania	210	1.73 %	22	0.44 %
Slovakia	45	0.41 %	5	51.87 %
Slovenia	34	0.42 %	11	0.36 %
Spain	1 286	1.73 %	31	0.70 %
Sweden	670	0.98 %	11	0.11 %
EU-27	16 990	0.98 %	378	1.25 %
United Kingdom	4 108	2.24 %	35	10.73 %
EU-28	21 098	1.59 %	413	2.72 %



Table 6: Member State and OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and agriculture, 2015–2019

Member State	Member States		OLAF	
	Number of detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Number of investigations closed with recommendations	Financial recommendations as % of payments
Austria	315	0.34 %	3	0.09 %
Belgium	293	0.33 %	5	0.18 %
Bulgaria	1 126	1.70 %	20	0.33 %
Croatia	309	1.07 %	2	0.21 %
Cyprus	55	0.72 %	0	0.00 %
Czechia	2 159	2.22 %	7	0.06 %
Denmark	122	0.29 %	0	0.00 %
Estonia	389	1.11 %	1	0.00 %
Finland	151	0.08 %	0	0.00 %
France	1 233	0.21 %	10	0.02 %
Germany	1 376	0.27 %	3	0.38 %
Greece	2 144	2.24 %	18	0.33 %
Hungary	2 697	1.41 %	43	3.93 %
Ireland	867	1.10 %	0	0.00 %
Italy	4 415	1.22 %	22	0.21 %
Latvia	438	2.12 %	2	0.01 %
Lithuania	990	1.58 %	2	0.07 %
Luxembourg	2	0.02 %	0	0.00 %
Malta	75	2.57 %	0	0.00 %
Netherlands	477	0.55 %	3	0.05 %
Poland	5 017	1.83 %	22	0.12 %
Portugal	2 773	1.92 %	9	0.44 %
Romania	4 968	2.92 %	40	0.35 %
Slovakia	1 947	21.03 %	13	0.53 %
Slovenia	245	0.88 %	1	0.15 %
Spain	11 029	2.70 %	4	0.01 %
Sweden	125	0.18 %	0	0.00 %
EU-27	45 737	1.91 %	230	0.36 %
United Kingdom	2 666	0.41 %	6	0.05 %
EU-28	48 403	1.84 %	235	0.34 %

5.3. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcomes of its cases on the ground: indictments, dismissals or other judicial measures.

Under EU law, when requested by OLAF, national judicial authorities must send the Office information on any action taken on the basis of its judicial recommendations. An analysis of the figures shows that around 39 % of the cases submitted by OLAF to national judicial authorities have led to indictments (Table 7).

In a bid to improve cooperation and increase the indictment rate, OLAF has been working closely with national judicial authorities in a number of Member States. After a general cooperation mechanism was agreed in June 2019, contact points were established between OLAF and the Bulgarian Prosecutor General's Office, and an operational cooperation mechanism was agreed between the Hungarian Prosecutor General and OLAF's Director-General in late 2019.

Member States' judicial authorities are independent, and are under no obligation to follow OLAF's recommendations. Nonetheless, OLAF continues to work to better understand the reasons why national judiciaries sometimes dismiss a number of the cases submitted by the Office.

OLAF does not question the validity of national prosecutors' decisions to dismiss individual cases on particular grounds. OLAF's analysis suggests that the legal basis on which Member States may use OLAF's final reports as evidence in trials ⁽⁴⁾ may not be sufficient in every EU country. Nonetheless, the evidence collected by OLAF's investigators during the course of their investigations (for example documents collected) should in many cases be usable. It is not necessarily the case, therefore, that national prosecutors should be obliged to investigate cases from scratch in order to acquire admissible evidence.

In addition, despite OLAF's considerable investigative efforts, its limited investigation powers and practical possibilities mean that conclusive evidence of a criminal offence cannot always be collected. In cases involving EU staff, OLAF has also noted a difference in priorities between its own way of working – treating such cases as extremely serious – and those of national judiciaries, which may take a different view of their relative seriousness.

Finally, there are sometimes differences of interpretation of EU and national law between OLAF and national authorities. OLAF started to address these differences in 2016, through bilateral meetings with the relevant judicial authorities, and this work continued throughout 2019. OLAF also continues to liaise with Member States on an ongoing basis in order to improve follow-up at national level.

⁽⁴⁾ Article 11 (2) of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ L 248, 18.9.2013, p. 1–22.



Table 7: Actions taken by national judicial authorities following OLAF's recommendations issued between 1 January 2015 and 31 December 2019

Member State	No decision taken by JA	Decision taken by JA			Indictment rate (%)
		Total	Dismissed	Indictment	
Austria	1	4	3	1	25 %
Belgium	11	9	6	3	33 %
Bulgaria	10	8	7	1	13 %
Croatia	0	5	2	3	60 %
Cyprus	3	0	0	0	0 %
Czechia	6	3	2	1	33 %
Denmark	3	0	0	0	n/a
Estonia	0	1	1	0	0 %
Finland	1	1	1		0 %
France	10	4	2	2	50 %
Germany	13	15	13	2	13 %
Greece	13	9	3	6	67 %
Hungary	18	15	8	7	47 %
Ireland	3	0			
Italy	22	13	5	8	62 %
Latvia	2	4	3	1	25 %
Lithuania	1	4	1	3	75 %
Luxembourg	3	1	1	0	0 %
Malta	1	2	0	2	100 %
Netherlands	7	10	7	3	30 %
Poland	11	9	5	4	44 %
Portugal	7	5	3	2	40 %
Romania	22	24	13	11	46 %
Slovakia	5	7	6	1	14 %
Slovenia	5	0	0	0	n/a
Spain	8	8	4	4	50 %
Sweden	0	1	1	0	0 %
United Kingdom	13	16	12	4	25 %
Grand total	199	178	109	69	39 %

JA, judicial authority; n/a, not applicable.

5.4. Disciplinary monitoring: EU institutions take action to follow up on OLAF's internal investigations

The disciplinary recommendations issued by OLAF concern serious misconduct by EU staff or members of the EU institutions and are directed to the authority that has disciplinary powers in the institution concerned. When making such recommendations, OLAF does not specify the type of action that should be taken. The appointing authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the appointing authority may join several recommendations resulting from different investigations and, subsequently, impose one single sanction.

Table 8: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2015 and 31 December 2019

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Agencies	10	2	5	3
Council of the European Union	1	0	0	1
ECA	2	1	1	0
EESC	3	2	1	0
Eurojust	1	0	0	1
European Commission	27	4	10	13
European Committee of the Regions	1	1	0	0
European Court of Justice	3	0	2	1
European External Action Service	9	5	0	4
EIB	2	1	0	1
European Parliament	23	14	1	8
European Union Rule of Law Mission in Kosovo	1	0	1	0
Total	83	30	21	32



6. Policies to fight fraud

The best way to fight fraud is to make sure it cannot take place in the first place, or at least to detect it rapidly so that corrective action can be taken swiftly. Identifying and promoting best practice in this respect is a key element of OLAF's mission, in addition to its investigative work. The upcoming multiannual financial framework for 2021–2027 will provide the opportunity to develop an enhanced approach to preventing, detecting and investigating fraud at the EU level. With this in mind, OLAF proposed a new Commission Anti-Fraud Strategy (CAFS), which was adopted in 2019 ⁽⁵⁾. Its implementation over the coming years will help to strengthen cooperation among Commission services, OLAF and other stakeholders, improving the development and coordination of anti-fraud measures and thereby improving the protection of the EU budget.

6.1. Improving fraud prevention and detection at the EU level: the new Commission anti-fraud strategy

The two priorities of the 2019 CAFS are to strengthen the Commission's capabilities in the strategic analysis of fraud data and to strengthen the corporate oversight of fraud risk management by Commission services and executive agencies. OLAF will act as the lynchpin for both priorities.

To get the most out of cooperation across the Commission, the Fraud Prevention and Detection Network, a forum of anti-fraud experts from all Commission services and executive agencies, has been restructured: services that share a common interest will work together on specific issues to improve the effectiveness of cooperation. The various anti-fraud strategies developed by the different Commission services will be assessed by OLAF to ensure coherence and effectiveness.

Work has already begun on strengthening corporate oversight, focusing in particular on monitoring the follow-up given to OLAF recommendations by the Commission

and its executive agencies; the conclusions of this exercise will be presented to the Corporate Management Board, which brings together the Commission's Secretary-General and the other heads of its central services.

Analysis of fraud-related data, based on the PIF Report, is also being improved. The 2019 edition of the PIF Report, which covers 2018, saw improved statistical analysis, for example by comparing the reporting of irregularities in the 2007–2013 and 2014–2020 programming periods. Again using the PIF Report as a base, OLAF also prepared 28 tailored comparative analyses (shared separately with each Member State).

Also in 2019, and in close cooperation with the European Commission spending services and central services, OLAF agreed with the co-legislators on the standard PIF provisions that will be part of all legislation on post-2020 spending programmes, harmonised by area (direct, indirect and shared management). These provisions reflect the requirements that the financial interests of the EU should be protected, including through the prevention, detection, correction and investigation of fraud and other irregularities. Any person or entity receiving EU funds is obliged to fully cooperate in protecting the EU's financial interests, to grant the necessary access rights to the Commission, OLAF, the EPPO and the ECA, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

Other operating improvements that took place in 2019 include the enhancement of the Irregularity Management System (IMS), which benefited from improved information exchange and data analysis, helping Member States, candidate countries and potential candidate countries to report to the Commission detected fraud and irregularities in the implementation of EU funds. OLAF's project to develop a methodology for country profiles in the anti-fraud area, launched in 2018 with the aim of reaching a common understanding of the cornerstones of an effective anti-fraud system, was also updated during 2019 with the development of a data collection tool for a pilot to run during 2020.

⁽⁵⁾ Commission communication – Commission Anti-Fraud Strategy: enhanced action to protect the EU budget (COM(2019) 196).

6.2. Revision of the OLAF Regulation

The Regulation concerning investigations conducted by the European Anti-Fraud Office (the OLAF Regulation) ⁽⁶⁾ is the main legal instrument governing OLAF's investigative activities. In May 2018, the Commission adopted a proposal to amend it ⁽⁷⁾. Against the backdrop of the creation of the EPPO, the proposal seeks to ensure that OLAF is equipped to work closely with the EPPO to detect and investigate fraud across the EU and to ensure strong complementarity between criminal and administrative action at the EU level.

The proposed changes are also intended to clarify OLAF's tools for the conduct of administrative investigations with a view to ensuring their effectiveness, responding to the findings of an evaluation of the OLAF Regulation, which was concluded in October 2017.

On 16 April 2019, the European Parliament adopted its report on the revision of the OLAF Regulation at the first reading ⁽⁸⁾; trilogue negotiations on the revision involving the Parliament, the Council of the EU and the Commission started in November 2019. They will continue in 2020 with a view to completing the negotiations in the course of the year, to ensure that a fit-for-purpose framework is in place for effective cooperation between OLAF and the EPPO, once the latter becomes operational.

6.3. The European Public Prosecutor's Office

The process to establish the EPPO ⁽⁹⁾ passed a number of important milestones in 2019, as the date when the EPPO is expected to become operational – at the end of 2020 – came ever closer. A strong, effective and independent EPPO is a priority for the European Commission, and OLAF has continued to work hard to keep the process on track throughout 2019.

The main milestone reached in 2019 was the appointment of the European Chief Prosecutor and the subsequent launch of the procedure for the appointment of the various European prosecutors, which is now at an advanced stage. The Commission worked closely with the Member States in the EPPO expert group to discuss a wide array of issues, including national preparations to integrate European delegated prosecutors in their national systems. The first members of staff for the central office were recruited, and substantial progress was made to prepare the building and other infrastructure for the EPPO.

A key element in the creation of the EPPO is the Member States' incorporation into national law of Directive (EU) 2017/1371 ⁽¹⁰⁾, as this defines the material scope of the EPPO's competence. The deadline for incorporation was 6 July 2019. By the end of 2019, 18 Member States had notified the Commission that they had completely incorporated it into national law.

6.4. A new anti-fraud financial programme

The European Commission's proposal for the establishment of an EU anti-fraud programme, adopted in May 2018 ⁽¹¹⁾, is intended to support the protection of the EU's financial interests as well as mutual administrative assistance between customs authorities. It combines the

⁽⁶⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ L 248, 18.9.2013, p. 1–22.

⁽⁷⁾ COM (2018) 338 final – 2018/0170/COD, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018PC0338>

⁽⁸⁾ European Parliament legislative resolution of 16 April 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations (COM(2018)0338 – C8-0214/2018 – 2018/0170(COD)), available at https://www.europarl.europa.eu/doceo/document/TA-8-2019-0383_EN.html

⁽⁹⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283, 31.10.2017, p. 1–71.

⁽¹⁰⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29–41.

⁽¹¹⁾ Proposal for a regulation of the European Parliament and of the Council establishing the EU Anti-Fraud Programme (COM (2018) 386 final), 30.05.2018.



OLAF Director-General Ville Itälä and European Chief Prosecutor Laura Kövesi, June

long-standing Hercule spending programme, which has supported the fight against fraud since 2004, with two of OLAF's operational activities: the Anti-Fraud Information System, which supports Member States' customs authorities in their mutual administrative assistance to prevent and detect customs fraud, and the IMS, which provides an IT platform for the Member States to report detected irregularities that could have an impact on the EU budget.

The Council position on the Commission's proposal was endorsed on 19 December 2018, and the European Parliament adopted its legislative resolution on the proposal on 12 February 2019. However, trilogue discussions did not start in 2019, because of the ongoing negotiations over the multiannual financial framework.

6.5. Strengthening the EU's policy on fighting illicit tobacco trade

OLAF has a unique administrative investigative mandate to counter tobacco smuggling into the EU, which causes huge revenue losses of around €10 billion to the budgets

of the EU and of the Member States. In complex cross-border cases in particular, OLAF can bring significant added value by helping coordinate anti-smuggling operations carried out by law enforcement agencies across Europe. OLAF works to ensure that evaded duties are recovered, criminal smuggling networks dismantled and perpetrators brought to justice.

In addition to the various operations related to cigarette smuggling and counterfeiting detailed in Chapter 2, OLAF undertook a number of other tobacco-related issues in 2019. Chief among these was the start of the implementation period of the second action plan to fight the illicit tobacco trade, addressing the supply of and demand for illicit tobacco. In practical terms, this concerned an agreement in Council to open negotiations with Belarus on an agreement on customs cooperation and mutual administrative assistance – a key element of the plan given Belarus' important role as a source and transit country in the illicit tobacco trade.

The EU is also committed to the success of the Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products, and OLAF, as Commission lead service, continued its international

engagement in 2019. OLAF actively contributes to the ongoing work, including by acting as a key facilitator together with the Commission's Directorate-General for Health and Food Safety on the tracking and tracing of tobacco products. The number of parties to the protocol has swelled to 59 and OLAF continues to promote further participation, especially in relevant source and transit countries on major smuggling routes.

One of the actions taken by OLAF to address the demand side of the illicit tobacco trade was the publication of a new EU-wide public poll on attitudes to and perceptions of the illicit tobacco trade, on 19 July 2019. The special Eurobarometer survey, based on 27 643 interviews with people from different social and demographic groups in the 28 EU Member States, reveals that cigarette smuggling continues to be a major concern for EU citizens. The findings show that most consider the loss of taxes for the state and the revenue it generates for organised crime to be the main problems with the black market in cigarettes, and that people buy because of the price. The survey shows that only a few (15 %) believe black market cigarettes to be one of the most important sources of revenue for organised crime gangs.

The special Eurobarometer survey should also help Member States better target their awareness-raising

campaigns to lower demand for illegal tobacco, by providing a detailed picture of the demand side of the illicit tobacco trade, based on a significant sociodemographic data set for each Member State.

6.6. Data analysis to tackle fraud

In 2018, OLAF started a project funded by the Hercule III programme and working in association with the Commission's Joint Research Centre to support and facilitate the work of customs officials in Member States for the effective and efficient use of data and analytical approaches in the customs anti-fraud area. Based on feedback and interest from Member States, five pilot projects related to priority fraud issues were launched during 2019.

Further activities were also undertaken in 2019 to strengthen and develop the community of practice, including study visits to Member States and a workshop with Member States to hear about progress on the five pilot projects undertaken during 2019 and exchange views and experiences related to a wide range of analytical activities currently being used to tackle customs fraud.



7. The OLAF Supervisory Committee

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. Its members are appointed by common agreement of the European Parliament, the Council and the Commission.

The current members are Jan Mulder (Chairman), Petr Klement, Grażyna Stronikowska, Helena Fazenda and Rafael Muñoz. The members are supported by a secretariat provided by the European Commission. The current head of the Supervisory Committee Secretariat, appointed in October 2019, is Lambros Papadias.

The Director-General of OLAF keeps the Supervisory Committee regularly informed about the activities of the Office, the implementation of OLAF's investigative function and the follow-up to investigations.

In 2019, OLAF made available to the committee 587 documents with information on investigations lasting more than 12 months. OLAF also informed the committee about judicial recommendations transmitted

to the national judicial authorities, and about OLAF cases in which information was sent to national judicial authorities at the dismissal of the case. The committee and its secretariat had full access to 107 case files in OLAF's case management system in 2019.

On the basis of the information provided by OLAF, the committee delivers opinions to the Director-General of OLAF and reports to the EU institutions. In 2019, the Supervisory Committee delivered its Opinion 1/2019, concerning OLAF's preliminary draft budget for 2020.

In its opinions, the Supervisory Committee issues recommendations to the Director-General. OLAF reports annually to the committee on the state of implementation of these recommendations. In its 2019 reporting, OLAF assessed four recommendations out of seven as implemented, one as partially implemented, one as ongoing and one as not applicable.

Details of the Committee's work can be found in its annual activity report. This report as well as other information is publicly available on the OLAF website ⁽¹²⁾.

¹² https://ec.europa.eu/anti-fraud/about-us/supervisory-committee/exchanges-between-olaf-and-its-supervisory-committee_en

8. Data protection



The protection of personal data has always been a high priority for OLAF, which has worked hard since its creation to meet the requirements set out in EU law, including recommendations of the European Data Protection Supervisor (EDPS). The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media. OLAF appoints its own data protection officer (DPO), who provides advice and assists OLAF in applying high data protection standards. Since the entry into force of the new Data Protection Regulation for EU institutions ⁽¹³⁾, in December 2018, OLAF has committed to lead by example.

The Commission Decision laying down internal rules concerning the processing of personal data by OLAF ⁽¹⁴⁾ ensures compliance with the fundamental right

to protection of personal data as set out in Article 8 of the Charter, while enabling OLAF to secure the confidentiality of its investigations as well as ensuring the protection of the rights and freedoms of persons concerned, witnesses and informants.

The decision lays out the conditions under which OLAF informs data subjects of any activity involving processing of their personal data and handles their rights of access, rectification, erasure, restriction of processing and communication of a personal data breach. The involvement of OLAF's DPO (or, where applicable, the Commission DPO or the agency DPO) throughout the whole procedure ensures an independent review of the applied restrictions. In addition, the codification of OLAF's established practices and procedures in the decision ensures a high degree of legal certainty for all data subjects, thus also complying with the quality of law requirements developed by the case law.

The procedures and IT tools needed to ensure the implementation of the Commission's decision were successfully implemented in 2019. OLAF also adopted rules on reporting possible data breaches and provided training to staff to increase awareness.

In 2019, OLAF received and handled six requests for access to personal data as well as two requests for erasure, concerning 17 investigations and reported cases under the IMS. OLAF handled four requests within one month each; searches and verifications for two further replies required more time, but remained within the time frame required in the regulation. Two further replies required just over three months.

⁽¹³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

⁽¹⁴⁾ Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council, OJ L 315, 12.12.2018, p. 41.



9. Staff and Budget

At the end of 2019, the total number of staff members and available vacancies at OLAF stood at 393. The number of OLAF staff members remained stable from 2018 (389) to 2019, despite the general reductions in staff and budget in the EU civil service as well as the redeployment of staff with the Commission. The situation is expected to remain uncertain in the years to come, owing to the establishment of the EPPO and the agreed transfer of 45 posts from OLAF to the EPPO over the period 2019–2023.

The key challenge for OLAF has been to maintain its strong investigative performance and to continue to play its significant and active role in the development of EU anti-fraud policy despite the staff cuts. In addition to the reductions in staff numbers, OLAF staff members have had to cope with a structural increase in workload. Nevertheless, despite the staff cuts, OLAF managed to maintain quality and efficiency in its investigations and in its anti-fraud policy work by aligning resources with priorities and by improving efficiency.

INVESTMENT IN DIVERSITY

OLAF is committed to improving the diversity of its workforce and to promoting an inclusive working environment. In 2019 OLAF exceeded the Commission's target to have at least 40 % women in management by 2019 and intends to continue its efforts to reach a fair balance in gender representation at all staff levels in 2020. At the end of 2019, 47 % of middle management jobs were occupied by women, compared with 28.8 % in 2014. OLAF's internal target of three first appointments of women to middle management positions set for 2017–2019 has also been exceeded, as four female first-time heads of unit were recruited during that period.

OLAF fully endorses programmes aiming to promote diversity and inclusion, among them the female talent development programme. The programme was launched by the Commission in 2018 and is a mix of competency building, mentoring by senior managers, networking and individual coaching. By the end of 2019, three female colleagues from OLAF had benefited from the programme.



OLAF Directors and Director-General

OLAF's ability to fulfil its mandate relies on its staff members' wide range of skills, diversity in professional backgrounds, expertise and commitment. OLAF also requires staff members with linguistic skills, as it needs to be able to function and investigate in all EU languages. OLAF's staff profiles in 2019 met the necessary standards. However, in the years to come, OLAF will have to recruit qualified staff in view of the retirement of a significant number of experienced staff. In anticipation of this challenge, in 2019 OLAF requested specialised competitions for investigators, digital forensics experts and operational analysts. These competitions are scheduled for 2021.

OLAF continues to invest in the professional and personal development of its staff through a wide range of in-house and external training specifically tailored to its needs. In 2019, emphasis was placed on specialised training with regard to the upcoming changes in the role and responsibilities of OLAF (linked to the creation of the EPPO and OLAF's own internal reorganisation) and the rapidly changing nature of fraud patterns in a more digital world.

Team-building events are regularly organised, and knowledge sharing and communication within the organisation are enhanced through debates and

workshops. In order to strengthen management skills, OLAF invests in the training of its managers by offering the opportunity to attend specialised management courses and to receive individual coaching by external contractors. Finally, in order to communicate on its activities and to raise awareness about fraud issues, OLAF gives presentations to its stakeholders on specific topics relating directly to its competences, expertise or methods of work.

OLAF recruitments in 2019:

- 41 officials
- 11 temporary agents
- 6 contract agents
- 6 seconded national experts

OLAF departures in 2019:

- 34 officials
- 8 temporary agents
- 9 contract agents
- 4 seconded national experts

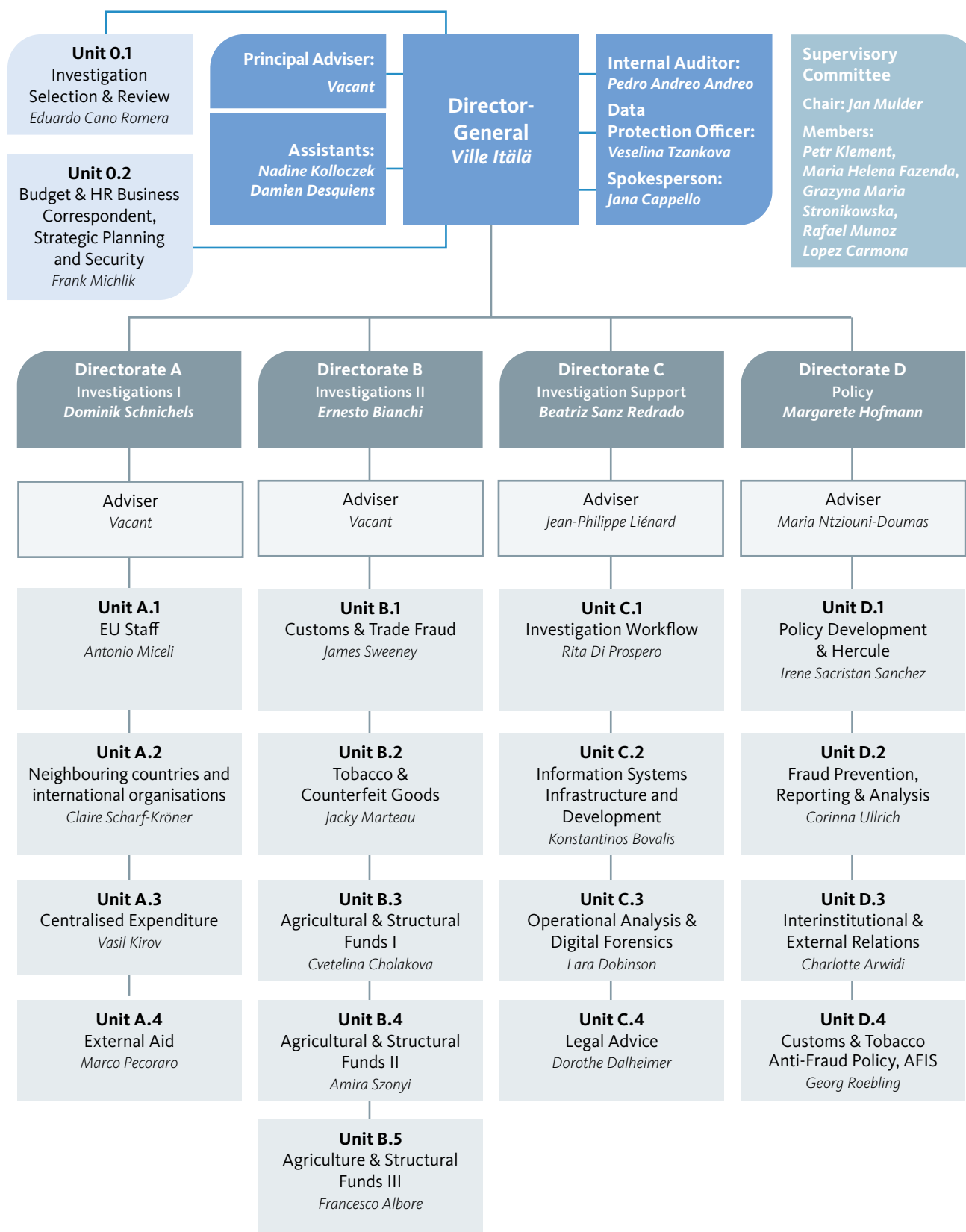
Table 9: Number and breakdown of OLAF staff from 2015 to 2019

	2015	2016	2017	2018	2019
Establishment posts occupied	356	336	318	318	329
Establishment posts vacant	11	24	32	27	17
External staff	55	55	55	44	47
Total	422	415	405	389	393

Table 10: OLAF's administrative budget in 2019 (€ million)

	2019
EU staff	41.2
Infrastructure	7.1
IT	4.9
External agents (contract staff, seconded national experts and interims)	2.6
Missions	1.4
Anti-fraud measures	1.9
Training, meetings and committees	0.5
Total	59.5

Figure 5: Organisational chart (situation as at 31 December 2019)



A reorganisation of OLAF entered into force on 16 June 2020.

10. Statistical annex: additional data on OLAF investigative activity

This annex presents additional detailed data relating to OLAF's investigative activity in 2019, as a complement to the key indicators already mentioned in chapters 2 and 5.

Table 11: OLAF's investigative performance in 2019

	2015	2016	2017	2018	2019
Items of incoming information	1 372	1 136	1 295	1 211	1 095
Investigations opened (or reclassified or split)	219	219	215	219	223
Investigations concluded	304	272	197	167	181
Recommendations issued	364	346	309	256	254

Table 12: Selections completed and their duration

	2015	2016	2017	2018	2019
Selections completed	1 442	1 157	1 111	1 259	1 174
Average duration (in months) of selection phase	1.7	1.7	2.4	2.6	2.3

Table 13: Average duration of closed and ongoing investigations (months)

	2015	2016	2017	2018	2019
Average duration of investigation	18.7	17.2	15.8	16.4	17.3
Average duration of selection corresponding to these cases	2.3	1.7	1.8	2.2	2.2
Total average duration of cases	21.0	18.9	17.6	18.6	19.5

**Table 14: Average duration of closed investigations only (months)**

	2015	2016	2017	2018	2019
Average duration of investigation	25.1	23.2	21.9	23.1	24.3
Average duration of selection corresponding to these cases	2.8	1.8	1.7	1.9	2.0
Total average duration of cases	27.9	25.0	23.6	25.0	26.3

Table 15: Percentages of ongoing investigations lasting more than 20 months

2015	2016	2017	2018	2019
22 %	20 %	22 %	22 %	29 %

Table 16: Recommendations issued

	2015	2016	2017	2018	2019
Financial	220	209	195	168	157
Judicial	98	87	80	48	64
Disciplinary	16	18	10	18	18
Administrative	30	32	24	22	15
Total	364	346	309	256	254

Table 17: Incoming information by source

	2015	2016	2017	2018	2019
Private	933	756	889	807	663
Public	439	380	404	404	432
Total	1 372	1 136	1 293	1 211	1 095

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The **OLAF** report **2020**

The Fraud Notification System (FNS) is a web-based tool available to any person who seeks to pass on information concerning potential corruption and fraud.
http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

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The **OLAF** report **2020**

**Twenty-first report of the
European Anti-Fraud Office,
1 January to 31 December 2020**

DISCLAIMER

OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents these case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

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Executive Summary

OLAF: DETECT, INVESTIGATE, PROTECT

2020 was a year dominated by the global coronavirus outbreak, and the work of the European Anti-Fraud Office (OLAF) during the year reflected the new challenges brought by the pandemic. OLAF's work on tackling COVID-19-related fraud focused primarily on counterfeit face masks, hand sanitisers and gels, many of which appeared rapidly on the EU market at the start of the pandemic as fraudsters looked to take advantage of EU countries rushing to increase their stocks. But the virus did not prevent OLAF from continuing with its other work as well throughout 2020, on issues as diverse as conflicts of interest, collusion and manipulation of public procurement procedures, as well as illegal trade in cigarettes or cooling gases.

OLAF'S INVESTIGATIVE PERFORMANCE IN 2020:

- ▶ OLAF concluded 230 investigations, issuing 375 recommendations to the relevant national and EU authorities
- ▶ OLAF recommended the recovery of €293.4 million to the EU budget
- ▶ OLAF opened 290 new investigations, following 1,098 preliminary analyses carried out by OLAF experts

TRENDS IN ANTI-FRAUD INVESTIGATIONS:

In addition to the rapid development of a global market for counterfeit medical goods and personal

protection equipment linked to the COVID-19 pandemic, OLAF's investigators detected a number of other trends in fraudulent activity during 2020. These include:

- ▶ Conflicts of interest & collusion between beneficiaries and contractors, in particular in the area of public procurement
- ▶ False or inflated invoices and corruption targeting agricultural and rural development funding, and associated money laundering
- ▶ Fraud with research funding
- ▶ Cigarette and tobacco smuggling
- ▶ Fraud affecting the environment and biodiversity

OLAF'S FIGHT AGAINST SMUGGLING

In addition to its investigation and coordination cases, in 2020 OLAF co-organised or provided support to a number of joint customs operations, and made significant progress in its efforts to fight the illicit trade in tobacco products, helping national authorities seize nearly 370 million cigarettes.

CONTRIBUTION TO EU POLICIES TO FIGHT FRAUD

OLAF is at the forefront in developing anti-fraud strategies and policies to protect the EU's financial interests and combat corruption. In 2020, OLAF continued to work on the development of the new Commission anti-fraud strategy, as well as taking an active role in the new Recovery and Resilience Facility.



Foreword

It is with great pleasure that I present the latest edition of the annual report of the European Anti-Fraud Office.

Nobody could have predicted at the start of 2020 that it would become the most challenging and difficult year in living memory, with everyone's lives held hostage by a deadly global pandemic. Many of us have suffered illness and loss as a result of the virus. All of us have been affected by it in some way or other.

Yet despite all the difficulties, OLAF staff have continued to work tirelessly on protecting the interests of the EU and its citizens throughout 2020. This has always been the *raison d'être* of OLAF, but it took on even greater significance during the pandemic. OLAF and its partners quickly found themselves on the front line in the fight against fake and substandard medical products, from face masks to ventilators, which risked flooding the market in the early part of the year as demand grew exponentially.

And as hopes for a rapid vaccine rollout began to grow towards the end of 2020, OLAF used its vast experience to anticipate another major potential fraud risk. Before a single vaccine jab was given, OLAF had helped coordinate with national authorities and the pharmaceutical industry on raising awareness of the risk of fake vaccines – a precaution that proved entirely justified when the fraudsters inevitably sought to exploit government fears of a slow vaccine rollout with fake offers of supply. OLAF's role in tackling this part of the pandemic – and its wider experience in the field of health and safety – are recounted in more detail in Chapter 3.

While the pandemic dominated much of what we did in 2020, it did not stop our work entirely. Travel restrictions and lockdowns made life hard for our investigators, but never impossible. In Chapter 2 you will find a couple of first-hand accounts of the difficulties they faced, and how they were overcome. Chapter 2 also covers OLAF's wider investigative work in 2020, with 290 investigations opened, 230 investigations concluded, 375 recommendations issued and nearly €294 million recommended for recovery – very much in line with OLAF's performance in previous years.

These numbers underline clearly just how persistent fraudsters can be, and how quickly they can adapt to any new circumstances if there is a chance to line their pockets. It is a useful lesson to remember as we now start to move into the phase of recovery from the virus, especially with the considerable amounts of additional EU money available to Member States to support their recovery plans. OLAF is already playing an important part in helping to make these plans as fraud-free as possible – and we will continue to work with our partners across the EU to investigate allegations or suspicions of fraud wherever they occur.

I am extremely proud of the work of my OLAF colleagues. They have shown great resilience, adaptability and courage in exceptionally difficult circumstances to ensure that work – if not necessarily life – continued much as normal. I am doubly proud of the fact that they have played some small part in the global effort to tackle the pandemic, helping to keep fake (not only often useless, but also potentially dangerous) medical equipment off the market.

With vaccination progressing at pace across the EU, the prospects of a return to normality are growing. COVID-19 might have put many things on hold in 2020, but one thing it did not stop was the opportunity for fraudsters – or OLAF's determination to tackle them head on. As we emerge from the pandemic, OLAF, now working closely with the new European Public Prosecutor's Office (EPPO), will continue to play its vital role in helping to keep the EU safe, healthy and fit for the future. The EU has the means and the motivation to emerge from this crisis as a world-leading sustainable, digital, economy. Helping to ensure the billions of euros that have been set aside to do just that are invested where and how they are needed will be OLAF's contribution to this brighter, safer future for us all.

Ville Itälä
Director-General of OLAF



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The seat of the European Anti-Fraud Office, in Brussels



1. Mission and mandate



MISSION

Detect, investigate and work towards stopping fraud involving European Union funds.

MANDATE

OLAF's mandate is:

- ▶ to conduct independent investigations into fraud and corruption involving EU funds so as to ensure that EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe
- ▶ to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions
- ▶ to develop EU policies to counter fraud

COMPETENCES

OLAF can investigate matters relating to fraud, corruption and other illegal activities affecting EU financial interests concerning:

- ▶ all EU expenditure: the main spending categories are European Structural and Investment Funds,

agriculture and rural development funds, direct expenditure and external aid

- ▶ some areas of EU revenue, such as money from customs duties or VAT

OLAF can also carry out investigations into suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission and, as such, under the responsibility of the Commissioner for Human Resources and Budget, Johannes Hahn.

However, in its investigative mandate, OLAF acts in full independence.

WHAT WE DO

OLAF's investigative work broadly involves:

- ▶ assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation
- ▶ conducting administrative anti-fraud investigations, where appropriate in cooperation with national criminal or administrative

- investigative authorities and with EU and international bodies
- ▶ supporting the anti-fraud investigations of national authorities
- ▶ coordinating the action of national authorities and sharing knowledge on fraud with its partners in order to prevent losses and protect health and safety
- ▶ recommending actions that should be taken by the relevant EU or national authorities
- ▶ monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud and better tailor the support OLAF provides to national authorities

Responsibilities for much of EU spending are shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The same applies for the customs duties or VAT-related parts of EU revenue. The detection, investigation, prosecution of fraud against the EU budget and the recovery of unduly spent amounts or evaded customs duties can therefore only be conducted in cooperation with a wide range of partners, at national, European and international level.

OLAF cases frequently concern:

- ▶ cross-border procurement fraud or corruption in public procurement procedures involving EU financing
- ▶ double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made
- ▶ subsidy fraud in different forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes

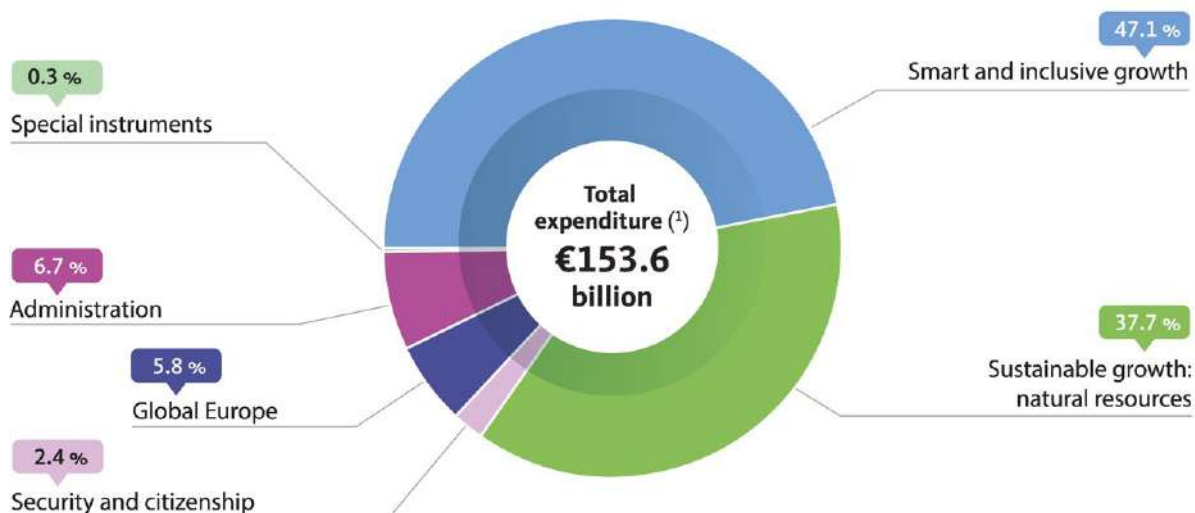
- ▶ customs fraud where fraudsters attempt to avoid paying customs duties (EU own resources), for instance by smuggling goods into the EU

OLAF analyses data that gives it a unique overview of fraud trends and patterns. This big picture is essential not only to investigate fraud, but also to prevent it from happening. Cross-border fraud exploits gaps in knowledge and in cooperation among national authorities. OLAF joins the dots of these fraud schemes, shares its knowledge, organises joint operations, and gives early warnings that allow national customs authorities to take early action to prevent losses.

OLAF's main role as a knowledge centre frequently concerns:

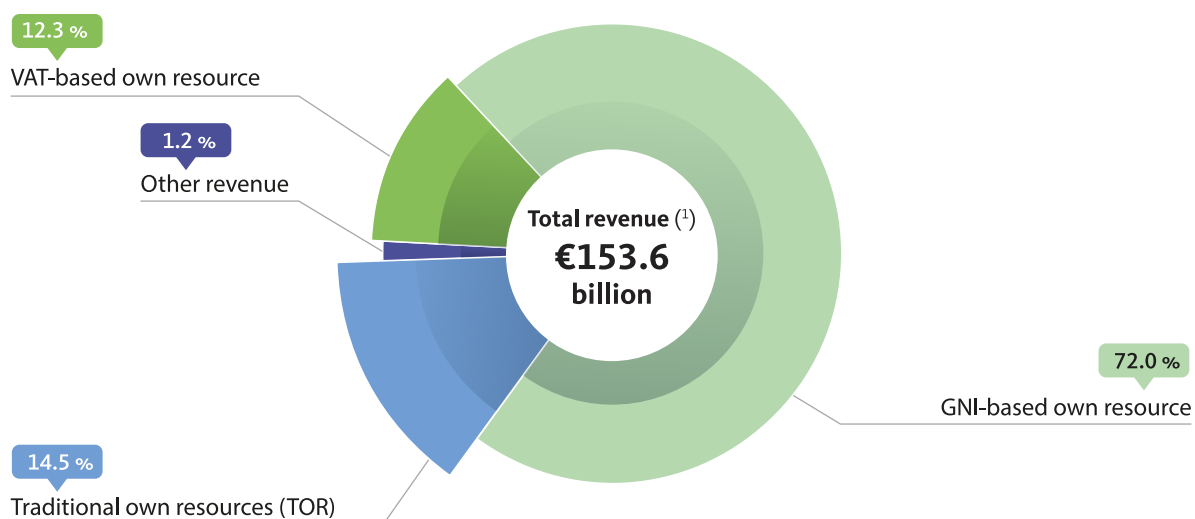
- ▶ cross-border fraud to evade customs duties and VAT
- ▶ organised schemes which defraud projects and programmes financed by the EU
- ▶ the protection of health, safety and the environment from counterfeit, substandard and potentially dangerous goods

EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, travel and relocation allowances, social security and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures, and of other forms of corruption such as attempts to illicitly influence decision-making and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out so-called "internal" investigations into any allegations of misconduct involving staff and members of the EU institutions.

**Figure 1: EU expenditure in 2020**

⁽¹⁾ Source: OJ L57, 27.2.2020, p. 13

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

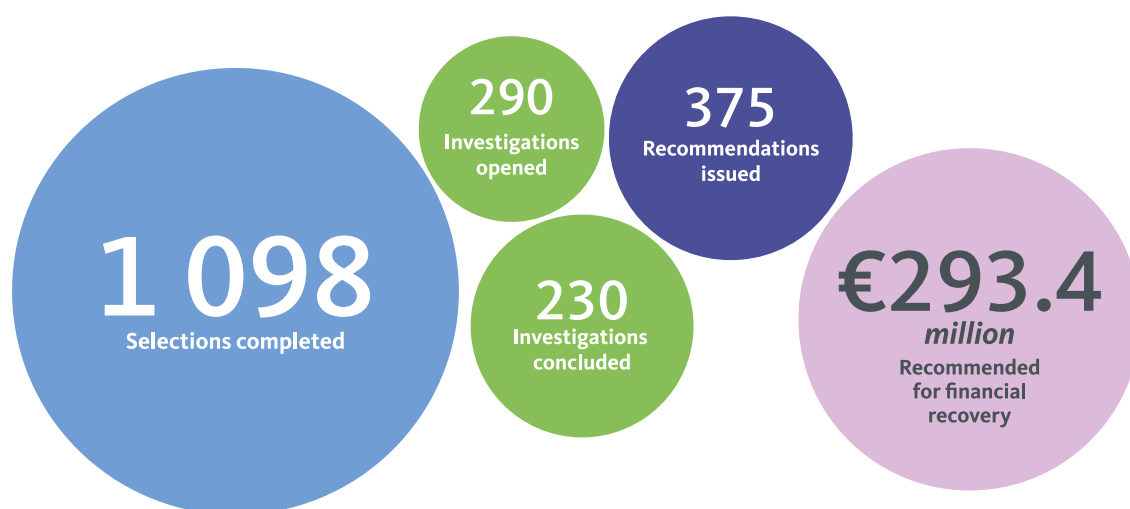
Figure 2: EU revenue in 2020

⁽¹⁾ Source: OJ L57, 27.2.2020, p. 14

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

2. OLAF's investigative activity: trends in anti-fraud investigations

Figure 3: OLAF's investigative activity in 2020



2.1. Summary of OLAF's investigative performance in 2020

OLAF's investigative performance in 2020 was broadly in line with previous years. On the basis of more than 5,000 pieces of new incoming information from private and public sources, some 1,098 selections were made during the year, leading to a total of 290 investigations being opened. Some 230 were concluded during the year, leading to OLAF issuing 375 recommendations to competent authorities at EU and national level. The majority

of these recommendations concern the recovery of EU funds – nearly €294 million in 2020 – by the relevant authorities at EU and Member State level. OLAF also issued a limited number of judicial, disciplinary and administrative recommendations in 2020. For a detailed presentation of these and other performance indicators, please refer to the annex to this report (Chapter 11).

Table 1 shows the breakdown of the investigations concluded by OLAF in 2020 concerning EU funds managed or spent in whole or in part at national or regional level.



Table 1: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2020

Country	Cases concluded	
	Total number per country	of which closed with recommendations
Italy	13	9
Bulgaria	8	7
Hungary	8	4
Poland	7	2
Romania	8	4
France	7	3
Serbia	6	3
Slovakia	6	5
Spain	4	2
Syria	4	2
Uganda	4	3
Croatia	3	3
Greece	3	3
United Kingdom	3	2
Ethiopia	2	1
Mauritania	2	2
Armenia, Bangladesh, Bosnia & Herzegovina, Burkina Faso, Czechia, Denmark, Egypt, El Salvador, Estonia, Iraq, Moldova, Nigeria, North Macedonia, Portugal, Somalia, South Africa, Sweden, Turkey, Tanzania, West Africa*, Yemen	21 (1 per country)	13
Total	109	68

* Single investigation covered several West African countries (Côte d'Ivoire, Guinea, Liberia, Mali, Nigeria, Senegal, Sierra Leone)

Table 2: Investigations opened by main investigative area

Reporting sector	2016	2017	2018	2019	2020
Internal Matters	41	40	27	36	46
Direct Management	31	36	38	26	48
Indirect Management	41	47	48	21	42
Shared Management	61	62	78	92	98
<i>European Agricultural Guarantee and Rural Development Funds (EAGF, EAFRD, EAGGF)</i>	14	10	23	25	39
<i>European Regional Development Fund</i>	33	40	36	36	34
<i>Cohesion Fund</i>	2	6	4	9	8
<i>European Social Fund</i>	8	4	12	14	8
<i>Other</i>	4	2	3	8	9
Revenue (Own Resources)	40	32	28	40	48
Illicit Trade	5	5	2	11	13
Total	219	222	221	226	295

Note: One investigation may concern more than one investigative area

2.2. Keeping up with the fraudsters: the main trends of OLAF's work in 2020

Each year, OLAF identifies the main trends in fraud activity across the EU and beyond. Many of these trends are repeated from year to year, and 2020 was no exception: OLAF identified patterns of collusion, conflict of interest, manipulation of tenders, money laundering, smuggling and counterfeiting that have also been seen in previous years. Meanwhile, the global pandemic brought new opportunities for fraudsters, for example through counterfeit medical and personal protection equipment.

Below is a selection of cases closed by OLAF in 2020 that illustrate these various trends. It is not a complete list of all the investigations completed by OLAF but rather an overview of the main types of fraudulent activity detected by the office during the year. OLAF's work in tackling the fraudsters in the wider area of health and safety, including pandemic-related investigations, is discussed in more detail in Chapter 3.

2.2.1. Fraudsters continue to target EU funding programmes

As in previous years, one of the main trends identified in 2020 was fraudsters manipulating the procurement and tendering process.

CONFLICTS OF INTEREST

A case from Croatia shows how the manipulation or circumvention of procurement procedures is often used to hide a conflict of interest.

OLAF's investigation concerned a project in Croatia that was co-financed by the European Agricultural Guarantee Fund (EAGF) through which a company was awarded just over €1.3 million in EU funds to help support the construction of a €3 million winery.

Under both national and EU law, the Croatian firm was not obliged to publish a call for tender to choose a contractor to carry out the construction work on the winery. However, national legislation in Croatia does prohibit beneficiaries from choosing contractors where there is a clear conflict of interest,



in particular where there are personal or business connections between the beneficiary company and the contractor as well as between their respective owners.

OLAF's investigation made it clear that these rules had been completely ignored: the beneficiary company awarded a construction contract worth €3 million to a firm with no employees which in turn subcontracted the same contract to a company owned and managed by the son of the owner and manager of the beneficiary company. OLAF discovered that the sole purpose of this manoeuvre was to hide the obvious conflict of interest from the national authorities.

Following the closure of the investigation, OLAF made recommendations to the European Commission's Directorate-General for Agriculture and Rural Development (DG AGRI) to recover the full amount of just over €1.3 million, as well as to the Croatian Public Prosecutor to initiate criminal proceedings against the beneficiary, the contractor, the subcontractor and all their respective managers. In addition, OLAF made recommendations to DG AGRI to address the administrative weakness within the Croatian Paying Agency for Agriculture, Fisheries and Rural Development: the rules on conflicts of interest only concern the beneficiary of the EU funds and the main contractor, and as such can be easily circumvented by using a sub-contractor.

Another case concluded in 2020 involved both conflicts of interest and tender manipulation, this time concerning EU funding for Serbia.

OLAF's investigation began after the EU Delegation in Serbia received an anonymous letter alleging that a tender procedure for the contract to provide software for a Serbian public institution had been manipulated, with illegal access granted to confidential information. The institution in question was the beneficiary of EU funding, which was used to finance the roll-out of the new software.

In the letter, the anonymous source claimed that one member of the tender evaluation committee, a representative of the institution concerned, had

allegedly arranged for one specific bidder to win the tender.

Working with the Serbian Prosecutor's Office and law enforcement authorities, OLAF discovered that the tender procedure had indeed been manipulated. The member of the evaluation committee had been in regular contact with the director of the IT company before the launch of the tender procedure – the two of them had long been friends, in fact, a clear conflict of interest that astonishingly remained undeclared. To cap it all, OLAF discovered that the IT company had also been involved in the drawing up of the technical specifications for the tender, clearly giving them an unfair advantage over the other tender applicants.

Based on its findings, OLAF recommended that the European Commission's Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) ensure the recovery of the entire amount of EU funding – over €200,000 – and that it exclude the IT company from any further EU-funded projects. OLAF also referred the matter to the Serbian judicial authorities for follow-up.

FARMING AND RURAL DEVELOPMENT FUNDS DEFRAUDED

Agriculture and rural development traditionally accounts for one of the largest shares of the EU budget, and this in turn makes it a common target for fraudsters. 2020 was no exception, with several cases closed by OLAF during the year concerning funding in particular from the European Agricultural Fund for Rural Development (EAFRD). The EAFRD supports the development of sustainable agriculture and the wider rural economy. One area where funding can be used is in helping farmers expand or modernise their operations by helping them to buy new machinery.

In some cases, however, this support is abused. Cases investigated by OLAF typically involve issues such as inflated reimbursements of investments for the modernisation of buildings and agricultural equipment, or on irregularities involving subsidies for the first installation of young farmers.



One case closed by OLAF in 2020 involved farmers in Corsica, France, who were investigated following suspicions that they had submitted false invoices in order to obtain a higher level of reimbursement for the investments in equipment they had made for their holdings. Focusing in particular on suppliers' invoices, submitted by the beneficiaries to the French paying agency in support of their payment claims, OLAF's investigators uncovered a sophisticated scheme involving claims for many times the sums actually due.

OLAF found evidence of a tampering scheme. Information on the invoices – dates, signatures and amounts – was illegally altered in order to claim the reimbursement of hundreds of thousands of euros from EAFRD funding. Following its investigation, OLAF recommended the recovery of the amounts unduly paid by DG AGRI, as well as a judicial recommendation to take criminal action against the fraudsters and forgers.

FALSE DOCUMENTATION TO HIDE LACK OF WORK

Producing fake documentation in order to cover up a lack of any actual work is another common method for attempting to defraud EU projects. One investigation concluded in 2020 focused on this particular type of fraud used in three different projects in Croatia.

The projects, co-financed through the Instrument for Pre-Accession Assistance (IPA) and the European Social Fund (ESF), all involved the same Croatian private company, which was the ultimate beneficiary of the EU funds. The purpose of all three projects was to provide various rehabilitation services to mentally and physically impaired people living in rural areas with limited access to social services.

OLAF's investigation confirmed the allegation that the company had failed to carry out all the various activities foreseen in the contracts for each of the projects. Instead, it made false statements and produced falsified project documents to show that



the projects had all been completed as planned. OLAF discovered that as little as 7% of the total cost of the work had been carried out in some of the activities, and that the completion rate was never higher than 50%, despite the company's claims for reimbursement for 100% of the work.

Following the conclusion of its investigation, OLAF recommended that the European Commission's Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) recover the full amount of €562,956, and made a recommendation the Croatian Public Prosecutor to initiate criminal proceedings against the beneficiary and the persons responsible for the implementation of the project.

JOINT INVESTIGATION TEAMS TAKING ON THE MONEY LAUNDERERS

Fraud concerning EU-funded projects is often associated with money laundering, and two joint investigations concluded in 2020 by OLAF and its EU and national partners offer good examples of the size and scope of such fraudulent activities.

JIT TOMATO

The first concerned allegations of fraud and money laundering by a number of Italian citizens who benefitted from EU agricultural funds in Romania, first published in a Romanian newspaper. OLAF launched its investigation and quickly discovered that the Romanian National Anticorruption Directorate (DNA) and the Prosecutor's Office of the Italian commune of Enna were conducting their own, separate, criminal investigations into the same persons involved in the OLAF case.

Joint investigation teams (JITs) are the most common and effective way of managing such complex, cross-border investigations. The new JIT created to investigate this case consisted of OLAF, the DNA and the Italian judicial authorities, supported as always by Eurojust, the EU's agency for criminal justice cooperation.

Working closely with its JIT partners, OLAF uncovered a complex scheme established in 2016 by a number of Italian citizens, known to be members

of an organised criminal group that specialises in defrauding EU funds. In this case, the group was targeting funding offered to Romanian farmers from the European Agricultural Guarantee Fund (EAGF) to help support tomato production during the 2017 growing season.

The JIT discovered a complex and sophisticated scheme that involved not a single hectare of farmland or any farm or other agricultural operations in Romania. Instead, the criminal group set up five shell companies, all at the same address in Romania and all with their own bank accounts with the same bank, created solely to receive EU subsidies and without any intention of growing a single tomato.

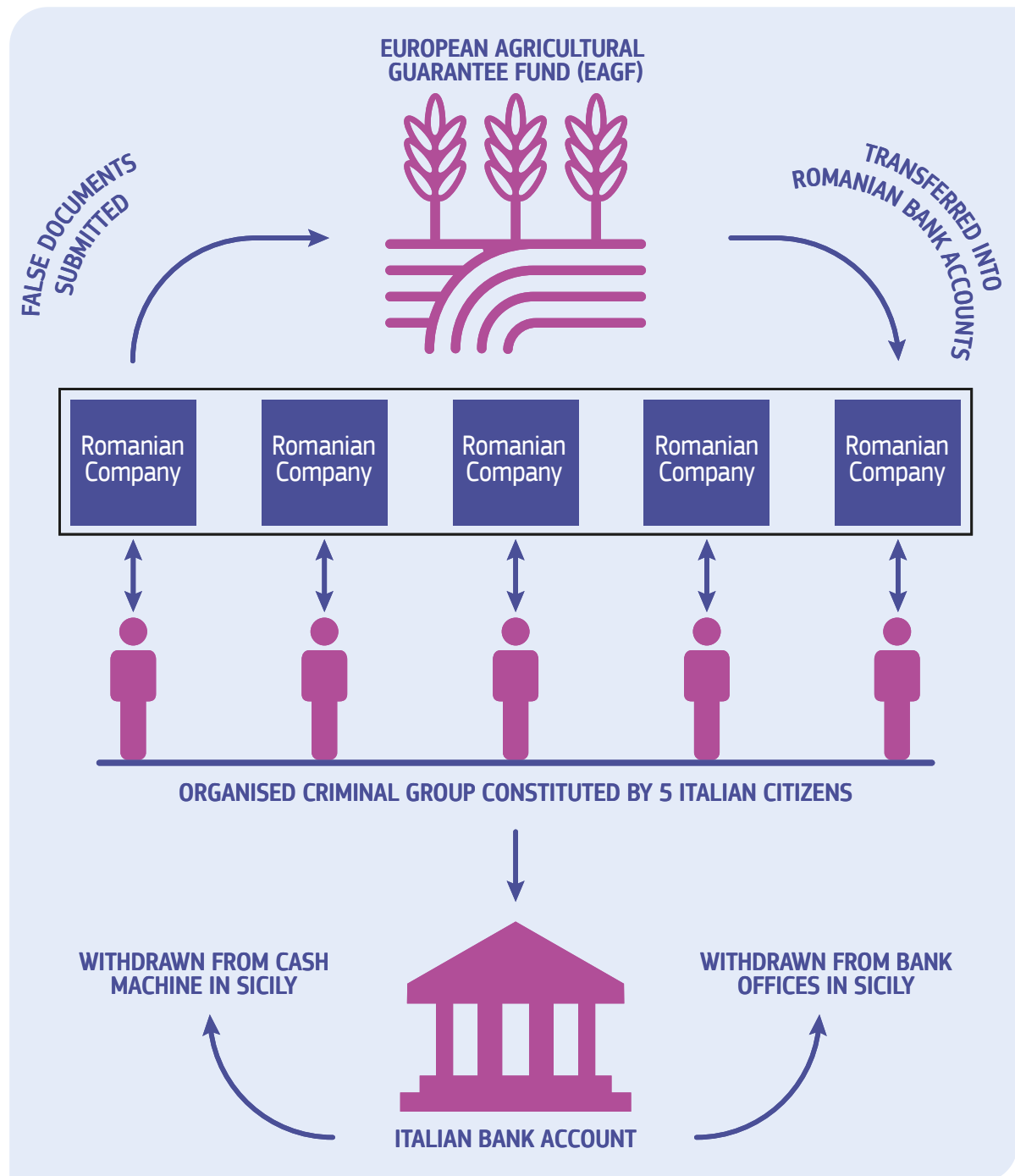
Using falsified documents such as fake lease contracts with the same landowner or fake invoices for the purchase of tomato seeds, the fraudsters managed to obtain €850,000 from the European Agricultural Guarantee Fund (EAGF), an amount that accounts for around a quarter of the entire EU farm subsidies allocated to Romania for the 2017 campaign.

Yet not a single cent of that money was spent in Romania. As soon as the Romanian Paying Agency paid the subsidies into the bank accounts of the five companies, the money was transferred to bank accounts in Italy, where it was swiftly withdrawn from cash machines or over the counter in banks and used to finance other criminal activities.

OLAF closed its investigation in October 2020 with judicial recommendations for the Romanian and Italian judicial authorities, and a financial recommendation for DG AGRI to recover the full amount of €850,000 stolen by the fraudsters.

Criminal proceedings in Romania related to this case have already led to the seizure of more than €215,000 from the bank accounts of the five companies concerned, all of which came directly from the fraudulently obtained EAGF funding.

Figure 4: The Tomato case





JIT PALINKA

The second JIT involving money laundering once again saw OLAF work alongside the Romanian National Anticorruption Directorate (DNA), this time in cooperation with the Belgian Prosecution Office of Brussels, which was coordinating the activities of the Belgian Central Office for Combatting Corruption.

The investigation focused on corruption and money-laundering offences committed in relation to the tender procedure organised by a Romanian public company for a contract to develop new road infrastructure projects in Romania. The company was the beneficiary of EU funding of more than €33.5 million from the European Regional Development Fund (ERDF).

The scheme uncovered by OLAF and its JIT partners was particularly complex. The Romanian public company that was the beneficiary of the EU funds organised a public tender procedure for the works in 2012, awarding the contract to a joint venture composed of three companies (one Spanish, one Italian, one Romanian). Three months before the end of the tender and the awarding of the contract, two of the three companies in the joint venture (the Romanian and Spanish partners) signed a number of service contracts with two other companies, one Romanian and one Belgian, both owned and controlled by the same person, an Italian citizen.

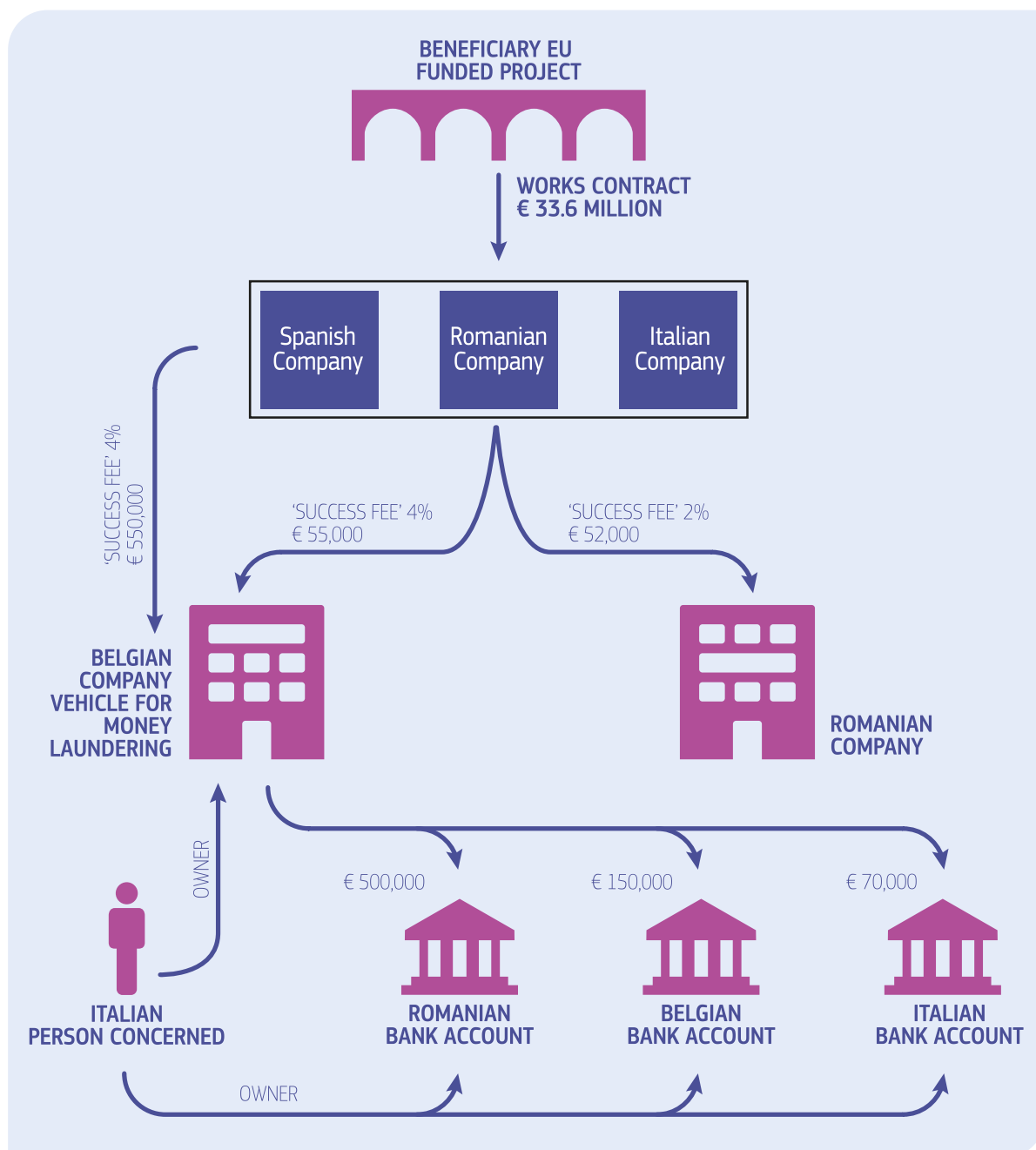
These service contracts were just a front, however. They were used as a vehicle to carry out money laundering operations on a major scale, signed with the sole aim of masking the illegal character of the

payments in the form of a so-called 'success fee'. Two out of the three companies in the joint venture paid €700,000 for fictitious services that were never provided, transferring money from Spanish and Romanian bank accounts to Belgian bank accounts, and then again to accounts owned by the Italian citizen in Romania, Belgium and Italy.

In the course of the investigation, OLAF and its JIT partners discovered that the Italian citizen who owned the two service companies had very close links to a number of senior people in the Romanian national administration. The JIT partners believed the money spent on the non-existent services was in fact by way of payment to the Italian citizen for using his close contact with the Romanian authorities to influence the awarding of the contract. The investigation revealed that four other individuals or companies were also involved in these criminal activities.

OLAF closed its investigation in November 2020, issuing judicial recommendations to Romania, Belgium and Spain, and a financial recommendation to the European Commission's Directorate-General for Regional Policy (DG REGIO) to recover €25 million in EU funds defrauded as part of the scheme. As part of the ongoing criminal proceedings in this case, Belgian judicial authorities have seized around €2.8 million from bank accounts in Italy and Belgium belonging to the suspects. Belgian judicial authorities have indicted seven individuals and businesses for crimes of money laundering, criminal association, falsification and use of false documents, misappropriation of corporate assets and offences with regard to the state of bankruptcy.

Figure 5: The Palinka case





RESEARCH PROJECTS REMAIN AT RISK

Each year considerable sums of EU money are invested in projects that bring together scientists from across the globe to work on vital research projects. As with all other EU funds, the vast majority of this money is spent where and how it is intended, but research projects can also be a potential target for the fraudsters. Fraud of this kind is also often associated with money laundering, as OLAF discovered in the two cases presented below.

One case concluded in 2020 concerned funding from the EU's FP7 research programme, which ran from 2007-2013.

OLAF's investigation focused on the organisation that acted as the coordinator of two FP7-funded projects. Under the terms of the agreements by which the money was awarded, the coordinator was obliged to pass on a share of this funding to the other members of the consortium involved in the projects. Working closely with the German public prosecutor and police, OLAF discovered that the organisation had failed to meet its obligations as the coordinator of the projects, notably by failing to pass on any of the EU funding it had received. Instead, the amounts were transferred through a complex web of bank transfers to another organisation based in a different country with close ties to the management of the coordinating organisation; the money was used for private purposes entirely unrelated to the research projects.

Following OLAF's investigation, the European Commission began the process of recovering the more than €4 million granted to the organisation. The organisation has also been banned from taking part in EU funding offers for a period of three years, as have two of its board members.

Another OLAF case closed in 2020 concerned fraud and misuse of EU funds allegedly committed during the implementation of several EU research projects by two companies located in two different EU Member States. The two companies were beneficiaries of 56 projects in total, all funded by EU under the FP7 and/or Horizon 2020 research programmes.

OLAF carried out simultaneous, unannounced on-the-spot checks at the premises of the two companies in the United Kingdom and in France, collecting considerable quantities of data including information on bank accounts and transactions.

Using this data, OLAF was able to establish that the funding from the EU research projects was the main source of income for the companies, which appeared to be linked through their ownership and management. The evidence gathered demonstrated that both companies had maximised their profits by deliberately declaring the maximum working hours allowed under the rules for each of the projects instead of the real hours their employees spent working on the projects. As a result, they almost doubled the amount of money granted to them from the EU research budget.

OLAF established that both companies had used the EU money obtained in this way for entirely unrelated purposes. For example, OLAF proved that the UK company had invested €800,000 in a plan to build a block of flats in Colombia.

Judicial recommendations were made to the competent national authorities in France and in the UK on the grounds that OLAF considered both companies to have committed fraud and forgery. OLAF also issued financial recommendations for the recovery of €3.8 million.

Business as usual? OLAF inspections in COVID times

On-the-spot checks and inspections are a core part of OLAF's work, enabling investigators to collect evidence of fraud and other inappropriate behaviour. As this work is classified as essential, OLAF staff were permitted to travel as usual during the lockdown to carry out the checks – even if there was little else that could be considered 'usual' about the conditions in which the work took place.

OLAF investigators faced a number of challenges that had to be overcome for them to be able to carry out their work effectively. Here they share some of them, in their own words:

“We planned a week-long trip to one Member State to carry out an on-the-spot check and a number of interviews, but we didn't know exactly what we would be able to do once we got there. It was unclear whether we would be able to count on the support of the local authorities, as we would normally be able to do. In particular, we did not know whether the company we wanted to inspect would even be open, let alone whether there would be anyone there to assist us in our work, with the majority of workers expected to stay at home. We also had no idea whether any of the witnesses we hoped to interview would consent to meeting us in person, given that we were coming from Belgium, at that time classed as a red zone.

Thankfully, all our fears proved to be unfounded, as the country we were visiting had a far less restrictive lockdown than Belgium at that time, and human contact and working conditions were relatively unaffected (apart from social distancing measures). Our week of inspections and interviews ran almost as normal, and we were relieved to have been able to do our work even in such extraordinary times.

In fact, getting home after our work proved to be by far the most stressful and complicated part of the trip. We were waiting to board our plane home when one of our team members was suddenly refused access on board. According to the airline, the papers from the Commission stating that our work there was considered essential were not enough – they wanted to also see some form of Belgian ID to prove that our colleague had the right to return to the country. Although resident in Belgium, the colleague in question has another nationality, and as such had no valid form of Belgian ID to show; as a result, they were refused access to the plane and had to stay there while the rest of us were allowed to return home. In the end, it took some urgent action through Commission, diplomatic and administrative channels to provide the airport authorities with the information needed to allow our colleague to return home, two days after the rest of us.”

Other investigators found different ways of getting the job done. Some used Commission representations in each Member State to act as their 'sponsor' on the ground, ensuring that the work was clearly understood as essential by national authorities. Others came to agreements with their local counterparts to adapt their usual working practices to the specific needs of the pandemic; for example, in one EU country OLAF's investigators carried out checks at a company's premises on their own, without local inspectors also taking part as would normally be the case. This was agreed in advance in order to reduce the number of people needing to be in the same place at the same time, and OLAF's investigative team agreed to share all their findings with the local authorities in full transparency.

If travel within the EU was difficult, it was harder still for OLAF's investigators to carry out their work in countries that are not one of the 27 Member States.

“ We were heading to Moldova to conduct a number of checks and interviews, but our problems started before we had even managed to leave Belgium. When we arrived at the airport, we were initially told that we could not check in for the flight because we were not Moldovan residents. Thanks to official documents from the Moldovan authorities authorising our visit, we were at least given the green light to board the plane – although even that was delayed because one of our team had had to drop out at the last minute because of a COVID infection and the name of their replacement was not on our official paperwork. After a very long 20 minutes spent speaking to the border authorities in Moldova, the airline finally let us board and we were able to do our work relatively easily once we arrived.

Our departure was pretty unusual though. We had been given offices in which to work and complete our reports, but on our last day there we were informed by the office managers that the building was to be thoroughly disinfected at midday and we would either have to wait in our offices for two hours or make sure we were outside already. We were given two hours notice to get all our work done. Not wanting to be stuck in a building being doused with chemicals, we

rushed to complete our work in the two hours we had left, and ended up leaving the building on the stroke of noon pursued by a team of white-clothed individuals looking like the Ghostbusters or nuclear inspectors.

And that was not the end of it, either. When we arrived at the airport soon afterwards, we were asked for proof of a negative COVID test before flying, even though this was not necessary at the time to return to Belgium, although we would have to take the test once we arrived home. The problem was that while we were all resident in Belgium, we are all from different parts of Europe, and our travel documents are not linked to our place of residence. It took us a good ten minutes to explain that we were all going back to the same place, and not to our country of origin, so we could follow the rules in place there.”

Getting to and from the place of work was only one challenge among many. With tough lockdown rules in place in so many parts of the world, finding a hotel to stay in or a place to eat while staying there was also far more difficult than in normal times. Going through piles of documents looking for evidence becomes far more laborious when you have to disinfect your hands after each one. And interviewing witnesses is harder still when speaking through masks and with the windows open, even in the depth of winter...

Working in pandemic times proved difficult for everyone, with the constant evolution of the outbreak meaning rules on travel in particular could change almost overnight, putting immense pressure on airlines and other officials to keep up with what was and was not permitted. OLAF's work would not have been possible without the understanding and support of many others, from airline and airport staff to local, national and European authorities and the various business and individuals inspected and interviewed during the course of the investigations.

2.2.2. Protecting EU revenues from smugglers and counterfeiters

EU own resources – money from taxes and duties that are paid directly into the EU budget – are an important part of the EU’s budget planning. Keeping these resources – and citizens – safe by tackling the smugglers and counterfeiters is another key part of OLAF’s work.

TOBACCO SMUGGLERS & COUNTERFEITERS

Tobacco products account for a large share of the smuggled or counterfeit goods targeted by OLAF each year. Whether they are genuine cigarettes sold on the black market or fake cigarettes passed off as the real thing, sales of these products lead to the loss of millions of euros that could otherwise be used to finance projects and programmes for the benefit of citizens across the EU.

OLAF’s role in tackling the smugglers focuses on two main areas: gathering information from a variety of sources including law enforcement and industry on the people, companies and means of transport involved and, at the same time, monitoring the movements of suspicious consignments of tobacco

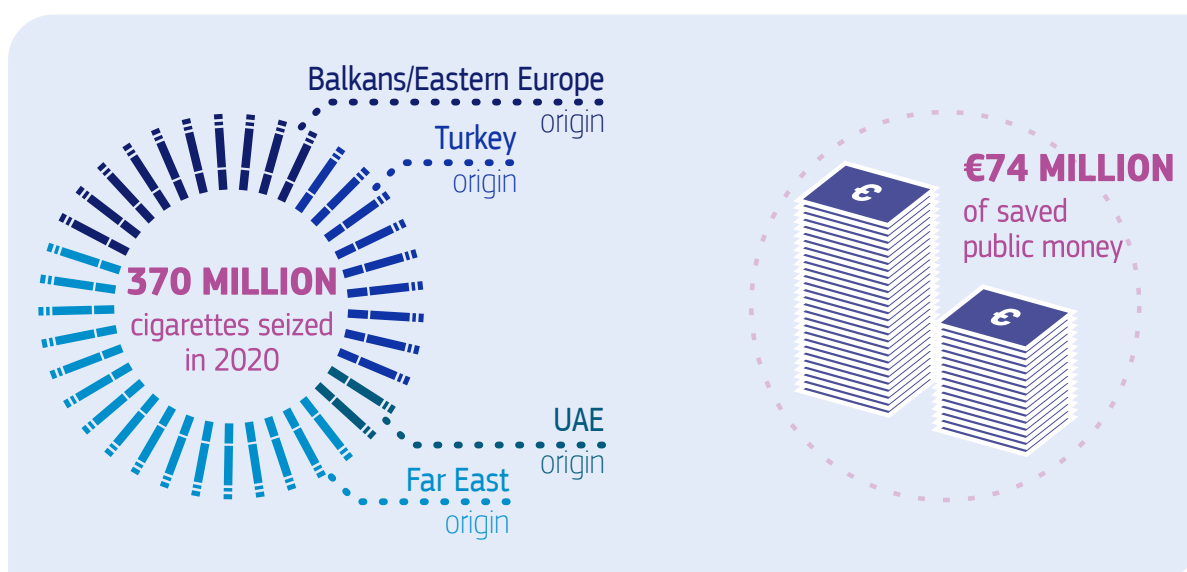
products worldwide, in close cooperation with the relevant services both within and outside the EU.

These two elements combine to help OLAF identify containers and/or lorries loaded with cigarettes that are falsely declared as other goods at the EU borders – and to do so from among the thousands of containers and lorries of merchandise that enter the EU every day.

In 2020, OLAF and its partners seized a total of 368,034,640 cigarettes destined for illegal sale in the EU; of these 132,500,000 cigarettes were seized in non-EU countries (primarily Albania, Kosovo, Malaysia and Ukraine) while 235,534,640 cigarettes were seized in EU Member States.

The vast majority of these cigarettes came from outside the EU: some 163,072,740 originated in the Far East (China, Vietnam, Singapore, Malaysia), while 99,250,000 were from the Balkans/Eastern Europe. A further 84,711,900 originated in Turkey, while 21,000,000 came from the UAE.

Figure 6: Results of OLAF’s work against tobacco smuggling





OLAF estimates the potential loss of revenues for EU budgets if these cigarettes had reached the EU market at around €74 million. This figure is based on an average loss of around €2 million in customs and excise duties and VAT for every 10 million cigarettes.

ILLEGAL CIGARETTE PRODUCTION WITHIN THE EU

While smuggling of cigarettes into the EU remains a constant threat, OLAF is also extremely active in tackling the counterfeiters who focus on the illegal production of cigarettes within the EU.

For the last three years, OLAF has been coordinating a major cross-border investigation into the illicit production of cigarettes, involving nine EU countries and the United Kingdom. A major operation on 17 December 2020, led by more than 160 officers from the Romanian Border Police and assisted by two officers of the Spanish Guardia Civil, was the final phase of this complex investigation.

On the day, the Romanian Border Police targeted 50 individuals suspected of being part of a criminal organisation involved in a variety of criminal activities linked with smuggling and the illicit production of cigarettes, as well as fiscal fraud. Forty search warrants were served at company offices and private residences in Bucharest and across Romania. On the same day, the Criminal Directorate of the National Tax and Customs Administration in Hungary and the Guardia di Finanza in Italy carried out searches linked to the same international investigation.

During the course of the three-year operation, more than 200 people have been arrested or reported to the judicial authorities in the framework of investigations conducted at national level in Romania, Hungary, Slovakia, Greece, the Czech Republic, Italy, Spain, Belgium and the United Kingdom.

In addition to the arrests made over the three years, the operation prevented the loss of approximately €80 million in duties and taxes in five EU countries following raids on nine illicit factories that led to the seizure of 95 million illegal cigarettes and 300 tonnes of tobacco.

ILLEGAL SALES OF WATER PIPE TOBACCO CONTINUE TO GROW

One relatively new development in the fight against tobacco smugglers is the focus on water pipe tobacco, which has become increasingly popular among the smugglers over the last few years. OLAF was involved in three main operations featuring water pipe tobacco in 2020.

The first, in Lithuania, took place after six consignments of water pipe tobacco with a total net weight of 20,000 kg arrived in the port of Klaipeda from the UAE with accompanying documents issued in Germany. OLAF considered the shipments, which all took place between February and June, to be suspicious, not least because the documentation stated that the tobacco was destined for Kazakhstan and that the buyer was an Israeli company – giving it no good reason to be passing through Lithuania.

OLAF ascertained that neither the buyer nor the receiver of the goods was involved in any water pipe tobacco trade and that invoices and trade contracts handed over to Lithuanian customs were fake. Tests carried out by Lithuanian customs and the brand owner of the tobacco showed that the goods were counterfeit, prompting the Lithuanian authorities to seize the shipments and start criminal investigations. The Lithuanian authorities suspect that shipment was originally genuine tobacco destined for sale on the EU black market but that it had been replaced by counterfeit tobacco at some point before arriving in Klaipeda.

A second case, this time in Poland, followed roughly the same pattern: a suspicious shipment of water pipe tobacco from Dubai was traded by a Hungarian company, shipped via Belgrade in Serbia and finally stored in the port of Gdansk, Poland. With the support of OLAF and the tobacco brand owner, Polish customs were able to ascertain that the shipment of 5,240 kg of tobacco was counterfeit, enabling them to seize it.

Another cross-border case with coordination from OLAF was the third concerning water pipe tobacco in 2020. In October, Croatian customs seized 4,100 kg of counterfeit water pipe tobacco, but

further investigations revealed that at least three other consignments had arrived in Portugal during the course of the year and had been traded and transported to two Montenegro-based companies. Working closely with the Montenegrin and Italian authorities, OLAF uncovered that two consignments of water pipe tobacco totalling over 24,300kg had left the port of Bar in Montenegro destined for

Trieste and Genova in Italy. Both loads were seized by Italian authorities in November, and the tobacco was identified as counterfeit. Previous investigations by Croatian customs showed that the counterfeit tobacco was most probably made from glycerine from Poland and cheap tobacco waste originating in Bulgaria.

Figure 7: Water pipe smuggling routes and quantities identified by OLAF in 2020



Working with national and international partners on joint customs operations

In addition to investigating cases of revenue fraud and counterfeiting, OLAF also coordinates large-scale joint customs operations (JCOs) involving EU and international operational partners. JCOs are targeted actions of a limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or on identified trade routes. In 2020, OLAF was involved in several operations working alongside partners such as Europol, Frontex and the World Customs Organization.

SILVER AXE V

Operation Silver Axe takes place each year targeting illicit imports of prohibited pesticides into the EU. Led as usual by Europol, the fifth Silver Axe operation involved OLAF and customs authorities from the EU Member States, China, Ukraine, Russia and Colombia.

The traffic of illicit and/or counterfeit pesticides is one of the most profitable businesses for international fraudsters, and is estimated to account for up to 13.8% of all pesticides sold in the EU. European legislation on pesticides is among the toughest in the world, and all pesticides must undergo rigorous testing before they are placed on the EU market. Illegal pesticides, which are mostly untested and composed of active substances banned in the EU but still in use in other parts of the world, can pose significant health risks for farmers and consumers. They are also considered harmful to the environment by causing damage to flora, fauna and soils.

OLAF's principal role in the operation was to alert EU customs authorities about suspicious shipments of pesticides, with a specific emphasis on active ingredients such as carbendazim, chlorpyrifos, thiacloprid or thiametoxam that have recently been de-authorised for use in the

EU because of their environmental or health risks. The suspicious shipments of pesticides identified by OLAF came mainly from China and India, and although declared as being in transit through the EU en route to other countries, the chemicals were in fact intended for illegal sale in the EU.

As well as working closely with EU authorities, OLAF exchanged information with the Chinese Anti-Smuggling Bureau and the Security Service of Ukraine via its liaison officers in Beijing and in Kyiv, and with the Colombian Policía Fiscal y Aduanera and the Federal Customs Service of Russia. OLAF also created a rapid alert system that allowed it to share intelligence in real time with other non-EU countries such as Hong Kong, Singapore, Malaysia, Thailand, Vietnam and Indonesia, helping them to monitor suspicious containers as they passed through various ports of transit.

Some 1,346 tonnes of illicit and counterfeit pesticides were seized as a result of the fifth Silver Axe operation, taking the total over the five years to 2,568 tonnes.

OPSON IX

OLAF once again worked with customs authorities from across the world on the joint customs operation Opson, led by Europol and Interpol. Opson targets international trade in counterfeit or sub-standard food and beverages, as well as food fraud and adulteration, and the ninth annual operation took place from December 2019 to May 2020.

OLAF's role was the coordination of a specific action focused on trafficking in counterfeit wine and alcoholic beverages. OLAF used its secure communication channel to exchange information between all the parties taking part

in the action - customs authorities from 17 EU Member States and two non-EU countries, as well as representatives from the global food and beverage industry.

As a result of this action coordinated by OLAF, customs and police authorities across the world seized nearly 1.2 million litres of wine and 109,267 litres of other alcoholic beverages that infringed intellectual property rights.

DEMETER VI

Operation Demeter concerns the monitoring and control of illicit cross-border movements of waste and the illegal trade in ozone-depleting substances and refrigerant gases. Now in its sixth year, Demeter is coordinated by the World Customs Organization, and in 2020 took place between 14 September and 11 October. Some 73 countries worldwide were involved in the operation, as well as various European and international bodies. OLAF's role was to identify and monitor suspicious shipments and provide the authorities taking part in the operation with risk-based information and intelligence. As a result of the 2020 operation, almost 99,000 tonnes of illegal waste and around 42 tonnes of ozone-depleting substances and refrigerant gases were seized.

HANSA

Another operation targeting tobacco smugglers took place in November 2020, with law enforcement authorities from 15 EU countries and the UK teaming up to dismantle a major black market cigarettes racket.

The operation, dubbed Hansa, focused on a common fraud technique: duty avoidance. Under EU law, when cigarettes are legally produced within the EU and declared for export or delivery elsewhere in the EU, the payment of VAT and excise duties in their country of production is suspended. Fraudsters make these false declarations and instead sell the cigarettes in their country of origin or elsewhere within the EU rather than exporting them, thus avoiding paying any duties or VAT.

OLAF's support during Hansa again focused on the secure exchange of information between customs authorities, as well as monitoring and cross-checking of the information exchanged. As a result of Operation Hansa, some 67 million cigarettes and 2.6 tonnes of tobacco were seized, the vast majority produced in Belarus. Some 17 suspects were arrested and 10 vehicles used to transport the illegal cigarettes were also seized in eight of the participating countries.





FALSE DECLARATIONS TO AVOID PAYING DUTIES

One of the most common forms of revenue fraud is the avoidance of duties or taxes, and OLAF dealt with a number of cases in 2020 that focused on this particular activity.

SUGAR FRAUD TURNS SOUR

Sugar is an everyday household item to most of us, but trade in sugar is a multi-million euro business and as such a significant contributor to EU revenues in the form of customs and other duties. Avoidance of those duties is also big business for fraudsters, so when in early 2020 the sugar industry raised concerns that duties on the import of organic cane sugar were being illegally avoided, OLAF launched an investigation.

The alleged fraud concerned in particular the abuse of the system regarding what is known as ‘inward processing’, a special customs procedure that allows for raw materials or semi-manufactured goods to be imported for processing within the EU without the obligation to pay relevant customs duty. After the processing operations, the processed products are supposed to be re-exported from the EU.

However, manufacturers do not have to follow a strict timeline in this respect: if they wish to export processed products made using EU raw materials before they import equivalent non-EU products, they are free to do so. The non-EU equivalent products can then be imported into the customs territory of the EU without being subject to import duty.

There are several conditions to be met allowing raw materials to be treated as equivalent, however. One of them is that organic and non-organic goods cannot be equivalent, and as such it is not permitted to replace one product by another. This condition is intended to support the production of organic goods in the EU.

This question was at the heart of OLAF’s investigation: was the non-EU sugar that was imported duty-free equivalent to the EU organic sugar used in the processing of products under the

inward processing procedure? OLAF conducted checks at the production facilities to determine what kind of sugar (organic or non-organic) was used in the production process, and the answer to this question was clear. The imported sugar was not produced from organically grown sources, and so could not be declared as organic sugar when imported or considered as an equivalent to organic sugar used in processed products.

OLAF’s investigation showed that this false declaration allowed €15 million in customs duties on the import of organic sugar to be avoided; OLAF recommended the recovery of the full amount.

CYCLING AROUND ANTI-DUMPING DUTIES

Taiwan is one of the main producers and exporters of bicycles and bicycle parts to the EU. This status, as well as its location in the South China Sea, has been used by fraudsters to conceal the Chinese origin of numerous consignments of bicycles and bicycle components shipped to the EU. The aim of the fraudsters is to evade the payment of anti-dumping duties at import of these goods into the EU where they are incorrectly declared for customs purposes as originating in Taiwan.

This concealment of origin is commonly operated from customs bonded zones (free trade zones) but in one case investigated in 2020, OLAF suspected a more sophisticated modus operandi of fraud used by certain Taiwanese companies in order to make tracking of Chinese origin more difficult. More specifically, it was suspected that instead of transshipment via customs bonded zones, Chinese bicycles and bicycle parts were released for free circulation on the Taiwanese customs territory and then later exported from Taiwan as domestic goods.

OLAF analysed a significant amount of data with a view to matching consignments of bicycles and bicycle parts imported from China into the Taiwanese customs territory with consignments of bicycles and bicycle parts exported from the Taiwanese customs territory. In all, 335 consignments of Chinese bicycles (264,338 bikes in total) and 545 tonnes of bicycle parts were exported from Taiwan and falsely declared as of Taiwanese origin when imported into the EU.



On-the-spot checks at some of the Taiwanese exporters confirmed the results of OLAF's analysis showing the use of import and re-export procedures to conceal the Chinese origin of bicycles and bicycle parts. This analysis was further confirmed by information provided by Member State authorities.

As a result of its investigation, OLAF established that €8 million in anti-dumping duties were evaded at import into 21 different EU countries. The Taiwanese authorities cooperated fully with OLAF in its investigation and have introduced new rules to prevent such irregular practices.

DECLARE LESS, PAY LESS

Another common method of avoiding duties is to under-declare the value of goods imported into the EU. Since the level of duties paid depends, among other things, on the value of the goods, claiming that they are worth less than they actually are is a way of avoiding higher rates of import duties. False declarations of destination for goods can also be used to avoid VAT. One case from 2020 shows clearly

that it is still a very popular money-making scheme for the fraudsters.

Following a tip-off from Czechia, OLAF began investigating suspected irregularities and frauds affecting import duties and related VAT on goods imported from China into several EU countries.

OLAF's investigation revealed a sophisticated scheme that saw the goods coming from China introduced into the EU via several Member States and declared for transit to other EU country. This declaration allowed the goods to enter the EU without paying VAT in the country into which they were initially imported; under EU rules, this VAT payment would normally be paid in the EU country that was declared as the final destination for the goods in question.

Focusing its initial investigations on 24 containers, OLAF's case quickly grew to encompass more than 1400 consignments amounting to 19,000 tonnes of textiles and shoes from China. The investigations conducted by OLAF in close cooperation with authorities in Poland, Czechia and Slovakia showed



that the consignments were not only systematically undervalued but also transported to Member States other than the one indicated on the official documents. The goods disappeared and were most likely traded on the black markets, thus also evading VAT payments.

The under-valuation of the goods is estimated to have cost the EU around €4.5 million in lost customs duties, while the VAT losses amount to €33 million affecting at least seven EU countries. OLAF has recommended that the Member States concerned take action to recover the money, while judicial action was recommended in Poland, Slovakia and Czechia.

MILLIONS SAVED THROUGH FRAUD PREVENTION

This example is typical of the many customs undervaluation cases investigated by OLAF in recent years. As reported in several previous OLAF Reports, they mainly concern textiles and shoes imported from China which are then subject to systemic undervaluation upon their import into the EU. OLAF has worked in partnership with the Member States concerned on a number of such cases – several of which are still ongoing.

OLAF's work in investigating and coordinating these cases has led to concrete results: between 2017 and 2020 there was a significant reduction in the amounts lost to the EU budget due to undervaluation. The estimated losses fell from over €1 billion in 2017 to just over €180 million in 2020, a net gain of over €800 million in customs duties to the EU budget in that period.

These numbers highlight the effectiveness of the efforts of OLAF and the Member States to counter undervaluation fraud in the EU, in particular the control measures proposed by OLAF and implemented by customs authorities in the Member States. Preventing undervaluation fraud is important to protect the EU budget, and to ensure that the ongoing recovery efforts in Europe are not undercut by fraud schemes that allow illicit profits to be made by putting on the market products at ridiculously low

prices through tax evasion. These products are also often of substandard quality and of dubious origin.

Much work remains to be done to combat such fraud, which is already evolving towards new patterns, particularly with e-commerce, and OLAF will continue to play an active part in investigating and coordinating with national authorities and other key stakeholders.

2.3. OLAF's investigative mandate within the EU institutions

OLAF has a unique mandate to carry out internal investigations into the EU institutions, bodies, offices and agencies for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the EU. But its role is not only to make sure that EU taxpayers' money is properly spent; it is also there to help defend the reputation of the EU as a whole from the risk posed by the perceived lack of integrity within the institutions.

Although there are generally very few cases of irregular, inappropriate or fraudulent behaviour by EU staff, those that OLAF does investigate tend to follow roughly the same patterns. These can include false declarations of expenses or other statements, especially in relation to allowances, undeclared external activities or harassment or other inappropriate behaviour in the workplace.

UNDUE FAMILY ALLOWANCES

Several cases closed by OLAF in 2020 focused on education allowances unduly granted to staff members of the European Investment Bank (EIB), due in part to the overly complex rules.

Working in close collaboration with the EIB, OLAF's investigation established that around €1.6 million had been incorrectly paid to 45 staff members. The overpayments were due to irregularities in declaring the situation of dependents, along with a number of errors and inconsistencies by the EIB's general administration.

The case covered payments made mostly in 2017 and 2018, and the EIB has since reformed its allowances system and corrected many of the errors detected by OLAF, including starting the recovery of the undue payments.

However, OLAF has recommended disciplinary proceedings or other corrective measures against 26 staff members who did not accurately declare the situation of their dependents, as well as recommendations for judicial follow up in relation to three staff members who misled the administration with falsified documents.

Some €600,000 had already been recovered by the EIB by the time OLAF closed its investigation as result of verifications and recovery actions carried out by the EIB before and during OLAF's investigation.

MISAPPROPRIATION OF PARLIAMENTARY ALLOWANCES

A handful of cases of apparent misappropriation of parliamentary allowances by Members of the European Parliament (MEPs) were also investigated by OLAF in 2020.

In one of the cases, OLAF established that during a single parliamentary term a Member had employed five accredited parliamentary assistants to work in his office in Brussels, as well as 33 local assistants in his home Member State, although not all of them at the same time. OLAF discovered irregularities in spending the parliamentary assistance allowance.

For example, OLAF found that one of the parliamentary assistants did not live in Brussels or work in the European Parliament, and had never delivered any work at all. Two others were found to have genuinely worked for the MEP but not always in Brussels, even if their contracts made it clear that Brussels must be their place of employment.

OLAF found that many of the local assistants had formal or informal roles in the MEP's national political party and had stood as candidates for parliamentary and/or local elections. European Parliament rules are clear that MEPs cannot use their parliamentary allowances to support their local political party. OLAF

also discovered that, in addition to their political activities, some of these local assistants were also involved in other outside activities. Neither the MEP in question nor most of the local assistants provided proof of any work being carried out.

Following its investigation, OLAF issued a recommendation to the European Parliament for the recovery of the salaries of most of these assistants, which totalled around €500,000. OLAF also recommended that the national authorities in the MEP's home country consider taking judicial action if it was considered that the Member in question had broken national laws.

In another case, OLAF discovered no evidence that the assistant of one MEP had ever lived in their place of employment throughout the five-year duration of their contract, or that they had worked in the premises of the European Parliament as a full time assistant to the Member. The MEP in question was unable to provide any credible proof of the work carried out by the assistant. As a result of the investigation, OLAF recommended the recovery of more than €500,000 and made a recommendation for judicial follow-up to the competent national authorities.

Another investigation concerned an MEP who was also under criminal investigation by the Public Prosecutor's Office in his own Member State. OLAF's investigation focused on whether the MEP had illegally inflated the value of contracts for parliamentary assistance and press and communication services in order to claim higher amounts for reimbursement, as well as illegally contracting fictitious parliamentary assistants. The investigation by the national authorities was on the possible unlawful financing of a political party through false invoicing and corruption.

Working closely with the local prosecutor's office and financial police, OLAF helped establish a number of additional facts, including that the MEP had claimed back part of the salary intended for the two real parliamentary assistants, and that the MEP was aware that three parliamentary assistants were engaged in unauthorised external activities. The investigation also revealed a possible case of plagiarism.



OLAF recommended that the European Parliament recover around €800,000 from the MEP and begin disciplinary procedures against the assistants. OLAF also shared its findings and evidence with the national authorities to help support their criminal proceedings. The national authorities also seized around €500,000 in assets as a precautionary measure.

INAPPROPRIATE BEHAVIOUR

OLAF also investigated allegations of serious misbehaviour by a senior member of the European Economic and Social Committee (EESC) towards other members and staff working or having worked there. In the course of the investigation, OLAF interviewed a number of people, including some of the alleged

victims and the person concerned, and concluded that inappropriate behaviour towards many of them had taken place. OLAF also considered that in two cases, this inappropriate behaviour could be considered as harassment.

OLAF closed its investigation with a recommendation to the EESC to take the appropriate sanctions against the individual, and sent its findings to the competent public prosecutor to begin judicial proceedings for harassment. As a result, the person was removed from managerial responsibilities and is being pursued before the courts.

Table 3: Investigations into EU staff and members of the institutions concluded in 2020

	Cases concluded	
	Total	of which closed with recommendations
Council	1	1
European Commission	5	5
European Parliament	17	12
European External Action Service	8	5
European Securities and Markets Authority	1	1
European Economic and Social Committee	2	2
European Union Agency for Cybersecurity	1	1
European Investment Bank	12	10
Total	47	37

3. Focus chapter: OLAF's role in keeping citizens healthy & safe

2020 was above all the year of the global pandemic, and public authorities across the globe focused on keeping people safe and their economies moving as best they could. Keeping people safe has long been a priority for OLAF, in particular through its work on tackling counterfeit and potentially dangerous goods. But the COVID-19 pandemic lent additional urgency to OLAF's work in 2020, with the risk of consumers falling foul of fraudsters offering fake and sub-standard personal protection equipment (PPE), testing kits and even potentially fake treatments for the virus.

3.1. OLAF's investigation into fake COVID-19 related products



The COVID-19 pandemic led to a sudden and massive increase in demand for PPE – in particular face masks

but also hand sanitisers and testing kits. Demand came not only from the medical profession tasked with treating the virus but also from consumers wanting to keep themselves safe. Both were targeted by fraudsters, who saw major opportunities in what very quickly became big business.

This massive increase in demand highlighted in particular to what extent the EU is dependent on third-country suppliers for many products, including PPE. As a result of the COVID-19 outbreak, EU imports from China of healthcare products – from protective garments to disinfectants and testing kits – grew by a massive 900% in the second quarter of 2020 compared to the virus-free previous year.

Faced with exponential growth in the number of infections, and deaths, at the start of the outbreak, EU public authorities were forced to act quickly to try to contain the spread. One decision taken was to accelerate the certification processes for face masks, sanitisers, ventilators and medicines coming from outside Europe, mainly from China, in order to better meet demand.

However, it soon became clear that while relaxing the rules did indeed help speed up the supplies of legitimate, safe products to the EU, it also made it easier for millions of substandard or fake medical products, with invalid EU conformity certificates, to be imported into the EU.

The speed with which this happened is reflected in the fact that OLAF opened its investigation into this trade in fake and counterfeit goods on 19 March 2020 – right at the very start of the virus outbreak in Europe. Teaming up with nearly every customs and enforcement authority in Europe, and many worldwide, and with international organisations such as Europol, Interpol and the EU's intellectual property office EUIPO, OLAF set to work identifying the many suspicious companies acting as intermediaries or traders of counterfeit or substandard products



linked to the COVID-19 pandemic. A year later, with the investigation (and the pandemic) still ongoing, OLAF and its partners have identified more than 1000 of these suspicious companies, many of which are based outside the EU.

Not all are fraudulent operators, however. OLAF also identified many opportunistic companies, trying to profit from the pandemic by moving into a new line of business, despite having no track record in this area and with little or no control over their supply chain. These companies are often easy targets for fraudsters, who create artificially long chains of intermediary shell companies that open and close quickly to hide their tracks – and which pass off fake

and counterfeit products as the genuine article to unsuspecting clients.

FAKE AND SUB-STANDARD MEDICAL PRODUCTS SEIZED UNDER OLAF'S INVESTIGATION (AS AT 31 DECEMBER 2020)

- ▶ 31,500 fake COVID-19 test kits
- ▶ 2,416,000 face masks
- ▶ 140,000 litres of hand sanitiser
- ▶ 105,000 spray cans
- ▶ 3,636 litres of counterfeit Dettol products (antiseptic disinfectants)

Case study: Tracking down fake hand sanitiser from Turkey

Information provided by OLAF led to the seizure of 140,000 litres of counterfeit hand sanitiser from Turkey that contained dangerously high levels of methanol. Methanol has a direct toxic effect on the optic nerve, and ingestion can lead to blindness, and use of the hand sanitiser could cause headaches, blurred vision, nausea and vomiting and loss of coordination.



OLAF first became aware of the risks following an alert by Danish authorities in August 2020, concerning a seizure of 6,000 litres of hand

sanitiser from Turkey. A month later, OLAF identified a suspicious shipment heading for Ireland and alerted Irish customs authorities, who intercepted the suspicious cargo when it arrived at the port of Dublin. Tests showed that the cargo of hand sanitisers contained unacceptably high levels of methanol.

A second shipment to Dublin was also seized, and further investigations by the Irish authorities, working in collaboration with the freight forwarding company, led to the discovery of contaminated sanitisers in a number of earlier consignments which were being kept in storage ahead of distribution to administrations, schools and other public services across Ireland.

OLAF investigations discovered several companies in different EU Member States that had also ordered hand sanitisers from the same Turkish manufacturer, and warned the authorities in those countries to be on the look out for the consignments. The manufacturer in question was found to operate under a number of different names, and to manufacture products on behalf of other companies. OLAF's unique pan-European role enabled it to untangle this complex web and ensure that Member State authorities had all the necessary information to keep their citizens safe.

JOINT CUSTOMS OPERATIONS

Two joint customs operations involving OLAF also focused on COVID-related products.

OLAF's role in the Europol-led operation Shield was the coordination of a targeted action against counterfeit and substandard oncological medicines, doping substances, food supplements and medical supplies used in the fight against COVID-19. OLAF coordinated the operations of the authorities in the 13 EU Member States that took part in the action (Croatia, Czechia, France, Greece, Hungary, Italy, Latvia, Luxembourg, Portugal, Romania, Slovakia, Slovenia and Spain). The targeted action discovered 58 cases of various irregularities with illicit and substandard oncological medicines, hormonal substances and food supplements.

Operation Stop, meanwhile, was coordinated by the World Customs Organization and mobilised 99 customs administrations from across the world, supported by OLAF. It targeted the traffic of illicit products related to the COVID-19 pandemic,

uncovering more than 307 million units of illicit medicine and 47 million units of medical supplies (masks, gloves, test kits, thermometers), as well as 2.8 million litres of sanitiser gel.

3.2. International cooperation in health-related investigations

Given the global nature of the supply chains exploited by the fraudsters, OLAF worked closely with international partners in many of its investigations in 2020.

COUNTERFEIT MEDICINES

One of the most high-profile examples of this was the successful seizure of a major consignment of counterfeit health products and medicines en route from China to Venezuela thanks to close cooperation between OLAF and the Police Community of the Americas (Ameripol). OLAF identified and tracked a shipment of counterfeit over-the-counter products (12,400 toothbrushes and over 38,000 products





destined to relieve nasal congestion and flu symptoms) that was successfully seized by the police and customs authorities in Colombia.

ILLEGAL HFC GASES

Keeping citizens safe also means making sure that the products and technologies they rely on meet the high standards set by the EU.

This is particularly important when it comes to the technology around refrigeration, an essential part of everyday life. Food is chilled, frozen, stored, transported and displayed in refrigerated units. Houses, offices, cars, trains, planes are cooled for comfort. Many of the COVID-19 vaccines that have been developed need to be refrigerated in transit and storage.

The gases used in refrigeration equipment are often hydrofluorocarbons (HFCs), which were introduced as replacements for ozone depleting substances. Even though HFCs do not deplete the ozone layer, they are still potent greenhouse gases, often with a high global warming potential, and as such their use and trade is strictly regulated. Illicit HFC gases have a major potential impact on the environment, and on people's health.

Since the EU's decision in 2014 to progressively reduce the quantity of HFCs placed on the market, the market shortage has led to higher prices for HFCs, and to the growth of parallel trade and the emergence of a black market.

The fight against the illegal import of HFCs into the EU is one of OLAF's operational priorities, in line with the European Commission's ambition to make Europe the first climate neutral continent by 2050 with its European Green Deal. The impact of these illicit imports can be devastating on the environment, and ultimately on people's health and well-being. Preventing them from entering the EU is OLAF's contribution to protecting citizens, the environment and legitimate trade.

In 2020, OLAF passed on relevant information to competent authorities across the EU that led to

seizures and/or detentions of shipments of illicit of HFCs.

The most significant of these came in July when the Dutch authorities seized approximately 14 tonnes of illicit refrigerant gases bound for the EU, with a potential environmental impact equivalent to 38 return flights from Amsterdam to Sydney. OLAF's investigation began when it identified a suspicious cargo destined for a consignee in Lithuania that was not registered to receive imports of HFCs. In addition, the shipment coming from China was initially discharged in the German port of Hamburg and declared in transit towards Rotterdam, in the Netherlands, despite the fact that the final declared destination was Lithuania.

Other operations against illicit HFCs involving OLAF included a haul by the Romanian authorities of 76,045kg of illicit refrigerant gases, with a potential global warming impact of 170,000 metric tonnes of carbon dioxide. OLAF investigators had been monitoring a suspicious shipment from China that had been discharged in Turkey, removed from its container and re-routed by truck to the EU. The customs documents accompanying several shipments revealed that they were destined for five different consignees in Romania. Four of the consignees were not registered to receive imports of these gases, while the fifth one would have significantly exceeded its quota for 2020 with its share of the shipment. In addition, in most of the cases, the refrigerant gases were packaged in non-refillable cylinders, which are banned in the EU.

In September 2020, Italian customs authorities stopped a shipment of approximately 3.7 tonnes of HFCs and hydrochlorofluorocarbon gases (HCFCs), packaged in 300 non-refillable cylinders. OLAF supported the operation by providing the Italian authorities with additional information regarding the consignment. This haul followed an earlier seizure of 1,098 cylinders of HFCs by Italian customs in February.

Romanian customs benefited from OLAF's assistance again in October to stop a shipment of 1,100 cylinders containing illicit refrigerant gases coming from Turkey, while Polish acted on a tip-off from OLAF

in December to seize two containers containing 36,946kg of illegal HFCs.

AFRICAN WATER TREATMENT CASE

EU money is used across the globe to support projects designed to improve the health and safety of citizens, and one case concluded by OLAF in 2020 shows how fraud, corruption and mismanagement can have a serious impact on people's lives.

The case concerned a project in country in Sub-Saharan Africa where EU money was being used to help bring safe water and sanitation facilities to 350,000 people. The procurement was managed by the ministry of water and environment in this country, and OLAF uncovered evidence that various procurement procedures linked to the project had been manipulated, with several of the contracts awarded in extremely dubious circumstances.

Manipulation of tender processes is a common fraud method (See Chapter 2) but this particular case had far wider implications than most. Many of the towns served by the project failed to get the clean water they needed, while the materials used to build latrines and other sanitation infrastructure was substandard and potentially dangerous.

For example, OLAF found that one third of the public toilets built through the project were not functional, because they had been built in inappropriate locations, water bills had not been paid or the facilities were not provided with an effective management system which meant that continuous and sustainable service could not be guaranteed.

OLAF recommended the recovery of more than €7 million from the project.

3.3. Trends in expenditure related to health & safety

EU funds have traditionally been used to support health-related projects focused primarily on the construction or modernisation of healthcare facilities, or the purchase of medical equipment. In the vast majority of cases, these projects run entirely without

problem, but those cases that OLAF has investigated in this field have tended to show similar patterns to those seen elsewhere, for example focused on public procurement issues.

In one project, aimed at upgrading medical equipment in one EU country, OLAF found that the technical specifications for the procurement of a mammography system were written in such a way that only a company offering a specific device would be able to bid. 'Single bidder' procurement is in fact relatively common in the health and safety field. Excessive or discriminatory requirements are just one of the irregularities that may affect the procurement process. Others include accelerated procedures, negotiated procedures without publication of a contract notice, or even direct awards, when the necessary conditions are not in place.

Another irregularity in procurement procedures in this field is the grouping together of works, supplies or services under one single tender, possibly even accompanied by restrictions on subcontracting or the use of consortia. This effectively means that one company is expected to cover every aspect of a major and frequently complex project, and this unduly restricts competition, excluding many potential tenders to the advantage of the few that are able to comply with this artificial grouping.

For example, in one case concerning a project to construct an emergency unit in a public hospital, OLAF found that one single procurement procedure was launched to cover everything from the construction works to the supply of medical equipment and even publicity services. In this case, the tender procedure also included disproportionate qualification requirements which effectively ruled out three potential bidders. OLAF discovered that the two remaining companies in the tender process then colluded on the cost of their offers. The winning company was then awarded two separate contracts – one covering the works, the other the supply of the medical equipment – even though works and supplies had been artificially grouped in the same procurement procedure. The company significantly over-charged for the medical devices.



Another example from OLAF's past investigations shows how the inflation of prices can work in practice. In a project to purchase medical equipment for diagnostics, OLAF brought to light a fraudulent scheme based on a network of companies that the beneficiary of the contract (a company established in an EU Member State) had set up outside the EU. These companies established fake transactions among themselves for the sole purpose of increasing prices, before finally selling the medical equipment to the beneficiary company. The price was so massively inflated that it effectively covered the share of the project costs the beneficiary company was obliged to fund with its own resources – and even allowed the company to make a profit. OLAF's investigation also revealed that the medical equipment concerned was never even used by the beneficiary – the sole reason for its purchase was to defraud the project.

These cases illustrate how the investment of EU funds in the health sector is traditionally affected by irregularities and fraud. But the EU's response to the COVID-19 pandemic has potentially led to additional risks. For example, the need to act quickly to tackle the virus brings with it the possibility of contracts being awarded with simplified, accelerated or restricted procedures, all of which could be open more easily to fraud. And with OLAF's experience showing that more money can often lead to more risk of fraud, the additional funding from the EU to help Member States recover from the impact of the pandemic is likely to prove irresistible to the fraudsters as well.

4. OLAF on the European and international scene

4.1. OLAF's relations with its partners

The effectiveness of OLAF's work depends also on efficient cooperation with partners from across the EU and beyond. OLAF works continuously with police, judicial, customs and other authorities in the Member States, and at EU and international level, to ensure the success of its investigations.

Examples of successful and expanded cooperation with many of these partners can also be found elsewhere in this report.

INTER-INSTITUTIONAL AND MEMBER STATE MEETINGS GO VIRTUAL

The working restrictions imposed during the global pandemic in 2020 inevitably led to fewer meetings with international partners than in previous years, although many were still able to take place virtually. This was particularly the case for the annual meeting with the Anti-Fraud Coordination Services (AFCOS) from each Member State, held online for the first time in October. The discussions focused on the new anti-fraud 'triangle' (AFCOS, OLAF and the EPPO), assessing and tackling COVID-19 related fraud risks in EU spending and OLAF investigations in the Member States.

On the inter-institutional side, OLAF's Director-General presented the activities of OLAF in several meetings of the European Parliament's Committee on Budgetary Control (CONT). OLAF also represented the European Commission in the Council Working Party on Combating Fraud (GAF) and participated in a number of meetings of other working parties.

A particularly important meeting for OLAF was the inter-institutional exchange of views discussing the new EU anti-fraud architecture, including OLAF's internal restructuring and OLAF-EPPO cooperation.

This meeting included relevant partners from within the European Commission as well as the European Parliament, the Council of the EU, the European Chief Prosecutor and the OLAF Supervisory Committee.

MUTUAL ASSISTANCE AND ANTI-FRAUD CLAUSES IN INTERNATIONAL AGREEMENTS

Cooperation with third countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance in customs matters. OLAF currently has agreements with more than 80 non-EU countries, including with major trade partners, such as the United States, China or Japan. In 2020, negotiations with the United Kingdom and Uzbekistan were finalised, and were ongoing with Australia, Indonesia and five countries of eastern and southern Africa.

OLAF also made progress in 2020 on negotiations for the inclusion of anti-fraud clauses in free trade agreements. Most free trade agreements contain an anti-fraud clause that allows a temporary withdrawal of tariff preference for a product in cases of fraud and lack of cooperation to combat it. OLAF represents the EU in any negotiations related to this clause. In 2020, negotiations with the United Kingdom, Chile and New Zealand were concluded, and negotiations continued with Australia and Indonesia.

ADMINISTRATIVE COOPERATION ARRANGEMENTS WITH INTERNATIONAL PARTNERS

Administrative Cooperation Arrangements (ACAs) are a key tool in helping OLAF foster close relationships with investigative bodies and other non-investigative partners engaged in the fight against fraud. Although no new ACAs with national authorities from Member States were signed in 2020,



much of the year was spent preparing the ground for a number of new arrangements set to be signed in 2021. An international ACA was signed in November 2020 with the Police Community of the Americas (Ameripol).

INTERNATIONAL EVENTS FOCUS ON DEVELOPMENT AID AND CORRUPTION

A number of international events were organised by OLAF in 2020.

A November webinar organised with Transparency International (TI) was designed to raise awareness amongst the staff of TI's offices and EU delegations in Southern African countries on OLAF's investigative work against corruption and fraud. Over 30 people participated in the webinar, mostly from EU delegations, the EEAS, the European Commission and TI offices in Southern African countries. In addition to illustrating how OLAF's investigative process works, the event focused on the need for inter-institutional cooperation, explaining how the different legal frameworks of the region tackle corruption and discussing the challenges that the pandemic has created in the fight against corruption.

In a similar vein, the first meeting of the network of external aid agencies' investigative units took place later the same month, bringing together representatives from the investigative units of the external aid agencies of 14 EU Member States. Over 40 anti-fraud experts took part in the meeting, sharing their investigative expertise and discussing the current challenges. The meeting was also used as the springboard for the creation of the first permanent network of national experts from external aid agencies, designed to bring regular and long-term cooperation between the different agencies and bodies concerned by the fight against fraud in development cooperation and humanitarian aid projects.

Another novelty for OLAF in 2020 was the first Anti-Corruption Seminar, again held virtually,

to mark International Anti-Corruption Day on 9 December. The event brought together more than 900 staff members from the European Commission, most working in delegations in 45 countries across the globe. The aim of the event was to learn from OLAF investigators how to spot, report and tackle corruption that could affect European funds invested outside the EU.

ADVISORY COMMITTEE FOR COORDINATION OF FRAUD PREVENTION

OLAF steers and chairs the Advisory Committee for Coordination of Fraud Prevention (COCOLAF), composed of representatives of Member States authorities. The annual COCOLAF meeting provided an opportunity to exchange views on the main developments in the fight against fraud and the preparation of the so-called PIF Report on the protection of the EU's financial interests.

In 2020, specific COCOLAF subgroups worked on:

- exchanging best practices and developing a common framework for fraud prevention and detection
- looking into possible uses of the Early Detection and Exclusion System (EDES) to protect the EU's financial interests in shared management and capacity building actions to identify and prevent fraud and corruption in European Structural and Investment Funds
- sharing the results of analyses about the main trends and patterns in fraud and irregularity
- fraud risks and mitigating measures in the context of the COVID-19 crisis
- the use of national anti-fraud strategies in the context of the EU budget framework 2021-2027 and the Recovery and Resilience Fund
- OLAF cooperation with AFCOS, both from an investigative and from a policy perspective
- sharing media strategies and organising communication activities on fraud prevention and deterrence

4.2. FCTC Protocol to Eliminate Illicit Trade in Tobacco Products

The Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products (FCTC Protocol) is an international agreement aimed at significantly reducing the illicit tobacco trade worldwide. The EU plays an important role in ensuring the implementation of the FCTC Protocol and in 2020 OLAF, as one of the key facilitators, contributed to the work on the tracking and tracing of tobacco products, as well as on activities relating to assistance and cooperation.

4.3. Hercule III funding programme

The Hercule III programme, which financed projects designed to protect the EU's financial interests, came to end in December 2020 in line with the end of the seven-year EU budget cycle (2014-2020). OLAF was responsible for the management of Hercule III, which had a budget of more than €100m between 2014-2020, used primarily to support the work of national and regional authorities in the Member States, such as customs or law enforcement agencies.

In 2020, some €16.4 million was available for projects across the EU, which included the purchase of a wide range of technical equipment, such as x-ray scanners used in harbours or airports, digital forensic tools, investigation tools or automated number-plate recognition systems. Some of the money was also

used to finance Member States' access to certain commercial databases necessary for operations and investigations. Since 2018, OLAF has been working with the European Commission's Joint Research Centre (JRC) on an innovative project to explore new data analysis methodologies to support operational activities at the EU and Member State level for customs anti-fraud purposes. At the end of 2020, OLAF concluded a new administrative arrangement with the JRC to continue this work.

Hercule funding was also used to finance conferences, seminars and training events attended by staff of national administrations, law enforcement agencies, NGOs and academia, with the aim of strengthening cooperation and the exchange of best practices in the protection of the EU's financial interests. The pandemic meant that most of the events planned for 2020 were postponed until at least 2021.

With the end of the Hercule III programme in 2020, an evaluation of the effectiveness of the programme was launched by OLAF. The aim of the evaluation is to assess the performance of the programme over its seven-year life span, and the sustainability of its results in the long term. The evaluation will be presented to the European Parliament and the Council by the end of 2021 with the goal of improving the effectiveness of anti-fraud funding in the current seven-year budget period.



5. Monitoring the outcome and impact of OLAF recommendations

When OLAF concludes an investigation, it can issue recommendations to the competent national and European authorities. OLAF invites these authorities to take action, in order to redress the fraud, irregularity or other illegal activity uncovered by the investigation. For example, recommendations can suggest financial recovery or the start of a criminal prosecution. OLAF's recommendations are intended to protect the EU budget, to uphold the rule of law and to help ensure that OLAF's investigations act as a deterrent against potential fraudsters.

While OLAF has no powers to impose its recommendations, recipients are obliged to report to OLAF on the action taken. OLAF systematically monitors this feedback, as it helps to measure the success of OLAF's investigations and the work of its partners, as well as highlighting areas for improvement.

In order to expand and build upon the follow-up of OLAF's recommendations, a dedicated Task Force Monitoring team was created as part of the wider reorganisation of OLAF which came into force in June 2020 (see Chapter 10). Bringing together a broad spectrum of skills and expertise from across OLAF, the Task Force's role is to streamline the monitoring process, coordinate data collection and analyse monitoring results.

5.1. Financial monitoring

It is important for the EU to ensure that funding is spent correctly and for the benefit of all – and to effectively recover any amount that may have been

put to fraudulent use. This is an important part in retaining the trust of citizens in the wider EU project.

The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that particular year. The amounts recommended for recovery are therefore not an indication of the overall fraud level in Europe, but relate to specific investigations finalised by OLAF in that year.

Table 4 shows how these figures can fluctuate year on year. One or two very high value cases in any particular year can lead to a significant increase in the amounts recommended for recovery (as in 2017). At the same time, years with a large number of recommendations do not automatically have the highest amounts recommended for recovery: this was the case in 2020, which has the highest number of recommendations in the last five years, but with the lowest overall amount due to a relatively low average value.

OLAF has monitored the follow-up to its financial recommendations for a number of years, focusing primarily on whether the recommendations are wholly or partially followed by the recipients, i.e. what amount, if any, the recipients claim from the debtors in question. In 2020 OLAF also began monitoring actual recoveries – i.e. if the amount recommended has been fully or partially recovered, which depends not only on decisions taken by the recipients of recommendations but equally on the debtors' ability and willingness to pay. Working with partners from across the European Commission, OLAF expects to further strengthen this monitoring in the future.

Table 4: Amounts recommended by OLAF for financial recovery 2016-2020 compared to financial recommendations (€ million)

	2016	2017	2018	2019	2020
Amounts recommended for recovery	631.1	3,094.5	370.6	484.9	293.5
Number of financial recommendations issued	209	195	168	157	223

5.2. Financial impact of OLAF investigations in the overall detection of irregularities across Europe

Member States are responsible for most EU spending and they also manage the collection of EU customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and supports them through an active exchange of information and via targeted training.

Under sectoral regulations, Member States have to report to the European Commission any irregularity or suspicion of fraud they detect exceeding €10,000. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU financial interests (the so-called "PIF Report").

In parallel with data concerning Member States' detections, OLAF also gathers data on the number of investigations it has concluded and that have led to financial recommendations.

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations ⁽¹⁾ are comparable to the financial impact of irregularities detected and reported by Member States.

Table 5 shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources (TOR) between 2016 and 2020 and the percentage that their financial impact represents in terms of the gross TOR collected by Member States and made available to the EU budget. OLAF results are shown alongside those of national authorities.

Table 6 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management (European Structural

and Investment Funds and Agriculture and Rural Development Funds) between 2016 and 2020 and their financial impact expressed as a percentage of the total payments, by Member State. OLAF results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations are making in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent. In terms of Traditional Own Resources, OLAF financial recommendations would represent 2.55% of the gross TOR collected, compared to 2.02% for all Member States together. This means that, for this period, OLAF financial recommendations exceed the entire financial impact of the investigative and control activities of the Member States. The OLAF results are significantly influenced by the conclusion of a string of investigations linked to the undervaluation of imported goods. These results also highlight OLAF's commitment to utilising resources effectively and concentrating on cases where its input would bring most added value.

OLAF results are significant also in the shared management areas, where the financial impact of the activities of all Member States together accounts for 1.59% of payments (for the EU27), while OLAF alone recommended the recovery of 0.29% of payments. In this area, OLAF financial recommendations would represent 15.6% to 18.5% of the entire impact of investigative and control activities. There are countries where the financial impact of OLAF cases is particularly significant and, at times, even higher than that of national investigations.

⁽¹⁾ The calculation of the financial amounts recommended is the sum of the amount recommended to be recovered and the amount recommended to be prevented from being unduly spent.



Table 5: Member State/OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2016-2020

Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % of TOR collected
	N	%	N	%
Austria	259	2.08%	8	0.54%
Belgium	1,460	1.17%	32	0.81%
Bulgaria	58	2.27%	7	0.17%
Croatia	79	1.94%	11	0.23%
Cyprus	18	0.37%	6	0.36%
Czechia	376	1.66%	16	1.03%
Denmark	322	1.45%	14	0.24%
Estonia	38	1.92%	3	0.07%
Finland	204	2.22%	5	0.05%
France	1,475	2.26%	18	0.32%
Germany	8,828	2.43%	37	0.17%
Greece	277	4.37%	16	18.23%
Hungary	174	2.86%	9	0.06%
Ireland	148	1.02%	4	0.00%
Italy	610	0.59%	32	0.17%
Latvia	118	3.57%	6	0.43%
Lithuania	221	2.98%	12	0.13%
Luxembourg	11	0.36%	0	0.00%
Malta	5	0.87%	3	1.16%
Netherlands	2,316	2.82%	42	1.68%
Poland	690	0.85%	24	0.21%
Portugal	129	2.29%	13	0.65%
Romania	216	1.38%	23	0.47%
Slovakia	56	0.52%	5	54.54%
Slovenia	61	0.91%	14	0.43%
Spain	1,554	2.08%	35	0.86%
Sweden	770	1.54%	16	0.15%
EU-27	20,473	1.95%	411	1.05%
United Kingdom	4,012	2.46%	33	11.27%
EU-28	24,485	2.02%	444	2.55%

Table 6: Member State/OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and Agriculture and Rural Development Funds for the period 2016-2020

Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	177	0.20%	2	0.02%
Belgium	253	0.36%	1	0.07%
Bulgaria	1,275	2.17%	20	0.69%
Croatia	340	0.67%	6	0.21%
Cyprus	50	0.64%	0	0.00%
Czechia	1,544	2.00%	9	0.14%
Denmark	119	0.16%	1	0.01%
Estonia	419	1.23%	2	0.00%
Finland	126	0.08%	0	0.00%
France	1,262	0.16%	8	0.02%
Germany	978	0.21%	2	0.41%
Greece	2,132	2.30%	14	0.14%
Hungary	2,200	1.42%	32	2.20%
Ireland	230	0.16%	1	0.01%
Italy	3,468	1.13%	19	0.40%
Latvia	401	1.91%	1	0.00%
Lithuania	929	1.00%	1	0.06%
Luxembourg	2	0.02%	0	0.00%
Malta	62	3.72%	0	0.00%
Netherlands	284	0.36%	0	0.00%
Poland	4,485	1.47%	25	0.13%
Portugal	2,464	1.47%	9	0.35%
Romania	4,327	3.41%	32	0.55%
Slovakia	1,281	19.02%	12	0.48%
Slovenia	159	0.50%	1	0.32%
Spain	5,681	1.90%	8	0.02%
Sweden	69	0.16%	0	0.00%
EU-27	34,717	1.59%	206	0.29%
United Kingdom	1,938	0.40%	6	0.08%
EU-28	36,655	1.54%	212	0.29%



5.3. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcome of its cases on the ground - indictments, dismissals, or other judicial measures.

Under EU law, when requested by OLAF, national judicial authorities must send OLAF information on any action taken on the basis of its judicial recommendations. An analysis of the figures shows that between 2016 and 2020, around 37% of the cases which OLAF transmitted to national judicial authorities and on which these authorities have already taken a decision led to indictments (Table 7).

Member States' judicial authorities are independent, and are under no obligation to follow OLAF's recommendations. Nonetheless, OLAF continues to work at better understanding the reasons why national judiciaries dismiss a considerable number of the cases it transmits to them.

There are a number of reasons why a recommendation may be dismissed. Sometimes it relates to differences of interpretation of EU and national law between OLAF and national authorities. In other cases, national prosecutors may deem the evidence of criminal wrongdoing to be insufficient.

Indeed, despite OLAF's considerable investigative efforts, its limited investigation powers and practical possibilities mean that conclusive evidence of a criminal offence cannot always be collected: OLAF's primary mission is protecting the EU's financial interests, not criminal prosecution. However, where an OLAF investigation finds sufficient grounds for suspecting a criminal offence, national authorities may investigate further, which can then lead to an indictment or to dismissal of the case.

In order to address these issues and to improve follow-up at national level, OLAF liaises with Member States on a continuous basis, often before its investigation is closed. This exchange of information will be significantly reinforced by the amended OLAF Regulation (see Chapter 6), which increases the obligations on national authorities to inform and report to OLAF at different points in time, in particular at the monitoring stage. For example, Member States are required to notify OLAF of the relevant national rules on the admissibility of evidence in criminal proceedings and to send OLAF the final decisions taken by national courts in relation to its recommendations. In addition, OLAF can set a time limit for national authorities to report on actions taken following its recommendations.

Table 7: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2016 and 31 December 2020

Member State	No decision taken by JA	Decision taken by JA			Indictment rate
		Total	Dismissed	Indictment	
Austria	1	4	3	1	25%
Belgium	16	10	7	3	30%
Bulgaria	12	4	3	1	25%
Croatia	2	4	1	3	75%
Cyprus	3	0	0	0	N/A
Czech Republic	4	6	4	2	33%
Denmark	4	0	0	0	N/A
Estonia	1	1	1	0	0%
Finland	1	0	0	0	N/A
France	12	3	1	2	67%
Germany	11	9	8	1	11%
Greece	14	12	6	6	50%
Hungary	16	9	3	6	67%
Ireland	4	0	0	0	N/A
Italy	29	15	5	10	67%
Latvia	3	1	1	0	0%
Lithuania	2	4	1	3	75%
Luxembourg	4	0	0	0	N/A
Malta	1	1	0	1	100%
Netherlands	10	6	6	0	0%
Poland	11	9	6	3	33%
Portugal	4	4	3	1	25%
Romania	20	14	9	5	36%
Slovakia	9	4	4	0	0%
Slovenia	5	1	1	0	0%
Spain	17	4	2	2	50%
Sweden	1	0	0	0	N/A
United Kingdom	11	14	13	1	7%
Grand total	228	139	88	51	37%



5.4. Disciplinary monitoring

The disciplinary recommendations issued by OLAF concern serious misconduct of EU staff or Members of the EU institutions and other EU bodies. They are directed at the authority having disciplinary powers in the institution or body concerned. When making such recommendations, OLAF does not specify the

type of action that should be taken. The disciplinary authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the disciplinary authority may join several recommendations resulting from different investigations and, subsequently, impose one single sanction.

Table 8: Actions taken by the disciplinary authorities following OLAF's disciplinary recommendations issued between 1 January 2016 and 31 December 2020

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Agencies	11	2	4	5
Committee of Regions	1	0	0	1
Council of the European Union	2	1	0	1
European Union Rule of Law Mission in Kosovo	1	0	1	0
Eurojust	1	0	0	1
European Commission	25	9	7	9
European Court of Auditors	2	0	1	1
European Court of Justice	2	0	1	1
European Economic and Social Committee	4	1	2	1
European External Action Service	9	4	2	3
European Investment Bank	12	10	0	2
European Parliament	31	9	5	17
Total	101	36	23	42

6. Policies to fight fraud

In addition to its independent role in investigating potential fraud, corruption or other irregularities that might affect the EU's financial interests, OLAF is responsible for helping to develop more effective anti-fraud policies and practices across the EU.

6.1. OLAF's contribution to the Commission's political priorities

In 2020, OLAF continued to contribute to the top political priorities of the EU through anti-fraud advice. Europe is investing an unprecedented amount of resources in pulling Europe out of the devastating effects of the pandemic. Now more than ever, it is important that every euro reaches its intended objective. Next Generation EU, and in particular the Recovery and Resilience Fund (RRF) must be protected from fraud. OLAF played an active role in providing anti-fraud advice to the relevant Commission departments and the national authorities in the preparation of the control chapters of their Recovery and Resilience Plans. Given the urgent need for financial support, prevention of irregularities and fraud is crucial to make sure that the money is available quickly where it is needed. OLAF will continue to work in close cooperation with the national authorities to support them in this effort.

6.2. Revision of the OLAF Regulation: adapting OLAF's work to the new anti-fraud environment

The so-called OLAF Regulation is the main legal instrument that governs the investigative activity of OLAF. The creation of the EPPO has changed the way fraud is detected, investigated and prosecuted in the EU, in turn requiring a revision of the OLAF Regulation to set out how OLAF and the EPPO will work together towards these common goals.

The revised Regulation was first put forward by the European Commission in 2018 but it was not until June

2020, after months of negotiations, that the European Parliament, the Council and the Commission reached an agreement in principle on the new rules. The revised OLAF Regulation entered into force on 17 January 2021, setting out how OLAF and the EPPO will work together, as well as further reinforcing the investigative capacity of OLAF.

In practical terms, these rules set out how OLAF will use its expertise and experience to support the EPPO in carrying out its tasks; establish OLAF's right to launch its own investigations to complement those of the EPPO, for example to facilitate the recovery of funds or adopt administrative precautionary measures; and create mutual reporting mechanisms to ensure the effective exchange of information before and during investigations.

The updated rules also give OLAF better tools to investigate fraud against the EU budget. For example, OLAF can access bank account information under the same conditions that apply to national competent authorities, as well as access privately owned devices used for work purposes, if it has reasonable grounds to suspect that their content may be relevant for the investigation. The rules that govern how OLAF conducts on-the-spot checks have also been made clearer, while the way in which the office cooperates with national authorities has also been enhanced. These improvements go hand in hand with the reinforcement of procedural guarantees of persons under investigation.

6.3. Preparing the ground for the launch of the European Public Prosecutor's Office

During the course of the year the EPPO continued to move steadily towards becoming fully operational, despite the impact of the COVID-19 crisis. Following the appointment of the European Chief Prosecutor in 2019, the College of European Prosecutors took office in September 2020. In close cooperation with the



European Chief Prosecutor, the participating Member States have launched the necessary procedures for the selection of the European Delegated Prosecutors and several have been appointed by the College.

The future relationship between OLAF and the EPPO is key to ensuring that both offices work efficiently and effectively in their shared role of protecting the EU's financial interests. With this in mind, OLAF and the EPPO agreed to prepare their joint working arrangements in 2020, setting out how they will work together once the EPPO starts its activities in 2021.

strengthen cooperation and assistance between customs authorities in the Member States.

The AFP replaces the Hercule III funding programme as of 2021, and will run for the seven years of the current EU budget framework, until 2027. In addition to continuing the activities of Hercule III, the new AFP will finance two additional activities from the European Commission. These are the Anti-Fraud Information System (AFIS), which helps the customs authorities in each EU country in their joint efforts to prevent and detect customs fraud, and the Irregularities Management System (IMS), an online platform for Member States to report suspected irregularities or fraud that could have an impact on the EU budget. An initial agreement on the new programme by the European Parliament and Council was reached in December 2020.

6.4. Commission Anti-Fraud Strategy

OLAF coordinates the implementation of the Commission Anti-Fraud Strategy, adopted in April 2019, and develops fraud risk analysis and anti-fraud policy measures to support Commission services. The Anti-Fraud Strategy seeks to further improve the detection, sanctioning and prevention of fraud and to support the Commission's ongoing efforts to decrease the level of fraud against the EU budget.

The strategy promotes greater consistency and better coordination in the fight against fraud among Commission services, and paves the way for evidence-based anti-fraud measures. The strategy is accompanied by an action plan with 63 actions to be implemented by OLAF and Commission services. The implementation of the actions is well on track.

6.5. The Union Anti-Fraud Programme

In May 2018, the European Commission put forward a new Union Anti-Fraud Programme (AFP) to support the protection of the EU's financial interests and

7. Communication

OLAF's communication in 2020 focused more than ever on its unique and vital role in helping to keep European citizens safe and healthy.

Just as the pandemic dominated the news throughout the year, OLAF's communication reflected in particular its pandemic-related activities – not least the opening of an enquiry into shipments of fake, sub-standard or counterfeit face masks, gels and hand sanitisers. The investigation continued throughout 2020 and into 2021, and media interest remained high.

The working restrictions imposed due to the pandemic also meant that some of OLAF's traditional media events had to be reworked. This was particularly the case for the launch of the OLAF Report for 2019 in September, where a fully interactive virtual press conference allowed journalists to connect to the presentation of the report by OLAF's senior management, including to the question and answer session. The stakeholder presentation of the report, the other major communication event of the year, was replaced entirely by a pre-recorded summary of the report from OLAF's senior management.

OLAF's COVID-related work was not the only thing communicated during the year, however, with much of the office's work continuing as normal despite the difficulties imposed by travel restrictions, quarantines and home-working. OLAF's traditional work in tackling cigarette smuggling and counterfeiting or the illegal trade in refrigerant gases or pesticides continued as usual during the year, and the Office was keen to ensure that European citizens and businesses were aware that it was 'business as usual' despite the pandemic.

This meant a significant increase in communication activities over the year compared to previous years,



The 2020 OAFCN meeting took place in Brussels in January, before social distancing measures were imposed.

with more than double the number of press releases and online news items published compared to 2019. The number of interviews with influential media outlets from all across Europe also nearly doubled – in particular interviews with the Director-General and background briefings for journalists.

This general increase in awareness of and interest in OLAF's work is also reflected in the growth of the Office's main social media channel, Twitter, which saw a 20% increase in follower numbers over the course of the year.

Despite delays due to the lockdown, five new videos about OLAF's work in protecting EU expenditure, revenues and development aid were completed during the year, and will be rolled out via social media and other communication channels during the course of 2021.

OLAF continued to develop its communication activities with international partners, for example via shared press/news items and social media posts with international bodies such as Europol and Eurojust, as well as through a pre-pandemic meeting of the OLAF Anti-Fraud Communicators Network (OAFCN) which brings together communicators from the national anti-fraud, customs and other relevant administrations.



8. The OLAF Supervisory Committee

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. Its members are appointed by common agreement of the European Parliament, the Council and the Commission.

The current members are Jan Mulder (chair), Grażyna Stronikowska, Helena Fazenda, Rafael Muñoz and Dobrinka Mihaylova. The members are supported by a secretariat provided by the European Commission.

The Director-General of OLAF keeps the committee regularly informed about the activities of the Office, the implementation of OLAF's investigative function and the follow-up to investigations.

For 2020 the committee received 620 documents with information on investigations lasting more than 12 months. OLAF also informed the committee about judicial recommendations transmitted to national judicial authorities, and about OLAF cases in which information was sent to national judicial authorities at the dismissal of the case. The committee and its secretariat had full access to 146 case files in OLAF's case management system in 2020.

On the basis of the information provided by OLAF, the committee delivers opinions to the Director-General of OLAF and reports to the EU institutions. In 2020, the Supervisory Committee delivered opinions on OLAF's dismissed cases concerning members of EU institutions and on OLAF's preliminary draft budget for 2021.

In its opinions, the committee issues recommendations to the Director-General. OLAF reports annually to the committee on the state of implementation of these recommendations. Nine recommendations were made in 2020, all of which have been implemented. Two recommendations from previous years remain to be implemented, with one still ongoing and the other not yet applicable.

New working arrangements between OLAF and the committee were agreed in 2020 for entry into force in 2021.

Details of the committee's work can be found in its annual activity report. This report as well as other information is publicly available on the OLAF website.

9. Data protection & complaints

9.1. Data protection

The protection of personal data has always been a high priority for OLAF, which continues to work hard to ensure that it meets all the requirements set out in EU law, including the decisions and recommendations of the European Data Protection Supervisor (EDPS). These have a significant impact on how OLAF carries out its investigative activities, including on-the-spot checks or the forensic examination of digital media.

OLAF has its own data protection officer and applies the highest data protection standards. Since the entry into force of the new Data Protection Regulation for EU institutions, in December 2018, OLAF has committed to lead by example.

The Commission Decision concerning the internal rules on the processing of personal data by OLAF ensures compliance with the fundamental right to the protection of personal data. It set out how OLAF informs data subjects of any activity involving the processing of their personal data, and handles their rights of access, rectification, erasure, restriction of processing and communication of a personal data breach.

The procedures and IT tools needed to ensure the implementation of the Commission's decision were successfully implemented in 2019. By the end of 2020, all OLAF staff had received data protection training adapted to their tasks, thus ensuring a high level of awareness and ensuring consistent compliance with the rules in place.

In 2020, OLAF received and handled 10 requests for access to personal data, two for erasure, two for erasure combined with an objection to processing, and one to rectify of data. In 2020, two complaints were filed with the EDPS, both of them still ongoing.



9.2. Complaints to OLAF

Persons affected by an OLAF investigation may address any complaint directly to the Director-General of OLAF. This is without prejudice to their right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the EU or national courts.

In 2020, the Director-General received 12 complaints from persons involved in different OLAF investigations about issues relating to the handling of their procedural guarantees. All these complaints have been followed up by the relevant services.

9.3. European Ombudsman

The European Ombudsman opened six inquiries concerning OLAF in 2020.

Four of the inquiries concerned the lack of reply by OLAF to citizens' requests. As OLAF eventually replied to these requests, the Ombudsman closed these inquiries in the course of the year, with the conclusion that OLAF had settled the matter. A fifth inquiry concerns how OLAF conducted an investigation and is currently ongoing.



The sixth inquiry opened in 2020 concerned a request for public access to documents, but the Ombudsman closed the inquiry during the course of the year, concluding that there was no maladministration on the part of OLAF when it refused to grant public access to the requested document. The Ombudsman nonetheless suggested that OLAF could make a specific assessment of the requested document to determine whether at least partial access could be granted.

The Ombudsman also dealt with five other cases which were not communicated to OLAF, as the Ombudsman had sufficient information from the individuals bringing the complaints to conclude that there was no maladministration on the part of OLAF.

9.4. Relevant case law from the European Courts

During 2020, the Court of Justice of the European Union handed down two decisions of particular relevance to OLAF.

The first case concerns an individual who was not considered by OLAF as a person concerned in two investigations related to projects for road construction in Romania. The applicant was, at the time, the president of a county council in Romania, the contracting authority behind the projects. Although OLAF had not considered him as a person concerned, the competent national authority in Romania nevertheless initiated proceedings against him, along with other persons, for suspected fraud relating to the EU budget.

The individual in question then asked OLAF to open an investigation into the handling of the two initial investigations and to give him access to several documents contained in the case files of those investigations. Both these requests were refused by OLAF, a decision that was challenged at the courts by the individual.

In its order of 12 May 2020 (case T-738/18, *Dragnea v Commission*) the General Court rejected the applicant's action as inadmissible since the refusal by OLAF to open an investigation into the conduct of a previous investigation cannot be challenged under Regulation 883/2013 (the so-called OLAF Regulation). The request for access to the case files was also judged inadmissible as the applicant had not followed the correct procedure. The applicant has appealed the decision before the Court of Justice, where it is pending (case C-351/20 P).

In the second case, a former Member of the European Parliament challenged the decision of the Secretary General of the Parliament to recover €264,196.11 from him following an investigation by OLAF. At first instance, the General Court had confirmed the European Parliament's right to claim back the vast majority of the amount. The applicant brought an appeal before the Court of Justice, arguing that the European Parliament should not be allowed to recover any of the sums concerned because he had not been able to consult OLAF's final report or the evidence annexed to it. In its order of 6 May 2020, the Court of Justice rejected the applicant's argument and his action in its entirety, judging that it was not necessary in the circumstances that the European Parliament provide him with the documents (case C-628/19 P, *Szegedi v Parliament*).

10. Staff and budget

Human resources management in 2020 was dominated by the COVID-19 pandemic and its impact on OLAF staff. Ensuring the well-being of all OLAF staff, from officials to service providers, was the number one HR priority for OLAF in 2020.

All the necessary procedures and protocols to keep OLAF staff safe when working in the office – and to allow them to work effectively from home when remote working became obligatory – were put into place swiftly and effectively, and adapted throughout the year as the situation evolved.

Staff presence at OLAF premises was kept to a minimum while the number of physical meetings, business trips and any other activity that posed a high infection risk was also significantly reduced. Essential business travel was however permitted for investigators (see Chapter 3). Extensive use of teleworking ensured business continuity at the same time as minimising risk.

OLAF staff proved to be resilient and highly adaptable, ensuring a high level of business continuity despite the enforced home-working and severe restrictions on travel and meetings.

OLAF REORGANISATION: PREPARING FOR FUTURE CHALLENGES

COVID-19 was not the only challenge faced by OLAF in 2020 in terms of human resources. A major reorganisation of the Office took place in June after many months of discussion and consultation. The reorganisation was designed to strengthen the Office's investigative capacity, internal controls and financial management, and to maximise the potential of the broad range of skills and experience of OLAF staff.

Despite taking place in the middle of the pandemic, with no access to the OLAF premises or opportunity to meet new colleagues and teams, the reorganisation



OLAF Director-General and Directors at the press conference for the OLAF Report 2019, September 2020



has proved successful, and has been widely welcomed by OLAF staff.

A further fine-tuning of OLAF's new structure will be carried out following the start of operations of the EPPO in 2021 in order to ensure the two offices work as effectively as possible together.

The creation of the EPPO also had an impact on OLAF staff numbers, with several posts transferred from OLAF to the new office over the course of the last few years, including nine in 2020. Two additional posts were transferred from OLAF to other departments of the European Commission. The gradual transfer of posts to the EPPO will only finish in 2023. The challenge for OLAF will be to continue its high level of performance despite fewer resources, at the same time as supporting the work of the EPPO as it begins its own investigations.

The vacancy rate decreased in 2020 to 3.9% (compared to 5.2% at the end of 2019). OLAF has been highly successful in recruiting qualified investigators, support staff and managers. OLAF has also encouraged the mobility of its staff, both within OLAF itself (with staff offered the chance to change roles as part of the reorganisation, for example) as well as within the EU institutions.

OLAF continues to invest in the professional development of its staff, with a broad offer of learning and development programmes. Despite

the lockdown linked to the COVID-19 situation, 102 training sessions were given to OLAF staff in 2020, including specialised training for OLAF investigators, general training courses for all OLAF staff and sessions run by other European Commission departments and services, other EU institutions and other EU or national public or private bodies.

DIVERSITY AND INCLUSION IN OLAF

The share of women in middle management positions in OLAF continued to improve in 2020, with 41.2% of all middle management posts held by women compared to just 10.5% in 2013.

Despite its independent investigative status, OLAF remains part of the European Commission, and an increase in staff mobility within the Commission meant that the overall share of women working for OLAF fell from 47% in 2019 to 41.2% in 2020. This nonetheless remains above the overall Commission target of 40% in 2020. Two OLAF staff members took part in the 2020 Female Talent Development Programme.

OLAF is committed to building a diverse and inclusive working environment, in line with the overall priorities of the European Commission. To that end, an Open Council (all-staff meeting) on diversity and inclusion and the development of an internal plan on equality were planned for 2021.



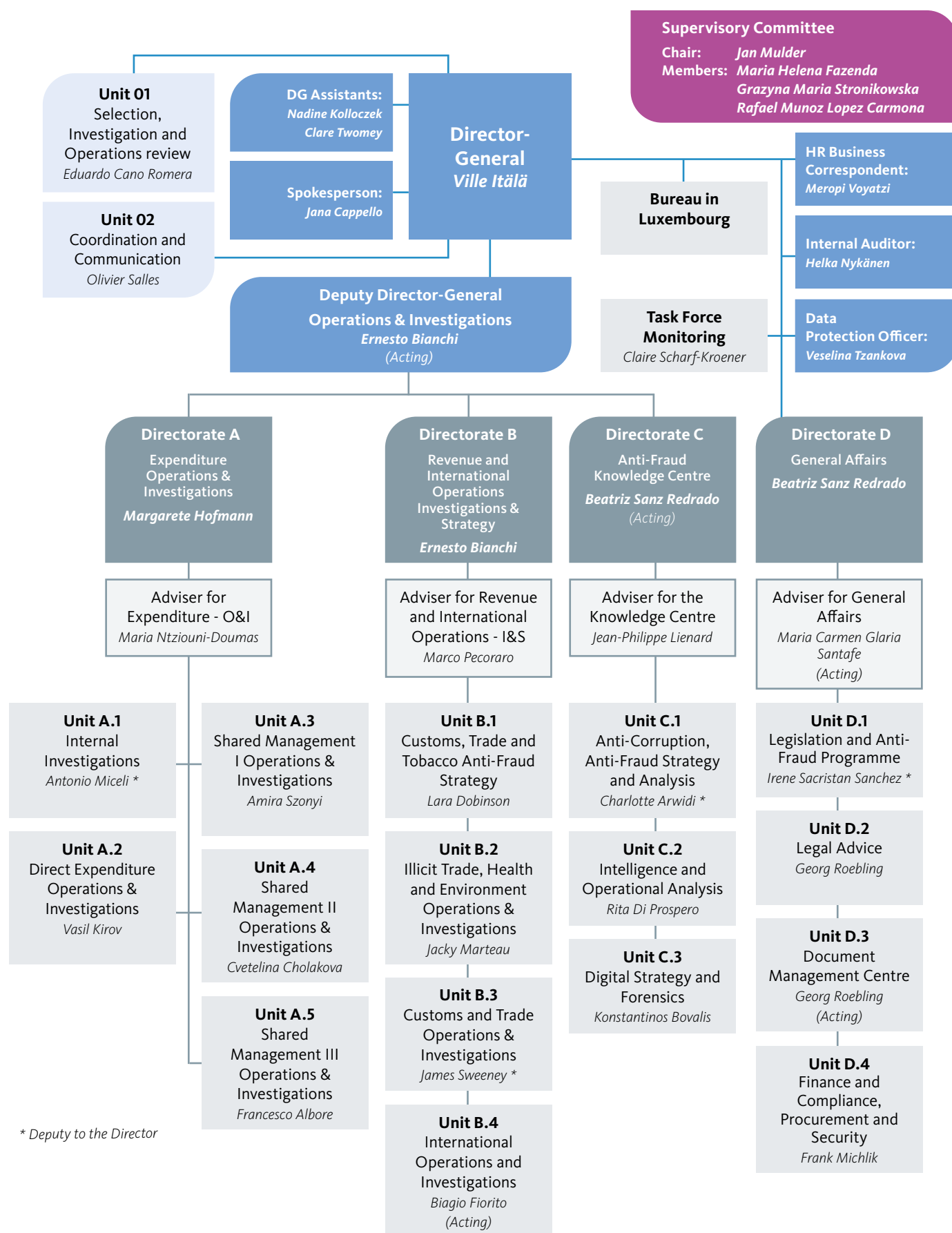
Table 9: Number and breakdown of OLAF staff, 2015-2020

	2015	2016	2017	2018	2019	2020
Establishment posts occupied	356	336	318	318	329	323
Establishment posts vacant	11	24	32	27	17	13
External staff	55	55	55	44	47	43
Total	422	415	405	389	393	379

Table 10: OLAF's administrative budget in 2020 (€ million)

	2020
EU staff	42.5
Infrastructure	6.6
IT	4.9
External agents (contract staff, seconded national experts and interims)	2.6
Missions	1.4
Anti-fraud measures	1.9
Training, meetings and committees	0.5
Total	60.4

Figure 8: Organisational chart (situation as at 31 December 2020)



11. Statistical annex: additional data on OLAF's investigative activity

This annex presents additional detailed data relating to OLAF's investigative activity in 2020.

Table 11: OLAF's investigative performance in 2020

	2016	2017	2018	2019	2020
Items of incoming information	1136	1295	1211	1095	1097
Investigations opened (or reclassified or split)	219	215	219	223	290
Investigations concluded	272	197	167	181	230
Recommendations issued	346	309	256	254	375

Table 12: Selections completed and their duration

	2016	2017	2018	2019	2020
Selections completed	1157	1111	1259	1174	1098
Average duration (in months) of selection phase	1.7	2.4	2.6	2.3	1.7

Table 13: Average duration of closed and ongoing investigations (months)

	2016	2017	2018	2019	2020
Average duration of investigation	23.2	21.9	23.1	24.3	24.3
Average duration of selection corresponding to these cases	1.8	1.7	1.9	2.0	2.2
Total average duration of cases	25.0	23.6	25.0	26.3	26.5

**Table 14: Percentages of ongoing investigations lasting more than 20 months**

	2016	2017	2018	2019	2020
Percentage of ongoing investigations lasting more than 20 months	20%	22%	22%	29%	26%

Table 15: Recommendations issued

Type of recommendation	2016	2017	2018	2019	2020
Financial	209	195	168	157	222
Judicial	87	80	48	64	87
Disciplinary	18	10	18	18	34
Administrative	32	24	22	15	32
Total	346	309	256	254	375

Table 16: Incoming information by source

Source	2016	2017	2018	2019	2020
Private	756	889	807	663	698
Public	380	406	404	432	399
Total	1136	1295	1211	1095	1097

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The **OLAF** report **2021**

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The **OLAF** report **2021**

**Twenty-second report of the
European Anti-Fraud Office,
1 January to 31 December 2021**

DISCLAIMER

OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents these case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

Communicating with OLAF

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 @EUAntiFraud

 European Anti-Fraud Office (OLAF)

Reporting fraud to OLAF

http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

Complaining about an OLAF investigation

http://ec.europa.eu/anti-fraud/olaf-and-you/complaints-olaf-investigations_en

Requesting information on OLAF

https://ec.europa.eu/anti-fraud/contacts/general-contacts_en

Media: http://ec.europa.eu/anti-fraud/contacts/media-enquiries_en

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Executive Summary

OLAF: DETECT, INVESTIGATE, PROTECT

In 2021, fraudsters sought to take advantage of every opportunity that presented itself. These opportunities included the urgent need to buy COVID-19 vaccines, as well as medical and personal protective equipment; the consolidation of the massive increase in e-commerce; the disruption to global supply chains; and the release of public funds aimed at addressing the socioeconomic consequences of the pandemic.

The European Anti-Fraud Office (OLAF) continued to meet the challenge of protecting Europeans and their money despite the difficult circumstances. Travel restrictions hampered the capacity of OLAF's investigators to carry out on-the-spot checks and interviews in person, but OLAF remained effective at identifying and tackling fraud patterns such as double funding, collusion, conflict of interest, manipulation of tenders, money laundering, undervaluation of customs duties, smuggling and counterfeiting.

2021 was a crucial year for the future of Europe, in terms of preparing for the aftermath of the pandemic. The European institutions agreed on an unprecedented funding package, the Recovery and Resilience Facility, worth over €720 billion in loans and grants. OLAF worked closely with the European institutions to develop a strong anti-fraud framework to protect the facility and has begun working with Member States as they assess whether they meet the requirements on control and anti-fraud measures.

As Europe builds its future, climate change and environmental degradation remain a constant and existential threat. In 2021, OLAF investigated frauds and irregularities relating to green and environmental funding aimed at addressing that threat, and also helped prevent the illicit trade in environmentally damaging goods such as waste and hazardous gases. OLAF also began laying the foundations to ensure that the funds dedicated to Europe's green recovery are not lost to fraudsters.

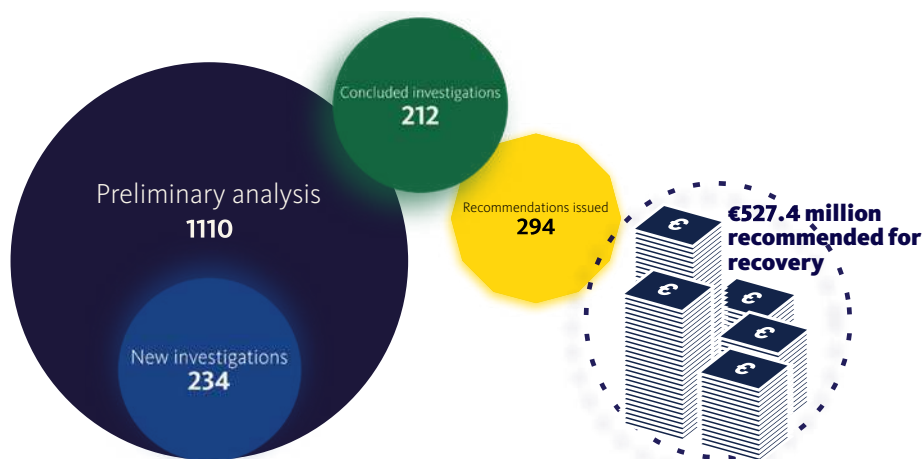
OLAF'S INVESTIGATIVE PERFORMANCE IN 2021:

- ▶ OLAF concluded 212 investigations, issuing 294 recommendations to the relevant national and European Union authorities.
- ▶ OLAF recommended the recovery of €527.4 million to the EU budget.
- ▶ OLAF opened 234 investigations, following 1 110 preliminary analyses carried out by OLAF experts.

TRENDS IN ANTI-FRAUD INVESTIGATIONS:

In 2021, fraudsters continued to profiteer from the pandemic and became even more sophisticated and adaptable, taking full advantage of the opportunities available by working across borders and jurisdictions, exploiting digital tools and professionalising their illicit business activities.

Figure 1: OLAF's investigative performance in 2021



With regard to expenditure, the most worrying phenomenon has been the infiltration of the economy by organised criminal groups seeking to get their hands on the grants and loans made available from the EU budget through patterns of administrative irregularities, such as double funding, conflict of interest, manipulation of tenders and other means.

In 2021, OLAF detected and investigated cases demonstrating that fraudsters are already developing new tactics to carry out frauds relating to green and digitalisation projects, which are the main priorities of the EU budget for the years to come.

In relation to revenue, fraudsters have coped with increased difficulties in moving large quantities of goods around by breaking up shipments of goods into smaller consignments, which are harder to detect and intercept. Complex patterns of shell companies established in many jurisdictions, including outside the EU, allow fraudsters to operate freely across the world, making undervaluation and origin fraud more difficult to tackle. Newly adapted fraud schemes emerged throughout the year involving COVID-19-related products, as well as imports of products pertaining to the green transition, and waste management. Human health and safety, and the environment, are increasingly likely to suffer collateral damage caused by ruthless fraud schemes with the sole objective of making illicit profits.

OLAF'S FIGHT AGAINST COUNTERFEITING AND SMUGGLING OF DANGEROUS PRODUCTS

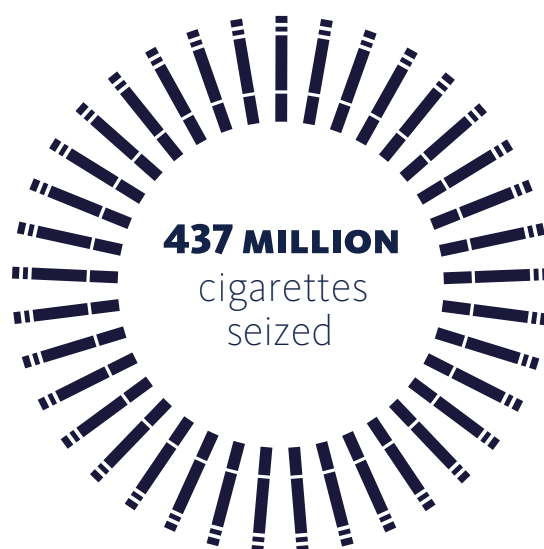
In 2021, OLAF co-organised or provided support to 13 joint customs operations and other operational actions with partners. Thanks to OLAF's intelligence and capacity to connect the dots, millions of counterfeit and potentially dangerous items were prevented from entering Europe and destroyed.

Figure 2: Joint customs operations



These included fake medicines, counterfeit pesticides, counterfeit refrigerant gases, hazardous toys, dangerous foodstuffs and counterfeit spare parts that can cause serious road and domestic accidents. OLAF also made significant progress in its efforts to fight the illicit trade in tobacco products, the profits from which are often reinvested in criminal activities, by helping national authorities seize 437 million cigarettes.

Figure 3: Seizure of cigarettes in 2021



CONTRIBUTION TO POLICIES TO FIGHT FRAUD

In 2021, OLAF was in charge of rolling out the new Union Anti-Fraud Programme, which supports Member States in building up their national anti-fraud capacities. The programme has a budget of €181 million for 2021–2027.



Foreword

It is with great pleasure that I present the latest edition of the annual report of the European Anti-Fraud Office (OLAF).

2021 proved to be another challenging year for all, as its events played out in the shadow of the pandemic, with associated restrictions on work and travel. However, OLAF staff showed great adaptability and ingenuity in managing to carry out their work and I am extremely proud and impressed by the results achieved during the year under such difficult circumstances.

Despite the challenges, OLAF's investigative performance in 2021 remained strong. We opened 234 investigations, concluded 212 cases, issued 294 recommendations – and, most importantly, we recommended that €527 million be recovered to the European Union budget from serious irregularities and fraud.

In this report, you will read about how OLAF investigated complex cases of fraud, gave guidance on developing safeguards for the Recovery and Resilience Facility (RRF), exposed fake offers from fraudsters for COVID-19 vaccines and tackled the illicit trade in waste, tobacco and other substances that are dangerous to our health and environment.

The examples contained in this report are just a snapshot of what OLAF achieved in 2021, as the report does not list all the cases in which OLAF was involved. Yet what these cases show is an organisation that delivers positive outcomes, is rich in experience and expertise and has a truly global reach and an excellent track record of cooperating with partners, whether they be in Europe or on the other side of the world. The report highlights some of the work that OLAF undertook to help combat fraud, corruption, customs undervaluation and smuggling during 2021.

OLAF's work can provide direct support to the main priorities of the European Commission; an illustrative example is the work that OLAF carried out in 2021 to help ensure the EU's green recovery.

In 2021, the European Commission started to make the first payments from the RRF. 37 % of all RRF funding will be invested in measures to support the green transition, making unprecedented amounts available to support Europe's ambitious climate goals and future resilience.

However, as we are only too well aware in OLAF, this amount of funding risks attracting fraudsters. OLAF has worked to develop safeguards against fraud, corruption and conflict of interest that could affect the RRF.



2021 was marked by environmental disasters across Europe. Ferocious forest fires, temperatures exceeding 40 degrees and devastating floods caused deaths and huge environmental damage. These disasters were an uncomfortable reminder that we are living through a climate emergency.

More and more funding has been made available in recent years with the aim of achieving climate neutrality. OLAF has put an increasing focus on protecting this form of funding from patterns of fraud and corruption. The fight against the trafficking of waste, wildlife and products that harm the environment is another aspect of this vital area of work, which reflects the increasing importance that environmental issues play in today's EU.

This report offers an insight into some of the investigations undertaken to protect the environment, such as OLAF's work with others to target illegal waste shipments and prevent the import of harmful gases. OLAF's work in this area not only protected vital green budgets but also had a direct impact on reducing harmful environmental activity.

There are many threads that run through this report. However, one that stands out is that of cooperation. It is clear that since its creation in 1999 OLAF has worked best when it works with other partner organisations, authorities, institutions and Member States.

2021 marked the arrival of the European Public Prosecutor's Office, a natural operational partner for OLAF. Operational cooperation started from day one and we are already seeing concrete results. It is with great pleasure that I welcome the newest body in the EU anti-fraud architecture. Working together – with our strategic partners, including Europol and Eurojust will show just how effective we are in protecting EU money and putting fraudsters away.

What this report shows is where OLAF adds value, be it by leading actions or complementing those of our partners. We have come a long way in 23 years and we are always learning more about how best we can fulfil our mission to detect, investigate and protect – protecting both the EU budget and citizens against fraud and corruption.

Ville Itälä

Director-General of OLAF



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The seat of the European Anti-Fraud Office, in Brussels



1. Mission and mandate

MISSION

Detect, investigate and work towards stopping fraud affecting the European Union budget (see Figures 4 and 5).

MANDATE

The mandate of the European Anti-Fraud Office (OLAF) is to:

- ▶ conduct independent investigations into fraud and corruption involving EU funds to ensure that EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- ▶ investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- ▶ develop EU policies to counter fraud.

COMPETENCES

OLAF investigates matters relating to fraud, corruption and other illegal activities affecting EU financial interests and concerning:

- ▶ all EU expenditure – the main spending categories are European Structural and Investment Funds, agriculture and rural development funds, direct expenditure and external aid;
- ▶ some areas of EU revenue, such as money from customs duties or value added tax (VAT).

OLAF also carries out investigations into suspected serious misconduct by EU staff and members of the EU institutions.

OLAF is also in charge of implementing Council Regulation (EC) No 515/97 setting out how national authorities must cooperate with each other and with the European Commission to implement EU customs and agricultural legislation.

OLAF is part of the Commission and, as such, under the responsibility of the Commissioner for Budget and Administration, Johannes Hahn.

However, in carrying out its investigative mandate, OLAF acts in full independence.

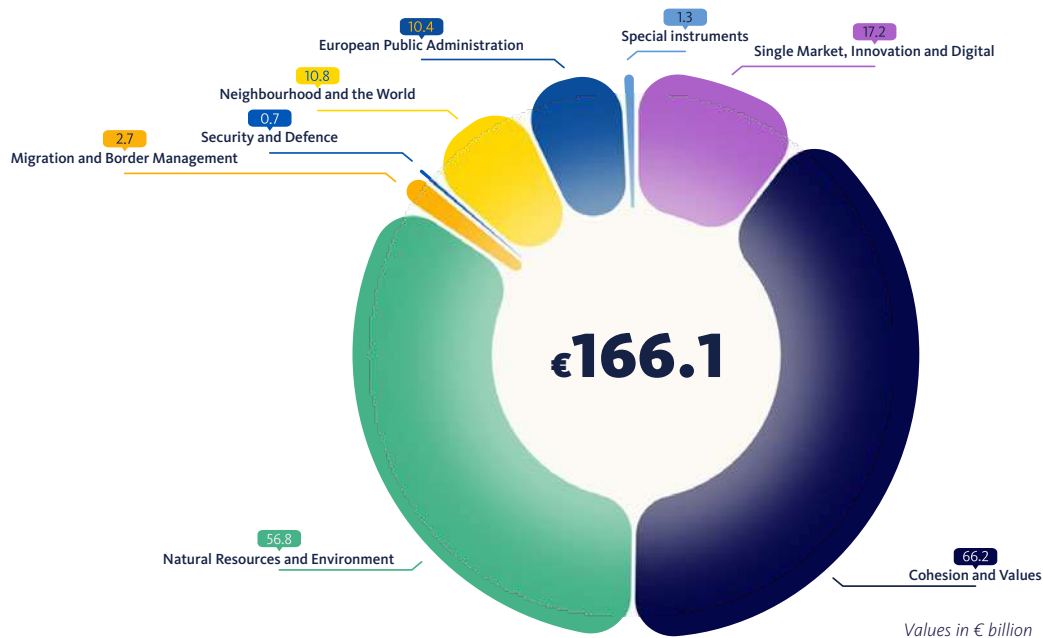
WHAT WE DO

OLAF's investigative work broadly involves:

- ▶ assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation;
- ▶ conducting administrative anti-fraud investigations, where appropriate in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- ▶ supporting the anti-fraud investigations of national authorities;
- ▶ coordinating the actions of national authorities and sharing knowledge on fraud with its partners in order to prevent losses and protect health and safety;
- ▶ recommending actions that should be taken by the relevant EU or national authorities;
- ▶ monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work on the fight against fraud and better tailor the support that OLAF provides to national authorities.

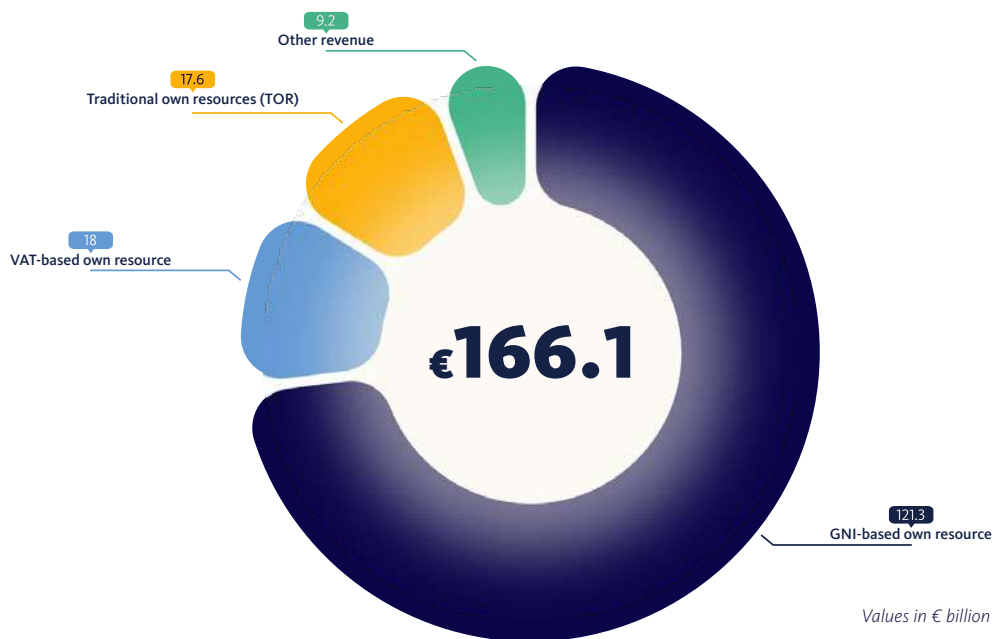
The responsibility for much of EU spending is shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The same applies to the parts of EU revenue that come from customs duties and VAT. The detection, investigation and prosecution of fraud against the EU budget and the recovery of unduly spent amounts or evaded customs duties are therefore conducted in cooperation with a wide range of partners, at national, European and international levels.

Figure 4: EU expenditure in 2021



Source: OJ L 93, 17.3.2021, p. 14.

Figure 5: EU revenue in 2021



Source: OJ L 93, 17.3.2021, p. 41.



OLAF cases frequently cover:

- ▶ cross-border procurement fraud or corruption in public procurement procedures involving EU financing;
- ▶ double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others have made;
- ▶ subsidy fraud in various forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes;
- ▶ customs fraud, where fraudsters attempt to avoid paying customs duties, for instance by smuggling goods into the EU.

OLAF analyses data that give it a unique overview of fraud trends and patterns. This big picture is essential not only to investigate fraud but also to prevent it from happening. Cross-border fraud exploits gaps in knowledge and in cooperation among national authorities. OLAF joins the dots of these fraud schemes, shares its knowledge, organises joint operations, and gives early warnings that allow national authorities to take action to prevent losses.

This focus on prevention is one of OLAF's strengths. Preventing losses to revenue and preventing fraud relating to expenditure is the most effective way of

ensuring that every euro is well spent. Preventing the arrival in Europe of dangerous products is the most effective way of protecting citizens' health and safety and the environment. Examples of OLAF's prevention work, through investigations and operations, are given in Section 2.2.2.

OLAF's main role as a knowledge centre frequently concerns:

- ▶ fraud patterns and modi operandi;
- ▶ cross-border fraud trends;
- ▶ anti-fraud measures.

EU institutions, bodies, offices and agencies are, like other employers, at risk of fraud by their members and staff in relation to remuneration, travel and relocation allowances, social security, and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures and of other forms of corruption such as illicit attempts to influence decision-making and recruitment procedures. To some degree, these risks are increased by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out so-called internal investigations into any allegations of misconduct involving staff and members of the EU institutions, bodies, offices and agencies.

2. OLAF's investigative activity: trends in anti-fraud investigations

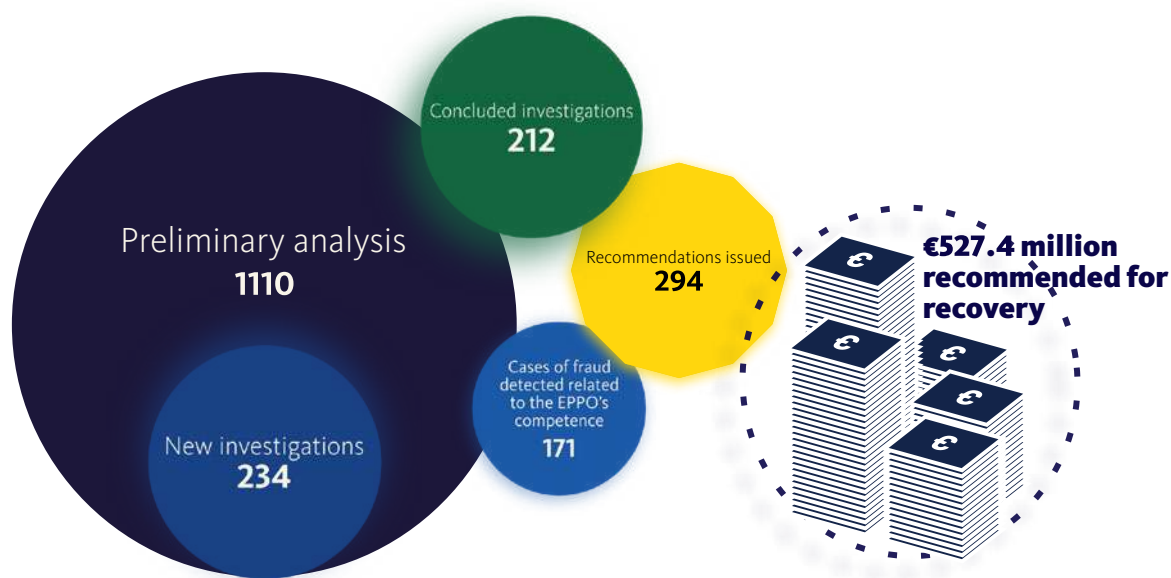
2.1. Summary of OLAF's investigative performance in 2021

OLAF's investigative performance in 2021 was again strong. After analysing more than 5 300 pieces of new incoming information from private and public sources, as well as from OLAF's own knowledge, some 1 100 selections were made during the year, leading to 234 new investigative cases being opened. A total of 212 investigations were successfully concluded during the year, leading to OLAF issuing 294 financial, judicial, disciplinary and administrative

recommendations to competent authorities at EU and national levels. The majority of these recommendations concerned the recovery of EU funds by the relevant authorities at EU and Member State levels – €527.4 million in 2021. For a detailed presentation of these and other performance indicators, please refer to the statistical annex to this report (Chapter 12).

In 2021, OLAF worked closely with the European Public Prosecutor's Office (EPPO), which became operational in June. Chapter 4 of this report provides more information on OLAF–EPPO cooperation.

Figure 6: OLAF's investigative activity in 2021, including cases related to the EPPO's competence



NB: EPPO: European Public Prosecutor's Office.



Table 1: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2021

Country	Cases concluded	
	Total number per country	from which closed with recommendations
Italy	11	6
Bulgaria	10	6
Poland	10	7
Slovakia	10	4
Hungary	9	5
North Macedonia	8	3
France	5	1
Romania	5	4
Portugal	4	4
Armenia	3	2
Greece	3	2
Croatia	2	1
Moldova	2	2
Serbia	2	1
Sweden	2	1
Ukraine	2	0
Afghanistan, Albania, Algeria, Austria, Azerbaijan, Cambodia, Chad, Cyprus, Czech Republic, Democratic Republic of Congo, Denmark, Ecuador, Estonia, Ethiopia, Germany, Guinea, Kazakhstan, Kosovo, Latvia, Lithuania, Malawi, Mozambique, Pakistan, Spain, Syria, Turkey, United Kingdom	27 (1 per country)	13
Total	115	62

Table 2: Investigations opened by main investigative area

Area details	2017	2018	2019	2020	2021
Internal Matters	40	27	36	46	25
Direct Management	36	38	26	48	50
Indirect Management	47	48	21	42	29
Shared Management	62	78	92	98	94
<i>European Agricultural Guarantee and Rural Development Funds</i>	10	23	25	39	27
<i>European Regional Development Fund</i>	40	36	36	34	41
<i>Cohesion Fund</i>	6	4	9	8	6
<i>European Social Fund</i>	4	12	14	8	12
<i>Other</i>	2	3	8	9	8
Own Resources	32	28	40	48	34
Illicit Trade	5	2	11	13	5
Total area details	222	221	226	237	237

NB: Investigations occasionally relate to two main areas and are then counted twice. This is why the table shows a slightly higher number of investigations opened in 2021 (237) than Figures 1 and 6 (234).

2.2. Combating fraud: the main trends in OLAF's work in 2021

In 2021, OLAF's investigations showed a number of new trends in fraudulent activity, such as fraud affecting the environment and biodiversity.

The year also saw large-scale natural disasters. Floods, droughts and wildfires were an uncomfortable reminder that we are living in a climate emergency.

The EU is playing a leading role in the fight against climate change, the promotion of a circular economy and the protection of the environment. This has resulted in massive EU financial support for environmental projects and more stringent rules for goods produced in the EU or traded with non-EU countries. New opportunities have thus been created for fraudsters coveting EU funds and those who are trying to circumvent the legislation in force to make easy and considerable profits.

Meanwhile, the continuing global pandemic and the roll-out of COVID-19 vaccines in 2021 diversified the range of opportunities for fraudsters, not least related to the vaccines and to counterfeit medical and personal protective equipment.

In 2021, the European Commission's funding package NextGenerationEU came into force. The centrepiece of that package is the Recovery and Resilience Facility (RRF). The RRF is a game-changer, making over €720 billion available to Member States in loans (€385.8 billion) and grants (€338.0 billion).

This unprecedented amount of money will play a crucial role in helping Europe to recover from the pandemic and bringing about the green and digital transitions. However, as we know in OLAF, where such amounts of money appear, so too do fraudsters, intent on lining their own pockets.

Given the pressing nature of the climate emergency and the historic funding announcement, Chapter 3 will detail OLAF's work on protecting funds related to the green recovery.

In 2021, OLAF identified patterns of fraud also observed in previous years and related to EU funds in other important sectors such as agriculture, fisheries and regional policy. These patterns included double funding, creation of artificial circumstances in order to gain EU funding, collusion, conflict of interest, manipulation of tenders, money laundering, undervaluation of customs duty, smuggling and counterfeiting.

What follows is a selection of cases closed by OLAF in 2021 that illustrates these various trends. It is not an exhaustive list of all the investigations completed by OLAF but rather an overview of the main types of fraudulent activity detected by the office during the year.

2.2.1. Protecting EU funds

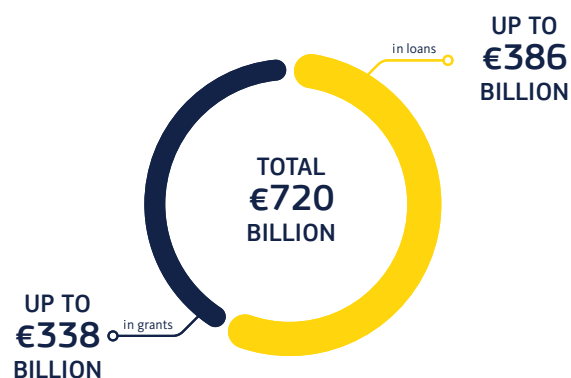
A. AGRICULTURE AND COHESION POLICY

Agriculture and cohesion policy traditionally account for the largest shares of the EU budget. Alas, this type of funding is a common target for fraudsters. Cases that OLAF investigates typically involve issues such as creation of artificial circumstances in order to gain EU funding, collusion, manipulation of tenders, double funding, violation of the non-profit principle, fictitious working hours, irregular or non-existent project costs and conflict of interest.

Vineyard fraud

This case concerned alleged irregularities and fraud regarding the implementation of a project to restructure and convert vineyards in Bulgaria.

Figure 7: Repartition of Recovery and Resilience Facility funds





OLAF found that some of the local workers on the project did not have an employment contract. OLAF further uncovered that the main contractor had artificially inflated the costs of the works, part of which had actually been implemented by local workers employed by subcontractors at lower costs. OLAF subsequently discovered that an economic operator from another Member State had reverted part of the amounts invoiced to the main contractor, which possibly constituted money laundering activity.

OLAF recommended to the European Commission (Directorate-General for Agriculture and Rural Development) the recovery of nearly half a million euro.

No room for fraud at the guesthouses

OLAF concluded an investigation into the construction of 377 guesthouses in Bulgaria, which had been co-financed by the European Agricultural Fund for Rural Development (EAFRD), by recommending the recovery of €23 million to the European Commission (Directorate-General for Agriculture and Rural Development).

The fraud scheme in this case consisted in the use of EU funds for the construction of 'guesthouses'. In

reality these guesthouses were constructed but were not used in accordance with the objectives based on which this activity had been financed by the EAFRD (e.g. to improve the economic sustainability of the areas in question, generate employment and diversify economic activities). These objectives would have been achieved if the guesthouses had actually been used to host paying customers, such as tourists, and not for private use.

OLAF's investigation revealed that the project did not meet the objectives of the financing from the EAFRD, based on parameters such as numbers of overnight stays and existing and new employment contracts; financial revenues and overall rates of implementation were very low. Furthermore, a high level of irregularities affected almost all of the projects.

'Fishy' rural development projects

In this case, OLAF looked into information regarding a suspected illegal agreement by three companies to defraud two fisheries projects in Slovakia. In the course of its investigation, OLAF was able to reconstruct the bigger picture of the fraud scheme and to link the three companies concerned to an additional 26 rural development projects.



In each instance, OLAF reconstructed how the group manipulated procurement processes in favour of a member of the group and inflated the prices of the goods and services supplied to make illicit profits. In total, the group defrauded the EAFRD and the European Fisheries Fund of €4.7 million over a period of 5 years.

OLAF recommended full financial recovery on each project. It also recommended that the competent judicial authorities address potential infringements of the national criminal code involving subsidy fraud, manipulation of public procurement and damage to EU finances ⁽¹⁾.

Fraud in the promotion of agricultural products

OLAF uncovered multiple irregularities and inflation of prices in a scheme funded under the European Agricultural Guarantee Fund in Bulgaria, which was meant to promote agricultural products such as wines, spirits, cherries and dairy products in the EU and in non-EU countries.

The contracts for the implementation of all 11 programmes were awarded to the same economic operator, which was based in Greece. The procurement procedures for the selection of the implementing bodies for the 11 programmes deviated substantially from the requirements for a competitive procedure. Other irregularities uncovered included the non-repayment of amounts borrowed in the form of loans by the implementing body to the beneficiaries in order to finance their own contributions to the project.

OLAF investigators also discovered that prices for the implementation of the programmes had been inflated, with substantial differences between the amounts invoiced by the service providers and the subcontractors. In some instances, no payments were made to the service providers.

OLAF recommended the recovery of the entire European Agricultural Guarantee Fund share in the financing for the 11 projects, which amounted to around €7 million.

Agricultural fraud at the airport

This case relates to serious irregularities committed since at least 2005 regarding land located within the perimeter of Rome Fiumicino Airport in Italy.

The economic operator had applied for – and received – several tranches of EU aid in the framework of several EU agricultural programmes for the management and use of several parcels of land located inside the airport area. It turned out that this land has not been farmed at all.

Moreover, the economic operator had no right to request or receive EU funds, as it did not have a legitimate title to or exclusive use of the land for which it was claiming funding. The production of documents proving such rights, which did not exist in this case, is a key condition for EU aid to be granted.

OLAF concluded the investigation by recommending the recovery of the total amount of aid received by the economic operator, about €1 million.

Fake organic wine

OLAF investigators uncovered a fraudulent case in Italy targeting European agricultural funding aimed at promoting organic wine production.

A fake agricultural company was set up to purchase crops and harvest them for the organic production of wine. This company did not respect its obligations to keep the land in good agricultural and environmental condition: to avoid using chemical products and to abide by the rules on organic farming on all the hectares of land covered by the project. These were pre-conditions for it to receive EU aid from agricultural funds.

⁽¹⁾ The events took place between 2012 and 2016, pre-dating the EPPO's entry into operation.



OLAF received crucial information from the European Investment Bank alerting the office that a red flag had been raised when a local bank had issued the company concerned with a loan granted by the European Investment Fund.

OLAF concluded the investigation in 2021 by issuing a financial recommendation to the European Commission (Directorate-General for Agriculture and Rural Development) for the recovery of EU agricultural subsidies that totalled about €200 000. OLAF worked on this case in close cooperation with the national prosecutor in charge of the criminal investigation.

B. INFRASTRUCTURE AND MODERNISATION

Infrastructure projects (within and outside the EU) typically attract fraudsters and organised crime because of the usually large amounts of money involved, which can be fraudulently obtained by means of administrative irregularities.

At the same time, with digital Europe in the making, fraudsters saw in 2021 new opportunities to steal EU funds related to modernisation projects.

Clean drinking water in Chad

OLAF uncovered fraud that had occurred during the building of an approximately 20-km-long drinking-water supply pipeline connecting wells to a reservoir in the Republic of Chad. Two contracts fully financed by the European Development Fund had been awarded in connection with this project in 2014.

OLAF found that the pipeline measured 250 mm in diameter, instead of the required 400 mm, thus resulting in higher operating costs and meaning that the capacity of the grid would not continue to satisfy needs, given the expected growth in the population around the areas served by the pipeline. Documents had been forged to cover this up. To make matters worse, the water reservoir collapsed in April 2020 before it could even be used. The investigation revealed that concrete of suboptimal quality had been used in the construction of the reservoir, which may well have been one of the causes of its collapse. The technical assistant in charge had failed to carry out the required controls, which facilitated or even triggered the fraud.

OLAF also found other irregularities committed by the construction company, the technical assistance team and by at least four individuals. OLAF recommended the recovery of nearly €1.7 million.



Promoting energy efficiency and interregional cooperation

OLAF received information referring to alleged conflict of interest concerning two projects co-financed by the European Regional Development Fund (ERDF) and Interreg Europe and implemented in Germany. During the investigation, OLAF was able to identify conflict of interest issues affecting eight additional projects co-financed under different Interreg programmes and linked to energy efficiency and interregional cooperation.

In each of the projects, a German association was a partner or a lead partner in a consortium of entities. This association outsourced most managerial, communication and administrative tasks to a German company using a simplified tendering procedure. The OLAF investigation revealed that the chair of the association and the CEO of the company that had

been the beneficiary of the outsourcing were in fact the same person.

OLAF made a financial recommendation to the European Commission (Directorate-General for Regional and Urban Policy) on the recovery of €200 000 for the seven projects for which it could establish conflict of interest.

Fraud goes digital

OLAF received several allegations of irregularities and fraud concerning the implementation of numerous software projects co-financed from the EU budget in Poland.

OLAF established that a group of companies had artificially created conditions for obtaining public funding and made false declarations to the national authorities to conceal its behaviour. In some of the projects, members of the group of companies had acted as beneficiaries, consultants, suppliers and service providers, thereby creating a situation of conflict of interest. In other projects, the group had drafted applications for funding for its clients, after agreeing with them that the group's members would later become project suppliers.

One of the eligibility conditions for participation in the tender being the involvement of an accredited consulting company and qualified suppliers (scientific institutions), the group also persuaded eligible companies to participate in some projects and then transferred to the group members (acting as suppliers) most of the funding received.

The case was closed with financial, judicial and administrative recommendations being made. The total financial impact of the irregularities established in 95 projects amounted to more than €11 million.

2.2.2. Protecting EU funds by preventing losses

Preventing the loss of €1 million aimed at increasing the competitiveness of enterprises

In 2021, OLAF concluded an investigation in Portugal relating to a potentially fraudulent structure involving three private companies and an association.



The association and the three companies were beneficiaries of the ERDF and the European Social Fund (ESF).

The three companies had established the association and were managing it directly. The association had no own material or human or financial resources, and the employees concerned worked for the association and at the same time for the companies. The service providers for the association were the very same companies that had set it up. In addition, OLAF also discovered a series of further irregularities, such as cross-invoicing and inflated costs.

OLAF's investigation was concluded with recommendations to the European Commission (Directorate-General for Regional and Urban Policy and Directorate-General for Employment, Social Affairs and Inclusion) that it undertake appropriate measures to ensure the recovery of €222 650 and with judicial recommendations to the competent national judicial authorities.

OLAF's investigation prevented over €1 million, approved but not yet paid for the projects investigated, from being unduly spent.

€330 million for pensions? But not from EU funds

Following an exchange of information with the Italian Court of Auditors, OLAF discovered that an Italian region had earmarked over €330 million from the ESF and the ERDF for a social assistance scheme for low-income pensioners.

The initiative taken by the region was intended to last 2 months, which just happened to coincide with the date of regional elections. Further suspicions were raised when it was confirmed that the regulations governing the use of ESF and ERDF funds did not contain provisions allowing the income of older people in receipt of pensions from national social security systems to be increased.

OLAF's investigation made clear that the measure that was to be financed by the region consisted of granting economic support to older people in receipt of social pensions, social allowances or old-age pensions amounting to less than €1 000 per month.

In a letter sent to OLAF, the region explained that the scheme had been amended several times and that the amount allocated to low-income pensioners had been reduced to EUR 142 million. The region also specified that it no longer intended to finance the initiative with either ESF or ERDF funds but instead using national funds.

However, subsequent OLAF checks found that the original notice promoting the scheme remained on the region's official website, stating that income support for pensioners was being financed by the ESF and the ERDF and still quoting the original figure of over €330 million.

Given that the amount earmarked by the region to support low-income pensioners was not eligible for ESF or ERDF financing and that the original scheme was still advertised on the region's official website, OLAF concluded that there was a high risk that the amounts paid to beneficiaries would come from either ESF or ERDF funds.

Consequently, OLAF sent a financial recommendation to the Directorate-General for Employment, Social Affairs and Inclusion of the European Commission that it should undertake all appropriate measures to prevent the amount of €331 067 557 from being unduly spent.

2.2.3. Protecting EU revenue

By falsely declaring the value or the origin of goods imported into the EU, fraudsters evade paying the correct duties and taxes on those goods.

In recent years, OLAF has worked successfully with customs services in the EU and across the world to help detect and prevent such frauds from occurring. 2021 was no exception.

Undervaluation and origin fraud are difficult to detect as they occur across several jurisdictions. Fraudsters are increasingly mobile and can quickly relocate their business and reconfigure their logistical chain to escape the scrutiny of public authorities. The global pandemic has changed the ways in which frauds are carried out; this has meant that OLAF has had to adapt in order to tackle more agile and sophisticated fraud patterns.

The following cases show how much money can be lost to the budgets of Member States and the EU, and they highlight the complexities and cooperation involved in trying to solve this type of fraud.

Textiles, shoes ... and a €27 million customs fraud scheme

OLAF concluded a case in 2021 involving allegations of customs undervaluation of certain quantities of textiles and shoes imported to the EU, primarily to Belgium and the Netherlands. The products were imported mainly from China by organisations based there and which had logistical hubs in the EU. They arranged the shipping from China, customs clearance in the EU and EU-wide distribution.

OLAF's investigation found that one China-based organisation was using a German shell company that was responsible for undervaluing the products and evading VAT once the goods arrived in the EU. The role of this shell company was to act as a fake importer, and as a conduit company within a wider, related VAT fraud. The shell company never actually owned the goods, the goods were never delivered to its premises and the company did not even have a warehouse or any distribution capacity. Once the goods arrived in the EU, they were immediately passed to other companies and delivered to other Member States with no VAT payments being made.

OLAF concluded the case by making financial recommendations for the recovery of €27.2 million, of which €4.6 million to Belgium and €22.6 million to the Netherlands.



A €12.7 million bicycle import fraud

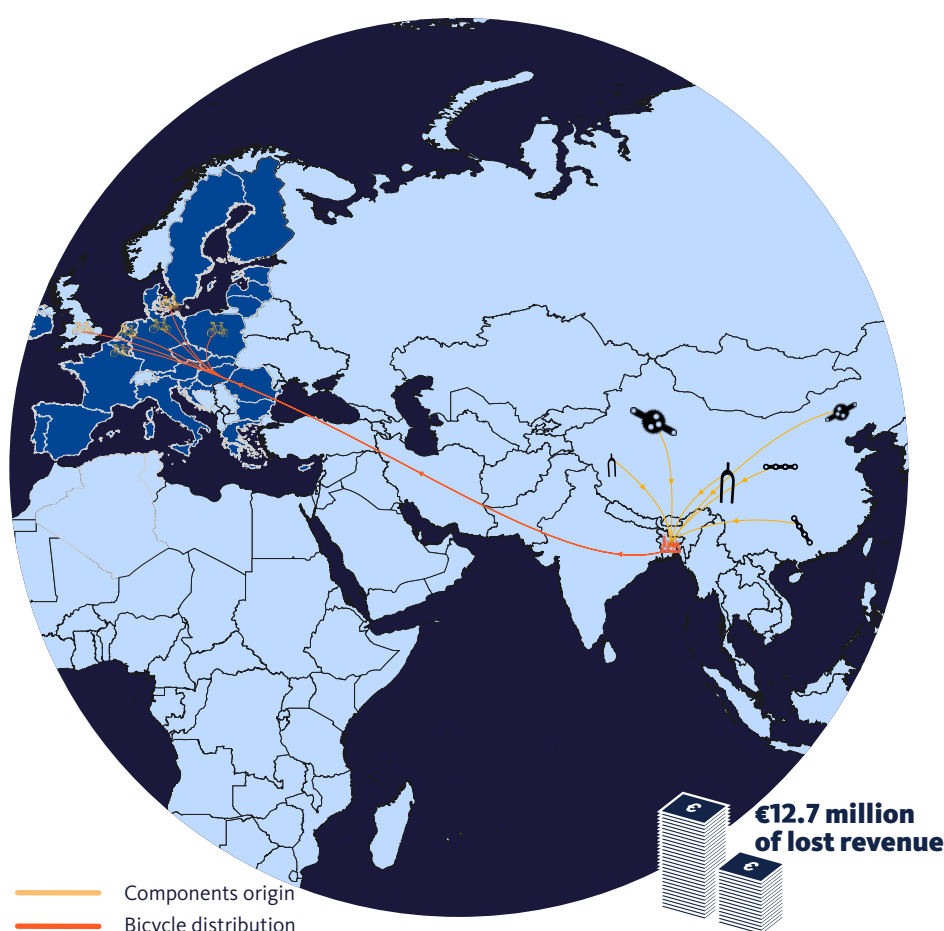
Bangladesh is the third-largest exporter of bicycles to the EU, and Bangladeshi bicycles are exempt from EU customs duties. However, in order to benefit from this exemption, bikes from Bangladesh must meet strict EU criteria on the origins of the components used in making the bike and the value added. In short, the bikes must be sourced and manufactured in Bangladesh in order to qualify for the customs exemption.

OLAF received information alleging that a Bangladeshi manufacturer might have been circumventing these strict criteria. It was alleged that many of the component parts originated from China, so much so that the bike itself should be considered to be a Chinese bike and therefore not exempt from EU customs duties.

During the investigation, OLAF established that the application documents submitted to obtain certificates of Bangladeshi origin contained inaccuracies concerning the origin of certain parts of the bicycle, namely the frames, front forks, handlebars and rims. It transpired that many of these parts originated in China. As a result, 416 843 bicycles had to be relabelled as of Chinese origin and were therefore subject to the payment of duties.

This fraud cost the EU budget €12.7 million in lost revenue. OLAF sent financial recommendations for the recovery of these amounts to six countries – Belgium, Denmark, Germany, the Netherlands, Poland and the United Kingdom.

Figure 8: Bicycle fraud



Joint customs operation SNAKE II

Because of the sensitivity of undervaluation of textiles and footwear imported from China, which has generated massive fraud schemes over the years, OLAF organised a second joint customs operation (JCO), codenamed SNAKE II, in cooperation with the Anti-Smuggling Bureau of China Customs. A total of 25 Member States participated.

This JCO concluded that customs undervaluation continues to be a very serious issue that must continue to be challenged by Member States and EU services.

The JCO also reaffirmed that timely and transparent information sharing is the key ingredient in creating a coherent EU-wide strategy to confront what continues to be a very serious issue for both EU and national budgets.

2.2.4. Protecting health and safety during the pandemic

At the beginning of the pandemic in 2020, OLAF opened an investigation into the illicit trade in personal protective equipment and other materials linked to the COVID-19 pandemic.

In 2021, OLAF's investigations in this field continued and led to the identification of suspicious operators and seizures of over 100 million COVID-19-related products. These included consignments of hand sanitisers containing a high volume of methanol, substandard face masks and fake testing kits.

To tackle this issue at global level, OLAF teamed up with almost every customs and enforcement authority in Europe and worldwide, as well as Europol, Interpol and the European Union Intellectual Property Office (EUIPO). This cooperation led to the identification of more than 1 250 suspicious companies acting as intermediaries or traders in counterfeit or substandard products linked to the COVID-19 pandemic.

Fraudsters created artificially long chains of intermediary shell companies to take advantage of the situation. There were many opportunistic companies trying to settle in to a profitable new business but having no record of being operational in this field and no control over their supply chain.

The identification and prevention of these types of fraud were a high priority for OLAF. Several different types of fraud schemes were exposed during OLAF's investigations and the information shared with Member States and non-EU countries.

OLAF also identified 270 companies using forged or invalid EU declarations of conformity and shared the relevant information with the EU Member States. The work of OLAF investigators and analysts enabled Member States to stop the distribution of over 100 million items of counterfeit or substandard medical supplies during 2021.



Exposing fake offers of vaccines

OLAF received reports from governmental sources in EU Member States about offers from supposed intermediaries offering large quantities of COVID-19 vaccines. The aim of these scams – as OLAF established – was to convince public authorities to make large down payments to secure the sale, after which the fraudsters would disappear with the money.

These hoaxes were organised to defraud national authorities looking to step up the pace of vaccination to keep their citizens safe.

OLAF's analysts established that these offers were suspicious and shared the information with Member States and Europol. Where necessary, OLAF also worked with international partners.

The intermediaries were opportunistic companies that were inactive or trading in very different types of goods until shortly before their offers. These companies were often located in countries outside the EU to make it more difficult to identify and investigate them.

Together with its partners, OLAF managed to thwart these scams. It also managed to help enforcement services to determine the true identity of the individuals and companies behind these attempted frauds, which put at risk human health and public finances at a time of great hardship.

In an unprecedented move, OLAF issued a stark public warning against these attempted frauds, which in 2021 together **represented almost 1.2 billion vaccine doses for a total asking price of over €16.4 billion**. OLAF also responded to numerous questions from journalists, citizens, private companies, and EU and non-EU countries' authorities, raising awareness of this unscrupulous type of fraud and thus reducing fraudsters' opportunities to swindle national authorities.

Representatives of OLAF also shared their expertise in this field by contributing to numerous European and international conferences, seminars and workshops on how to spot potential red flags related to fake offers of COVID-19 vaccines. This participation helped OLAF investigators to make contact and build relationships with international stakeholders, which strengthens the global fight against fraud. OLAF's cooperation with EUIPO was instrumental in that respect.

Thanks to OLAF's continued work on this matter and its engagement in raising awareness, and the very controlled methods of distributing vaccines throughout Europe, all EU Member States were well prepared to assess offers of vaccines. Not a single EU Member State has reported falling victim to a fake offer of COVID-19 vaccines.



Joint customs operation S'care Face

OLAF organised a JCO, in close coordination with other directorates-general of the European Commission (the Directorate-General for Taxation and Customs Union; the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs; the Directorate-General for Health and Food Safety; and the Directorate-General for Justice and Consumers), to improve knowledge across Europe on the process for allowing face masks into the EU.

The JCO S'care Face ran from January to March 2021 and aimed to:

- ▶ map the routes of imported face masks into the EU;
- ▶ map the flows of the distribution of face masks across the EU from their point of entry;
- ▶ map the types of controls that were being carried out at the point of entry (and at the final destination);
- ▶ systematically share information among customs and market surveillance authorities in the EU Member States about consignors/ consignees whose shipments failed the controls carried out by customs authorities and/or failed the tests carried out by market surveillance authorities.

During the operation, the participating Member States prevented 49 million counterfeit or substandard face masks from entering the EU market.

2.2.5. Tobacco smuggling and counterfeiting

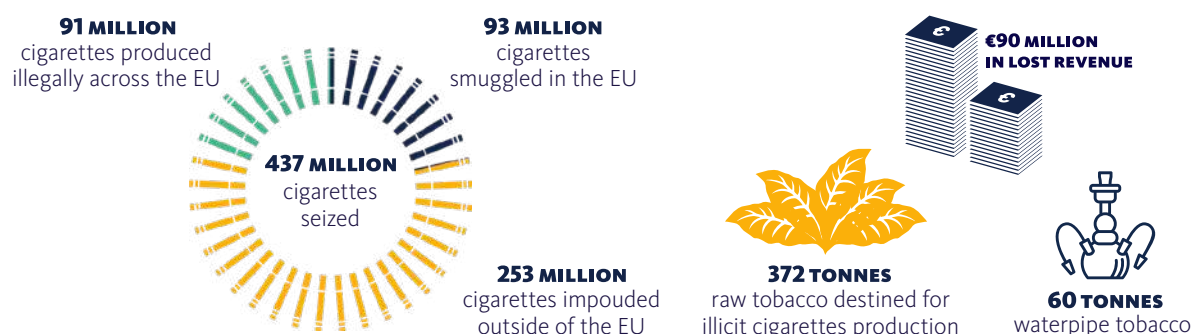
Tobacco products account for a large share of the smuggled or counterfeit goods targeted by OLAF each year. Whether they are genuine cigarettes sold on the black market or fake cigarettes passed off as the real thing, sales of these products line the pockets of criminal organisations and lead to the loss of millions of euro that could otherwise be used to finance projects and programmes for the benefit

of citizens across the EU. Moreover, tobacco fraud undermines efforts to protect the health of EU citizens and generates undue revenue for criminal organisations, which is a threat to our society.

OLAF's role in tackling smugglers focuses on two main areas: gathering intelligence from a variety of sources – including law enforcement and cooperating industries – on the people, companies and means of transport involved and, at the same time, monitoring the movements of suspicious consignments of tobacco products worldwide, in close cooperation with the relevant services both within and outside the EU.

These two elements combine to help OLAF identify containers and/or lorries loaded with cigarettes that have been or will be falsely declared as other goods at the EU borders – and to do so from among the thousands of containers and lorries of merchandise that enter the EU every day.



Figure 9: Statistics on cigarettes

In 2021, OLAF's operations led to seizures of 437 million illicit cigarettes, including 93 million cigarettes smuggled into the EU, 253 million cigarettes impounded outside its borders and 91 million cigarettes produced illegally at sites across the EU. Information uncovered by OLAF helped lead to the confiscation of 372 tonnes of raw tobacco that was destined for the illicit production of cigarettes.

Also in 2021, OLAF continued to be active on waterpipe tobacco smuggling and was able to identify suspicious consignments of over 60 tonnes of waterpipe tobacco.

These seizures saved EU Member States an estimated €90 million in lost revenue.

Illegal cigarette production within the EU

OLAF is also active in tackling counterfeiters involved in the illegal production of cigarettes within the EU. This is a particularly difficult activity to detect, as there are no customs controls.

A surge in the illicit manufacturing of cigarettes within the EU has been observed over the past few years: it has partly replaced smuggling activities across the external border of the EU. The phenomenon affects most Member States but in particular Belgium – which is close to the markets with the highest retail prices (France and the United Kingdom) – and Poland.

These coordination activities led to the seizure of 91 million cigarettes. In addition, 372 tonnes of raw or processed tobacco destined for illicit production of cigarettes was also seized.

OLAF has been involved in operations targeting factories producing illicit cigarettes. The activities carried out by the office in that context were:

- ▶ collecting, analysing and exchanging information and documents;
- ▶ searching specialised databases;
- ▶ designing a common investigative strategy to be applied by all national investigative teams;
- ▶ coordinating the monitoring of suspicious movements of lorries and of the movements of suspicious persons (technicians, workers and others) through special watches;
- ▶ assisting in organising surveillance of suspicious warehouses and planning raids of illicit factories and other tobacco facilities.

Illegal sales of waterpipe tobacco continue to grow

OLAF informed national authorities in Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and several EU Member States of suspicious imports, exports and further movements of waterpipe tobacco. OLAF's checks revealed a series of irregularities, including that the companies listed as sending and receiving the goods had never been involved in tobacco trading, several companies had

had no financial turnover in the past few years and consignments were officially imported but stored in warehouses for long periods. Following initial physical checks at the request of OLAF, it was established that the consignments were to be re-exported at a reduced cost.

Given the nature of re-exports of waterpipe tobacco consignments and due to long-term monitoring processes, information on potential seizures is pending. Sometimes waterpipe tobacco is illicitly taken out of warehouses and, during transport, replaced by products with counterfeit packaging and content, or the company pretends to re-export the waterpipe tobacco while in fact it remains on the black market in the EU.

2.2.6. Intercepting counterfeit goods and stopping them from entering Europe

OLAF participates in large-scale actions in the form of JCOs involving EU and international operational partners. JCOs are targeted actions of a limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas that are at risk and/or on identified trade routes.

In 2021, OLAF was involved in several operations working alongside Europol, EUIPO, Interpol and the World Customs Organization (WCO). OLAF has vast experience of organising these types of operational activities and providing Member States with financial, operational, analytical and logistical support, as well as contributing its unique expertise on the customs fraud landscape.

OLAF was able to provide analytical and intelligence support during all stages of the operation thanks to the EU-level data collected in its databases and based on the outcomes of its operational and investigative work.

OLAF's Permanent Operational Coordination Unit – located in OLAF's premises – is made available to participants in JCOs to facilitate coordination tasks. OLAF's Virtual Operations Coordination Unit, an IT

application forming part of the Anti-Fraud Information System, is used for the secure exchange of information among all JCO participants.

Postbox III

Co-organised by Italian customs and the Guardia di Finanza, the Italian financial crime police, with the support of OLAF, the collaboration of Europol and the participation of 20 Member States, the operation focused on the illegal trade in counterfeit products, pharmaceutical products, COVID-19-related goods, drugs, endangered animal and plant species (under the Convention on International Trade in Endangered Species of Wild Fauna and Flora) and undervalued goods, using both the open and the dark web. The operation led to the detention of more than 1 400 shipments of illicit goods, including over 35 000 items of counterfeit goods, counterfeit bank notes with an approximate value of €240 000, more than 1 500 items of COVID-19-related materials, 240 kg of smuggled cigarettes and tobacco, and over 20 kg of cannabis and marijuana.

Athena V

The JCO focused on the cash-smuggling situation in the EU using courier, postal and parcel services. This operation was coordinated by the Spanish customs administration with the support of OLAF and the involvement of 13 Member States and Europol. More than 14 000 packages were checked during the operation. The evaluation of the results is ongoing.





Arktos 3

This joint action was led by the European Border and Coast Guard Agency (FRONTEX), and co-led by Lithuania and Poland, supported by Interpol, OLAF, Eurojust and Europol along with border guards, police officers and customs officers from Estonia, Latvia, Slovakia, Finland and Sweden.

It targeted excise fraud, and in particular tobacco smuggling, document fraud and migrant smuggling at selected border crossing points at the EU's eastern land borders. As a result of the action, law enforcement authorities detected more than 400 innovative tobacco products, such as electronic cigarettes and e-liquids. Among the seized illegal goods were 6.7 million illegal cigarettes and 2.6 tonnes of raw tobacco, along with half a tonne of illegal drugs. Fifteen smugglers were arrested and more than 200 forged documents detected.

Joint CELBET Activity 8

This action was organised by the Customs Eastern and South-eastern Land Border Expert Team (CELBET) with the support of OLAF. It focused on controls of cash and the detection of illegal cigarettes and other tobacco products as well as counterfeit parts of vehicles, clothes, shoes and cosmetics entering the EU via its eastern border.

SCORPION II

The SCORPION II operation was co-organised by the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) and OLAF. It targeted the smuggling of tobacco products at the EU's eastern border and resulted in the seizure of 8.5 million cigarettes.

STOP II

Organised by the WCO, the STOP II operation was the largest-ever customs-led global operation, involving 146 national customs administrations and with the support of Europol, Interpol, the United Nations Office on Drugs and Crime (UNODC) and the World Health Organization (WHO), together with pharmaceutical companies and other private sector actors. The target of the operation was the illicit trade in medicines, vaccines and medical devices related to COVID-19.

The operation resulted in the seizure of 365.7 million units, of which 195.5 million were medicines related to COVID-19, 156.7 million were medical devices (e.g. COVID-19 testing kits, face masks, used gloves, sanitiser gel and oxygen cylinders) and around 13.5 million were doses of COVID-19 vaccines.

LUDUS II

LUDUS II was organised by Europol with the participation of OLAF, EUIPO, the WCO and 21 countries. It led to the seizure of over 5 million fake and illegal toys, worth €18 million. The seized goods posed risks such as chemical exposure, strangulation, choking, electric shock, damage to hearing and fire hazards.



OPSON X

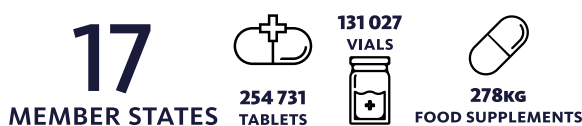
During OPSON X – a Europol/Interpol joint operation targeting fake and substandard food and beverages – OLAF led a targeted action on wine and alcoholic beverages, coordinating the work of 19 EU Member States and 3 non-EU countries. This action resulted in the seizure of nearly 1.8 million litres of wine and alcoholic beverages by European customs and police authorities, consisting of:

- ▶ 215 000 litres of counterfeit alcoholic beverages, mostly wine and vodka;
- ▶ 1 550 000 litres of various alcoholic beverages, wines and beers infringing fiscal rules or food safety standards.

SHIELD II

In this operation organised by Europol, OLAF led a targeted action with 17 Member States against counterfeit hormonal substances, food supplements and medicines for erectile dysfunction, stopping in total 254 731 tablets, 131 027 vials of various medicines and 278 kg of food supplements from entering the EU.

Figure 10: Shield II



2.3. OLAF's investigative mandate within the EU institutions

OLAF has a unique mandate to carry out internal investigations in EU institutions, bodies, offices and agencies for the purposes of fighting fraud, corruption, dereliction of duty and any other illegal activity affecting the financial interests of the EU. Its role is not only to make sure that EU taxpayers' money is properly spent but also to help defend the reputation of the EU as a whole from the risk posed by any perceived lack of integrity within the institutions.

Although there are generally very few cases of irregular, inappropriate or fraudulent behaviour by EU staff, those that OLAF does investigate tend to follow roughly the same patterns. These include false declarations of expenses or other statements, especially in relation to allowances; undeclared external activities; and harassment or other inappropriate behaviour in the workplace.

EU money allocated to Members of the European Parliament

In 2021, OLAF finalised an investigation related to possible unlawful financing of subsidies and gifts of a political nature using EU money allocated to Members of the European Parliament (MEPs) or political groups. The investigation involved four MEPs, five staff members and seven economic operators.

The budget in question (budget item 400) is intended to cover administrative and operational expenditure by the political groups / the non-attached members' secretariat and expenditure on political and information activities conducted by the political groups / non-attached members in connection with the EU's political activities.

Based on the evidence collected and its investigative activities, OLAF ascertained that some of the MEPs, staff members and economic operators in question were involved in serious irregularities and fraudulent schemes. These included conflict of interest situations, non-respect of procurement rules and non-compliance with the Financial Regulation. There were further irregularities regarding claims for reimbursement for personal expenses, diverting money from budget item 400 for national parties' purposes and events, unauthorised external activities and ownership of private companies, acceptance of undeclared gifts and violation of rules on working conditions. It was also found that the economic operators had been reimbursed for non-eligible, inflated and/or fictitious services delivered.

The investigation further established serious matters in relation to the discharging of professional duties by staff members of the European Parliament and a political group. These irregularities were considered incompatible with the interests of the European Parliament and detrimental to its reputation.

OLAF forwarded the information obtained to the judicial authorities, as the matter may result in criminal proceedings. A financial recommendation for a substantial recovery of over €600 000 was made. A disciplinary recommendation was also sent to the European Parliament.



Undue child allowance and unauthorised external activities

OLAF opened a case to investigate suspicions of fraud in relation to an EU staff member who had allegedly engaged in undeclared external activities and received undue child allowance on the basis of false information that the person concerned had submitted to an EU institution.

OLAF concluded that the staff member had, unbeknown to the institution, assumed the roles of managing director, founder, owner, board member and global legal director in three companies.

OLAF also established that the individual had unduly received child allowance, by means of submitting false information in an effort to mislead the institution as to the true duration of their relationship with their former partner.

OLAF closed the investigation with a recommendation that the institution take appropriate disciplinary action against the individual, sent its findings to the competent public prosecutor to begin judicial proceedings for fraud and issued a financial recommendation that the child allowance unduly paid to the individual by the institution be recovered.

Revolving doors

Sometimes OLAF finds that there was no breach of the rules. However, OLAF's investigations can highlight areas where existing legislation is deficient and needs to be tightened up.

One such example happened in 2021 when OLAF investigated alleged breaches of Article 16 of the EU's Staff Regulations in relation to the approval given by an agency to a staff member to take up duties in an organisation during the first 2 years after leaving service. The authorisation was given even though the occupational activity in question was related to the work carried out by the member of staff during their last 3 years of service with the agency and could have led to a conflict of interest.

The elements uncovered by the investigation did not indicate any irregularity. In compliance with the relevant legal framework, the agency had taken into account the potential conflict of interest arising from the senior staff member's proposed occupational activity and nevertheless approved the job move with certain restrictions on the new employment.



The investigation also showed that the staff member's employment contract with the agency contained no provisions in terms of 'garden leave' and/or a 'cooling-off period' in the event of the person leaving their employment or the existence of a right to compensation during such leave.

Regarding this finding, OLAF made a recommendation to the agency to take the appropriate administrative measures to address this concern.

Unauthorised occupational activities of a pensioner

OLAF investigated allegations concerning a former senior staff member's unauthorised involvement in multiple companies less than 2 years after the individual had retired from an EU institution.

According to Article 16 of the Staff Regulations, former staff members are required to inform the EU institution of their intention to engage in any occupational activities, whether gainful or not, within the first 2 years after they have left the service.

OLAF concluded that, while the staff member had sought authorisation to carry out certain teaching and academic activities, the person had failed to seek prior approval for involvement in three companies as an expert, consultant and board member.

OLAF recommended that the institution initiate appropriate disciplinary proceedings against the former staff member in relation to the breaches of the statutory obligations.

Table 3: Investigations into EU staff and members of the institutions concluded in 2021

Institution	Cases concluded	
	Total	of which closed with recommendations
European Banking Authority (EBA)	1	1
European Central Bank (ECB)	1	1
European Commission	4	1
European Court Of Auditors (ECA)	1	1
European Economic and Social Committee (EESC)	1	1
European External Action Service (EEAS)	5	1
European Investment Bank (EIB)	4	2
European Ombudsman	1	0
European Parliament	10	7
European Police Office (Europol)	1	0
Other agencies and bodies	3	2
Total	32	17



3. Focus chapter: OLAF's role in preventing environmental damage and protecting the EU's green recovery

Climate change and environmental degradation are an existential threat to Europe and the world. Green recovery, sustainable development, tackling climate change and protecting our environment are key priorities for the EU, and OLAF plays its part in supporting these objectives.

During 2021, the climate emergency made itself felt across the EU. The floods of July devastated a large area of Europe, leaving over 200 people dead and causing untold damage to people's lives, homes and businesses. Wildfires, triggered by temperatures that exceeded 40 degrees in some areas and fanned by high winds, raged throughout Europe, destroying homes, communities and nature alike.

The EU is at the helm of many actions aimed at protecting the environment, achieving climate neutrality and creating a climate-resilient Europe.

Green projects will involve purchasing products such as solar panels, lithium batteries and refrigerant gases for heat pumps, which Europe imports from other parts of the world. Green funding, like all expenditure, is vulnerable to fraud. Energy efficiency, waste treatment and water management are primary targets for fraud in the EU.

This chapter gives an overview of OLAF's work in 2021 to prevent the arrival and entry into the EU of dangerous products that irreparably harm our environment and to prevent exports of waste to be disposed of illegally in other parts of the world with potentially severe consequences at planetary level.

It also aims to provide a snapshot of the interest of fraudsters in green projects, which will help in anticipating potential future fraud patterns.

From uncovering invisible forests to tackling waste trafficking, OLAF is fully committed to working towards Europe's successful green transition.

3.1. Preventing movement of dangerous goods

TACKLING ILLICIT WASTE SHIPMENTS

The European Green Deal includes initiatives to encourage and foster the correct management of waste, promote its sustainable treatment and aid in the fight against illicit waste trafficking. The move towards a more circular economy in Europe has seen a rise in waste recycling rates; however, traffickers try to



take advantage of the gap between waste production and recovery capacities. It is estimated that up to 30 % of all waste shipments may be illicit, which is thought to be worth €9.5 billion annually for criminals.

In 2021, OLAF supported major investigations and operations against illicit waste shipments around the world. OLAF's investigators exchanged real-time information on suspicious waste shipments with the customs and environmental authorities of EU countries of origin and non-EU countries of destination. Together, they monitored both the original shipments and the returns of refused containers to make sure they were not diverted on their way back to the EU source country.

For example, OLAF's alerts and intelligence helped Italian authorities block the attempted international smuggling of some 800 tonnes of waste.

On two occasions, OLAF helped Italian customs block attempts to smuggle to Malaysia plastic waste that had been falsely declared as raw material. OLAF's support helped establish that the procedures regulating the export of waste had not been respected and that the exporters did not hold the necessary permits, as the Malaysian authorities also confirmed. Criminal reports were filed against the exporters in both cases.

In one case involving the port of Genoa, 71 tonnes of plastic waste were seized and returned to the manufacturer for proper management.

In another case, customs officials in Naples coordinated by the Central Anti-Fraud Directorate uncovered an attempt to smuggle waste from Naples via an intermediary company based in Hong Kong and intercepted a consignment of about 350 tonnes of plastic waste loaded into 12 containers.

OLAF was also able to assist the Italian Agency for Customs and Monopolies and the Carabinieri Command for Environmental Protection and Ecological Transition in blocking 350 tonnes of plastic waste in 16 containers being shipped to Turkey from Genoa by a Slovenian intermediary. OLAF's work with the Turkish authorities in this instance helped ascertain that the Turkish consignee could not

properly manage the waste and did not have the necessary authorisations for imports from abroad.

A further action in Italy carried out by the national authorities uncovered several hundred additional tonnes of various types of waste, taking the total intercepted to 1 200 tonnes.

RETURN TO SENDER

In January 2021, thanks to an alert from OLAF, the Slovenian authorities prevented a consignment of 18 tonnes of plastic waste destined for Malaysia from leaving port.

The shipment originated from Hungary and was destined for Malaysia via the Slovenian port of Koper. The Malaysian importer was not authorised to import it and the transport documents necessary for a transnational shipment had been incorrectly filled out.

The container was shipped back to the Hungarian export company.

CONTAMINATED WASTE

In December 2021, thanks to an OLAF alert, five containers declared as containing paper waste were stopped at the Indian port of Haldia and inspected by the Directorate of Revenue Intelligence of India. It turned out that the containers were made up of paper waste that had been contaminated with municipal/household waste (aluminium cans, plastic, packaging containing food residue, surgical masks). As a result, the containers were seized and an investigation by the competent authorities is ongoing.

OPERATION DEMETER VII

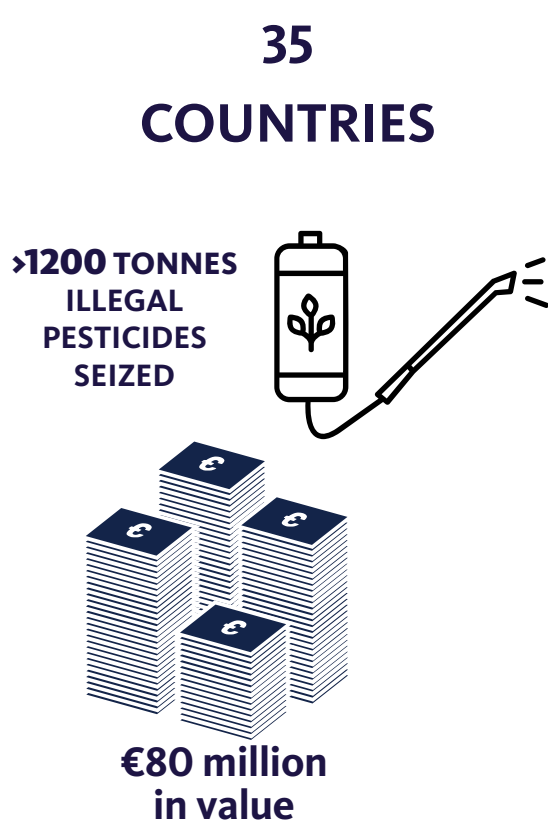
This operation, coordinated by the WCO, tackled the illicit trafficking of waste, ozone-depleting substances and hydrofluorocarbons. A total of 102 law enforcement agencies participated. OLAF's role was to liaise between EU and non-EU countries and to obtain information and intelligence, which led to the detection and seizure of over 4 000 tonnes of waste (e.g. used electronic items, waste batteries, used vehicles, printers) and 493 items of ozone-depleting substances and hydrofluorocarbons.



OPERATION SILVER AXE VI

OLAF participated in this annual Europol-led operation, providing its expertise in identifying and tracking suspicious shipments. In 2021, over 1 200 tonnes of illegal pesticides were seized in Operation Silver Axe VI, which involved 35 countries and led to seizures of illegal and counterfeit products worth an estimated €80 million.

Figure 11: Silver Axe



OLAF shared operational intelligence with the customs authorities of Member States, China, Colombia, Russia and Ukraine. The Office tracked suspicious live shipments of illegal pesticides, leading to the seizure of around 39 tonnes of the total 1 200 tonnes.

Cooperation in the fight against illicit trafficking that endangers the environment

OPFA WASTE PROJECT

In August 2021, OLAF became a supporting partner in the implementation of the project Operational Facility Fighting Illicit Waste Trafficking (OPFA WASTE). The EU-funded project, led by the Italian authority Arma dei Carabinieri, involves police forces, inspection authorities, customs administrations, EU agencies and the private sector. The aim of the project is to assist police operations that tackle waste trafficking. Another aim of OPFA WASTE is to develop standardised investigative methodologies and tools at EU level to monitor suspicious waste shipments.

UNWASTE

OLAF is a member of the steering committee of the project UNWASTE, organised by the United Nations Office on Drugs and Crime in partnership with the United Nations environment programme. It also involves representatives of Indonesia, Malaysia, Thailand and Vietnam.

The overall objective of the project is to strengthen policy responses by South-East Asian countries to the issue of illicit trafficking in waste and illegal dumping of waste and to promote cooperation between member states of the Association of Southeast Asian Nations (ASEAN) and the EU. The investigative experience of OLAF in this domain is considered a valuable asset enabling it to analyse situations and propose effective solutions.

ILLICIT IMPORTS OF REFRIGERANT GAS

Refrigeration is an essential part of everyday life, from chilling food to cooling homes and offices. However, F-gases are often potent greenhouse gases and, as such, their use has been phased out in the EU since 2014, with a quota limiting the amount of gases that can be imported by any one company, for example. As a result, there has been a rise in black market activity related to these substances.

Tackling this black market, especially illegal imports of these gases into the EU, is one of OLAF's operational priorities. Keeping harmful gases out of the EU is in line with the Commission's ambition to make Europe the first climate-neutral continent by 2050.

OLAF has taken part in a number of joint actions with a range of partners to help stop these gases from flooding into the EU. During 2021, OLAF supported cross-border investigations, passing on information to the competent authorities that led to significant seizures and detentions of illegal shipments. Some of these actions are listed below.

- ▶ Thanks to OLAF information, Polish customs stopped a container of refrigerant gases destined for a company not registered to receive such gases. Further information from OLAF led to the prevention of seven other containers being imported to Poland to companies that had used up their allotted quota.
- ▶ As part of operation Verbena, OLAF assisted the Spanish Tax Agency and the Spanish police in seizing 27 tonnes of F-gases and arresting five people. The operation also uncovered 180 tonnes of illicit hydrofluorocarbons that had been smuggled into Spain.
- ▶ The Italian customs office in Naples stopped a shipment of 5 tonnes of refrigerant gases coming from Turkey, following information on risk profiles established by OLAF. The importer was not authorised to import refrigerant gases, as it was not registered in the [EU F-gas portal](#).

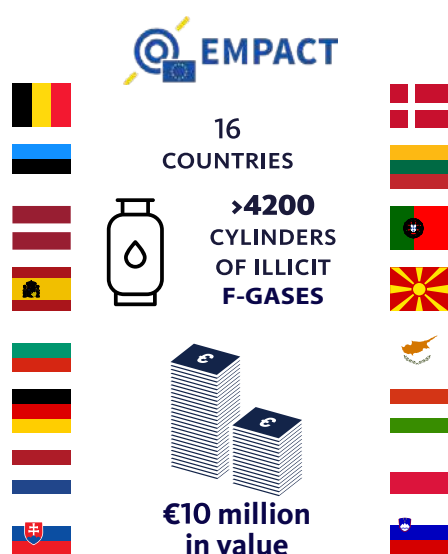




- ▶ The Estonian customs authorities stopped a shipment of approximately 9 tonnes of refrigerant gases packaged in 415 cylinders. OLAF provided the Estonian authorities with additional information regarding the transit movement. OLAF also alerted the authorities that the company had used up its quota of imported F-gases.
- ▶ Spanish customs and the national police, with the participation of OLAF investigators, seized approximately 10 tonnes of refrigerant gases in bulk and in small refillable cylinders.
- ▶ Supported by Europol, OLAF participated in a Joint Inspection Week aimed at addressing the illicit import of fluorinated gases (F-gases) used in refrigeration into the EU, which was coordinated by the European Multidisciplinary Platform against Criminal Threats (EMPACT). The Joint Inspection Week involved representatives of 16 countries – Belgium, Bulgaria, Cyprus, Denmark, Estonia, Germany, Hungary, Lithuania, Latvia, the Netherlands, North Macedonia, Poland, Portugal, Slovenia, Slovakia and Spain.

OLAF provided information and intelligence on suspicious shipments and operators. This action led to the seizure of more than 4 200 cylinders of illicit hydrofluorocarbons and of pre-charged equipment, with an estimated value of over €10 million.

Figure 12: Illicit import of fluorinated gases



3.2. Protecting EU green projects

FUNDING FOR ALTERNATIVES TO TRADITIONAL PESTICIDES

The LIFE+ programme is the EU's funding stream for the environment, climate action and sustainable development. In 2021, OLAF investigated irregularities relating to several projects co-funded under the programme in Italy.

The projects mainly concerned new innovative and environmentally friendly solutions in the leather and agricultural industries, in particular alternatives to traditional pesticides for soil.

OLAF established that some beneficiaries of this funding had inflated their subcontracting costs in order to submit fraudulent receipts, reporting much higher costs than those they had actually incurred. They managed to claim for consultancy services even though funding rules forbade them from doing this. The beneficiaries pulled off this deception by labelling the consultancy fees 'dissemination costs' and keeping their consultancy agreements confidential.

Based on the findings of the investigation, OLAF issued one judicial recommendation and ten financial recommendations and proposed that the beneficiaries be placed on the EDES ⁽²⁾ database (thus excluding them from participation in EU procurement procedures and projects for a maximum of 4 years). OLAF also recommended the recovery of around €220 000.

The collaboration with the national authority was key to uncovering this well-planned fraud. Only a few months after OLAF's recommendations, the contracting authority had already finalised 9 out of 10 financial recovery orders.

⁽²⁾ The Early Detection and Exclusion System (EDES) is a tool established by the European Commission to protect the EU's financial interests against unreliable persons and entities applying for EU funds. EDES ensures early detection of persons or entities posing a risk, exclusion from EU funding and imposition of financial penalties.

SEEING THE WOOD FOR THE TREES

OLAF wrapped up a case concerning the misuse of EU funds that were to be used for planting forests where no forests had previously existed, or 'afforestation' as it is known. The programme was financed by the EAFRD.

OLAF investigators identified and confirmed fraud and irregularities in the three main project activities: initial afforestation, maintenance and replanting of trees.

The evidence collected revealed that the afforested land in Bulgaria was smaller than the area declared by the beneficiary. Some parts of the land were private properties and erosion gullies, and trees therefore could not be planted there. However, according to the project documents the entire project area was included in the funding application – meaning money was claimed for areas that never saw the shadow of a tree.

The investigation also uncovered possible fraud related to the declaration of maintenance activities. There was no visible sign of maintenance in most of the project area during a 5-year period, despite declarations to the contrary.

Similarly, the replanting activities were not fully implemented by the beneficiary, despite being reported to be complete in the project documentation.

As a result, OLAF recommended the recovery of the full amount of €180 000 received from the EAFRD and made a judicial recommendation to the national authorities to initiate proceedings against the beneficiary.

GREEN AIRCRAFT

OLAF investigated a case that concerned a claim of fraud related to EU funding for the development and delivery of more environmentally friendly aircrafts.

An Italian company was a co-beneficiary of such a grant. However, OLAF discovered that the company was registered several times under the same Chamber of Commerce number at several different addresses and had gone bankrupt on more than one occasion. Furthermore, the company did not exist at its registered address and its previous address was in an abandoned building.

In cooperation with the Guardia di Finanza, OLAF found documents related to the company at the premises, but no trace of ongoing business activities.

The official Italian registry mentioned the company as 'inactive'. As if that were not suspicious enough, the coordinator of one of the projects unsuccessfully attempted to recover the pre-financing from the Italian company after the termination of its participation in the project because of lack of results.

OLAF obtained the records of transactions (bank statements) of the company and its legal representative during the time of the implementation of the projects. OLAF's investigators saw that the balance of the company's account had initially been very small (about €4 000), had then increased significantly (when the projects started) and at the end of the projects had contained only a few euro (despite the fact that the company had received about €1.5 million from the EU in different tranches for the projects).

OLAF discovered that €700 000 in EU funding had been withdrawn in cash by the former CEO of the beneficiary and transferred to his private account.

On the basis of the evidence collected, OLAF issued a financial recommendation to ensure the recovery of all the money paid to the Italian company as a beneficiary of EU-funded projects, amounting to around €2 million.

OLAF also issued a judicial recommendation to the public prosecutor's office in Italy that it should initiate proceedings against the former director of the company in relation to potential misappropriation of EU funds.





4. The European Public Prosecutor's Office

4.1. Creation of the European Public Prosecutor's Office

On 1 June 2021, the EPPO, the missing pillar in the EU anti-fraud architecture, became operational. Based in Luxembourg, it can prosecute fraudsters in 22 EU Member States. The EPPO's mandate to conduct criminal investigations and prosecutions in the anti-fraud field is achieved by means of criminal law enforcement, and OLAF remains the body responsible for administrative investigations at EU level. By working together, they can both ensure the full financial protection of the EU budget.



The creation of the EPPO has changed the way fraud is detected, investigated and prosecuted in the EU. This has in turn required revisions to Regulation (EU, Euratom) No 883/2013, which is the main legal instrument governing the investigative activity of OLAF. The revised Regulation entered into force on 17 January 2021, setting out how OLAF and the EPPO will work together, as well as further reinforcing the investigative capacity of OLAF.

The arrival of the EPPO adds another layer to the protection of the EU's financial interests. The legal frameworks of OLAF and the EPPO clearly provide for the two offices to work in close cooperation while respecting their individual mandates, powers and competences, and the two offices will combine their investigative and other capacities to improve the protection of the financial interests of the EU. Part of this mutual cooperation involves OLAF conducting 'complementary investigations' and acting in support of the EPPO's criminal investigations.

Acting in complementarity to the EPPO's investigations means that OLAF can conduct administrative investigations into the same facts as the EPPO. This allows OLAF to address essential aspects of the protection of the EU's financial interests, such as recommendations for speedy recovery, the adoption of administrative precautionary measures and the development of systemic recommendations for improvement where shortcomings are identified in administrative investigations (e.g. with regard to procurement procedures). These investigations are carried out in close cooperation with the EPPO upon mutual agreement.

OLAF may support the EPPO in its investigations by means of operational, forensic and analytical expertise and tools, with a view to enhancing OLAF's and the EPPO's activities in full respect of applicable procedural guarantees. In 2021, OLAF's investigators provided support to the EPPO by serving as expert witnesses in complex cases, and they provided forensic analysis and substantial documentation of relevant EU projects and programmes.

This cooperation will ensure that OLAF becomes a reliable operational partner for the EPPO and that all available means are put into practice to safeguard taxpayers' money from fraud and other irregular activities.

The updated Regulation (EU, Euratom) No 883/2013 also gives OLAF better tools to investigate fraud against the EU budget. For example, OLAF can access records of banking transactions under the same conditions as those that apply to national competent authorities. The new Regulation has clarified that OLAF should be able to request access to privately owned devices used for work purposes if the office has reasonable grounds to suspect that their content may be relevant for the investigation. The rules that govern how OLAF conducts on-the-spot checks have also been made clearer, while the way in which the office cooperates with national authorities has also been enhanced. These improvements go hand in hand with the reinforcement of procedural guarantees for persons under investigation.

Additionally, OLAF has been actively engaging with Commission services in the framework of the Commission–EPPO working agreement. In its liaison role, OLAF has provided the necessary assistance to EPPO and Commission staff to help shape this new cooperation, using its operational experience and understanding of the EU budget architecture.

4.2. Optimising cooperation between OLAF and the EPPO

OLAF has adjusted its investigative procedures to optimise cooperation with the EPPO. A working arrangement between OLAF and the EPPO was signed on 5 July 2021. OLAF also adopted new [Guidelines on Investigation Procedures for OLAF Staff](#) in October 2021. The new text transposes provisions of the revised Regulation (EU, Euratom) No 883/2013 and aligns OLAF's practice with the requirements of cooperation with the EPPO.

OLAF was ready to begin operational cooperation with the EPPO from day one. In the first 7 months of the EPPO's operational activity, OLAF contributed considerably to the opening of criminal investigations by the EPPO: some 85 criminal investigations were opened by the EPPO based on OLAF's investigative reporting.

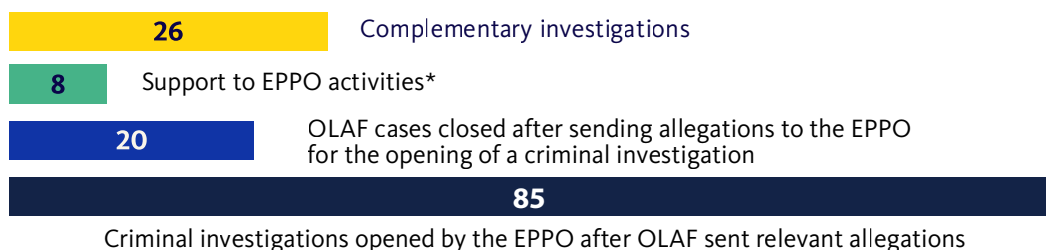
For each case reported to the EPPO, OLAF made an assessment of the damage caused or likely to be caused at the stage of reporting. Of the 85 criminal investigations opened by the EPPO as a result of OLAF's reporting, the total damage was estimated at €2.2 billion ⁽³⁾.

This is not to be confused with the amounts recommended for recovery by OLAF at the end of its investigations, when all relevant facts have been established (see Figure 6).

OLAF invested considerable efforts in successfully detecting fraud cases for the EPPO and engaging with the newly appointed European prosecutors and European delegated prosecutors. As part of this, OLAF provided training for representatives of each Member State participating in the EPPO to familiarise them with OLAF's work, capabilities and cooperation methods to ensure that the available tools were put to use from day one. In addition, OLAF's staff have provided significant training on the EU's common agricultural policy, the new RRF funds and centralised expenditure.

What follows is a breakdown of the OLAF–EPPO cooperation in figures.

Figure 13: OLAF's cooperation with the EPPO



* OLAF's support to the EPPO in the framework of Article 12e of revised Regulation (EU, Euratom) No 883/2013

⁽³⁾ The estimated total damage is calculated based on the values taken into account at the time of reporting to the EPPO. The assessment of damage includes the best estimate of financial impact on the EU's financial interests as per the information available at the stage of reporting. This financial impact is calculated on the basis of specific contracts, projects or entire programmes or other estimated amounts likely to be involved in fraudulent activities, depending on the management mode in question.

**Table 4: Cases sent to EPPO by main investigative area**

Management mode	Number of cases
At selection	11
Internal investigations	25
Direct expenditure	34
Shared management	63
Illicit trade, health and environment	2
Customs and trade	7
International investigations	25
Total	167

Table 5: Cases sent to EPPO per Member State

Member State (assigned by EPPO)	Number of cases
Austria	3
Belgium	30
Bulgaria	13
Croatia	7
Cyprus	2
Czechia	3
Estonia	3
France	18
Germany	6
Greece	18
Italy	16
Latvia	4
Lithuania	3
Luxembourg	1
Netherlands	2
Portugal	5
Romania	7
Slovakia	11
Slovenia	1
Spain	14
Total	167

4.3. Results of OLAF's cooperation with the EPPO

Some successes of the OLAF–EPPO cooperation are already evident. Throughout 2021, and in addition to their detection work, OLAF investigators and forensic analysts provided substantial support to EPPO investigations, most notably by participating in witness interviews as experts and providing detailed analysis of customs matters.

OLAF and the EPPO agreed to work together on a number of cases, which led OLAF to open several complementary investigations that yielded some important results in financial and criminal justice terms.

For example, in June 2021 OLAF informed the EPPO about a potential fraud committed concerning a project co-funded by the ERDF in Croatia. During its complementary investigation and in close cooperation with the EPPO, OLAF conducted two on-the-spot checks combined with digital forensic operations in Croatia. In November 2021, four suspects were arrested at the request of the EPPO.

A €107 million EU-wide customs evasion scheme

In 2021, OLAF finalised an investigation into a sophisticated EU-wide fraud scheme involving imported goods from China. This revealed a suspected fraud amounting to €14 million in underpaid customs duties and an estimated €93 million evasion of VAT.

After being alerted by the Guardia di Finanza, OLAF started to investigate almost 2 000 consignments of textiles and shoes that had arrived in Italy having originated in China.

Working closely with the Guardia di Finanza and the customs authorities of Hungary, Slovenia and Slovakia, OLAF built up a picture of how the consignments had entered the EU and been distributed within it.

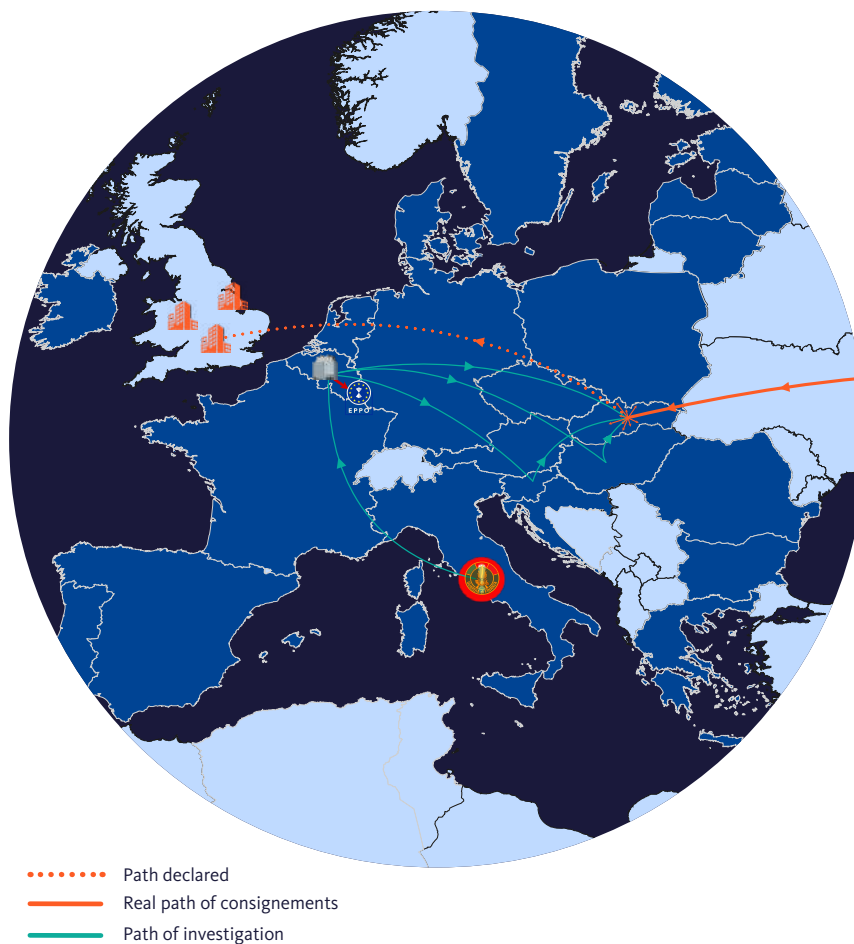
Three companies operating from the United Kingdom arranged for the import of the consignments into the EU, through different points of entry. The consignments were eventually traced back to Slovakia.

In Slovakia, their customs value was underdeclared, causing a suspected initial loss to the EU budget of €14 million. The goods had originally been declared as being destined for the United Kingdom, with the regime applicable at the time meaning that the VAT payments due on them were suspended; however, it turned out that they were rerouted from Slovakia to other destinations throughout the EU.

OLAF carried out a thorough and detailed examination of the transport records of the consignments, which established that at least 11 Member States had been affected. Further investigation showed that some of the goods had vanished and had probably been sold on the black market. OLAF estimated that the loss in VAT for the consignments could be as high as €93 million.



Figure 14: €107 million EU-wide customs evasion



Following the investigation, OLAF issued financial recommendations to the 11 Member States affected so that appropriate action could be taken at national level. This fraud cost EU taxpayers €107 million, distorted the single market and damaged legitimate businesses.

The criminal aspects of the case were reported to the EPPO for a possible criminal investigation in respect of the Member States concerned. OLAF also issued a judicial recommendation to the Office of the Prosecutor General in Hungary for follow-up of the criminal aspects identified in respect of that Member State.

5. OLAF on the European and international scene

The effectiveness of OLAF's work depends on efficient cooperation with its partners across the EU and beyond. OLAF works continuously with the police and judicial, customs and other authorities in the Member States and at EU and international levels to ensure the success of its investigations.

Examples of successful and expanded cooperation with many of these partners can also be found elsewhere in this report.

5.1. OLAF's relations with its partners

COOPERATION WITH NATIONAL PARTNERS BEYOND INVESTIGATIONS

Efficient cooperation with national partners and stakeholders is essential for OLAF's investigative and policy work. OLAF performs a number of activities to foster good relations and cooperation in the Member States.

In 2021, the continuing pandemic affected the way in which OLAF cooperated with its partners and Member States. The *modus operandi* for investigations and many meetings and events continued to be virtual. Despite the challenges, OLAF and its national partners maintained and further developed their positive working relationships.

OLAF cooperates directly with EU Member States to improve fraud prevention policy and practice through the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF). The Committee holds several meetings a year in various formats.

In 2021, two plenary meetings were organised, in June and December, and three meetings took place with the subgroups on reporting and analysis of fraud and other irregularities and on fraud prevention. These meetings were good opportunities to discuss

the latest trends in irregularities and fraud and the IT tools used for the management of EU funds. They also served as an important link between OLAF and its partners during the pandemic, keeping lines of communication open and allowing participants to share information and best practices.

In September 2021, OLAF organised its annual meeting of Member States' anti-fraud coordination services; for the second time, the meeting took place virtually. The discussions focused on the RRF.

ADMINISTRATIVE COOPERATION ARRANGEMENTS WITH PARTNERS IN THE EU AND BEYOND

Administrative cooperation arrangements are a key tool in helping OLAF to foster close relationships with investigative bodies and other partners engaged in the fight against fraud. Their scope is to define the practical means of implementing existing rules on good cooperation, to encourage operational exchanges and make it easier to share useful experiences.

An administrative cooperation arrangement with the Prosecutor's Office of Bulgaria was signed in January 2021 and another one was signed with the Prosecutor General's Office of Ukraine in February 2021. These agreements were intended to provide a framework for OLAF to work together with the two offices on fighting fraud and other illegal activities involving the EU's financial interests.

In June 2021, OLAF signed a new administrative cooperation arrangement with the WCO. The new arrangement will see the exchange of information between the organisations expanded to cover a wider range of fraudulent activity (tobacco, counterfeiting, illicit trade in protected species and more) and will help the two bodies to work more closely and effectively together on joint operations.



COOPERATION WITH THE EUROPEAN COURT OF AUDITORS



OLAF and the European Court of Auditors (ECA) continued to engage in regular contact on operational and general cooperation matters. At the start of 2021, OLAF provided successful training on

interviewing techniques to ECA auditors, and the ECA invited OLAF staff to its cycle of induction training for new auditors. This led to OLAF and the ECA setting up shared training and creating a training route map, jointly developed and focusing on fraud reporting and red flags.

COOPERATION WITH THE EUROPEAN PARLIAMENT

In 2021, OLAF continued to develop and maintain good relations with MEPs from different political groups to facilitate common work on the protection of EU financial interests, for example in the context of the budgetary discharge procedure.

The Director-General of OLAF, Ville Itälä, presented the activities of OLAF at several meetings of the European Parliament Committee on Budgetary Control. OLAF was represented at 13 meetings of the committee throughout the year.

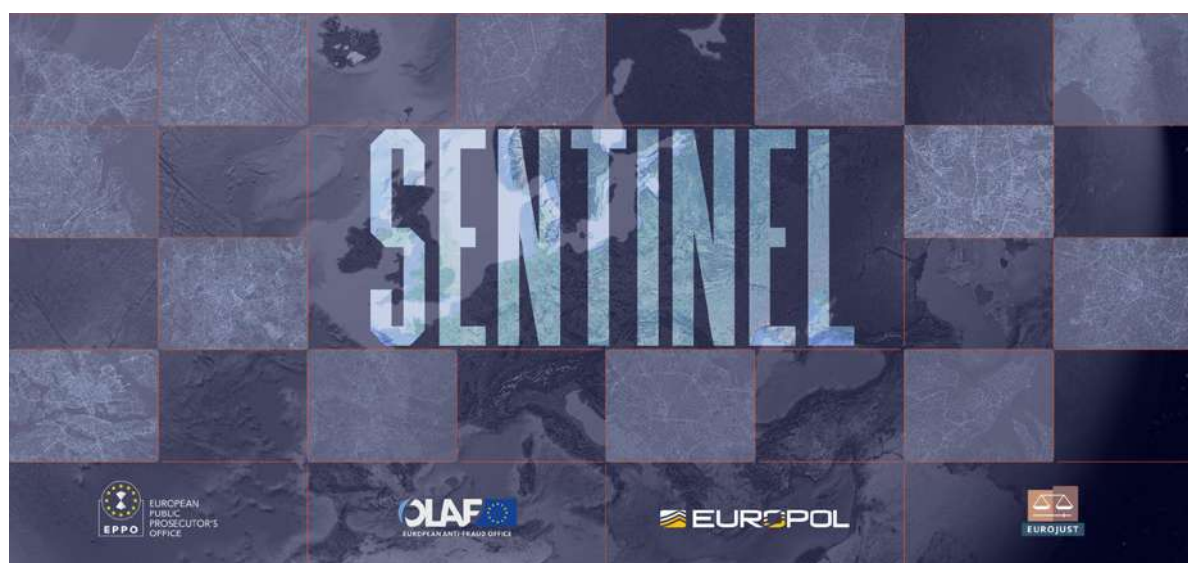
Members of the Committee on Budgetary Control visited OLAF in October 2021. The idea behind the visit was to explain to members of the committee what OLAF does and to discuss how its investigations work in practice. Notably, OLAF presented examples of cases involving both sides of the EU budget – expenditure and revenue – as well as how OLAF's data analysis and forensics activities can support the investigation of a case.

In addition, the Director-General of OLAF also regularly met members of the Parliament's committees on budgets; civil liberties, justice and home affairs; and regional development. He also met with working groups dealing with matters of interest to OLAF, such as the RRF or the rule of law.

TEAMING UP TO PROTECT THE EU'S RECOVERY FUNDS

OLAF will investigate fraud or attempted fraud against the RRF, as it does for other areas of EU funding. OLAF is already teaming up with national authorities to make sure that the RRF is effectively protected from fraud.

In addition, OLAF is continuing to participate in Europol's Operation Sentinel, which provides a forum for intelligence sharing, information exchange and coordination of operations concerning the dangers of infiltration of organised crime into the economy by



abusing the RRF. The operation involves the EPPO, Eurojust and 21 EU Member States (Belgium, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Finland and Sweden).

COOPERATION WITH EUROJUST

As a result of OLAF's cooperation with Eurojust, a new [Joint Investigation Teams \(JIT\) practical guide](#) was published in December 2021. The legal framework and applicable procedure for OLAF when participating in joint investigation teams are detailed in Section 3.3 of the new guide.

Extensive training was given to the Eurojust College ⁽⁴⁾ in July 2021. During this training, prosecutors from Eurojust had the chance to focus on practical examples of joint investigation teams with OLAF involvement and the role of the Eurojust liaison prosecutors. Presentations were also made on what and how OLAF investigates, data analysis in OLAF and the new OLAF Regulation.

5.2. Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products

The Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products is an international agreement aimed at significantly reducing the illicit tobacco trade worldwide.

OLAF represented the EU and the participating Member States at the second meeting of the parties to the convention, which took place in November 2021. During this meeting, the conclusions of two working groups (on tracking and tracing and on assistance and cooperation) were approved, and a new assistance strategy to support the implementation of the protocol was proposed. Moreover, all the parties involved agreed to continue working on a global information-sharing system.



⁽⁴⁾ The Eurojust College is formed of the national members, one from each of the EU Member States (with the exception of Denmark, which by virtue of Protocol No 22 is not bound by the [Eurojust Regulation](#)), who include judges, prosecutors and other judicial professionals of equivalent competence.



6. Monitoring the outcome and impact of OLAF's recommendations

When OLAF concludes an investigation, it often issues recommendations to the competent national and European authorities. OLAF invites these authorities to take action to redress the fraud, corruption or other illegal activity uncovered by the investigation. OLAF's recommendations are intended to protect the EU budget and to uphold the rule of law. They help to ensure that OLAF's investigations act as a deterrent to potential fraudsters.

More specifically, OLAF's recommendations aim to serve several purposes:

- ▶ **Financial** recommendations invite competent EU or national authorities to recover amounts that were unduly spent from – or, in customs matters, not duly collected for – the EU budget as a result of fraud or irregularities.
- ▶ **Judicial** recommendations invite a Member State's judicial authorities to start criminal prosecution.
- ▶ **Disciplinary** recommendations aim to sanction wrongdoing by EU staff or members of EU bodies.
- ▶ **Administrative** recommendations aim to set in train administrative measures other than, or going beyond, financial recovery or disciplinary action. With these recommendations, a *specific administrative action* can be suggested (e.g. excluding an entity from future EU funding, or performing an audit or administrative verification) or a *systemic weakness* can be addressed, in order to prevent future fraud or irregularities (e.g. by making a recommendation to improve financial procedures).

While OLAF has no powers to enforce its recommendations, recipients are obliged to report to OLAF on the action taken. OLAF systematically monitors this feedback. This monitoring helps to measure the success of OLAF's investigations, to evaluate the work of OLAF's partners and, most importantly, to highlight areas for improvement.

In order to anchor this essential function in OLAF's organisation and workflows even more firmly, OLAF's Director-General decided to create a dedicated monitoring and reporting unit in June 2021. The unit works closely with the monitoring network, which replaces the previous task force monitoring team and brings together a broad spectrum of skills and expertise from across OLAF with a view to streamlining the monitoring process, coordinating data collection and analysing monitoring results.

In 2021, in response to the Commission's initiative to reinforce follow-up on OLAF's recommendations, OLAF undertook two stocktaking exercises. In cooperation with the Commission's Directorate-General for Budget, OLAF examined how around 1 700 financial recommendations issued between 2012 and 2020 and approximately 200 administrative recommendations issued between 2016 and 2020 had been followed up. The stocktaking of administrative recommendations is still ongoing in 2022 and therefore the results of the monitoring of recommendations will be included in next year's OLAF annual report.

6.1. Financial monitoring

It is important for the EU to ensure that funding is spent correctly and for the benefit of all and to effectively recover any amount that may have been put to fraudulent use. This plays an important part in retaining the trust of citizens in the wider EU project.

The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that particular year. The amounts recommended for recovery are therefore not an indication of the overall level of fraud in Europe; rather, they relate to the specific investigations finalised by OLAF in that year.

Table 6 shows how these figures can fluctuate year on year. One or two very high-value cases in any particular year can lead to a significant increase in the amount recommended for recovery (as in 2017). At the same time, years in which there were a large number of recommendations do not necessarily have the highest amounts recommended for recovery.

The situation in 2020 demonstrates this: that year saw the highest number of recommendations in the past 5 years but with the lowest overall amount, due to a relatively low average value. In 2021, OLAF made recommendations covering the largest amount to be prevented from being unduly spent in the past 5 years.

OLAF has monitored follow-up on its financial recommendations for a number of years, focusing primarily on whether the recommendations are wholly or partially followed by the recipients (i.e. what amount, if any, the recipients have claimed from the debtors in question). In 2021, as in 2020, OLAF also monitored actual recoveries (i.e. if the amount recommended has been fully or partially recovered, which depends on decisions taken by the recipients of recommendations but also on debtors' ability and willingness to pay). Working with partners from across the European Commission, OLAF expects to further strengthen this monitoring in the future.

Table 6: Recommendations by OLAF for financial recovery, 2017–2021

	2017	2018	2019	2020	2021
Amounts recommended for recovery (€ million)	3 094.5	370.6	484.9	293.4	527.4
Amounts recommended to be prevented from being unduly spent (*) (€ million)	28.6	8.6	4.6	6.5	340.8
Number of financial recommendations issued	195	168	157	222	194

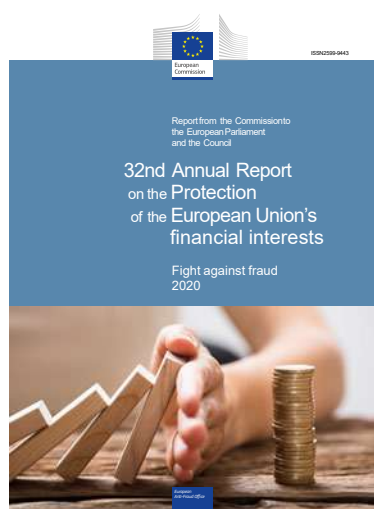
(*) In the area of expenditure, OLAF can recommend (to the entities concerned) either recovering EU funds already spent or refraining from spending EU funds in future. The latter category is referred to as 'amounts recommended to be prevented from being unduly spent'.



6.2. Financial impact of OLAF investigations on the overall detection of irregularities across Europe

Member States are responsible for most EU spending and they also manage the collection of EU customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and it supports them through an active exchange of information and through targeted training.

Under sectoral regulations, Member States have to report to the European Commission any irregularity or suspicion of fraud they detect exceeding €10 000. An analysis of this data is included in the Commission's annual report on the protection of the EU's financial interests (the so-called PIF Report).



As well as collecting data concerning Member States' detections of fraud, OLAF also gathers data on the number of investigations it has concluded and the financial recommendations that they have led to.

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States ⁽⁵⁾.

Table 7 shows the number of irregularities / fraud cases detected in the area of traditional own resources (TOR) between 2017 and 2021 and their financial impact as a percentage of the gross TOR collected by Member States and made available to the EU budget. OLAF's results are shown alongside those of national authorities.

Table 8 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management (European Structural and Investment Funds and Agriculture and Rural Development Funds) between 2017 and 2021 and their financial impact expressed as a percentage of total payments, by Member State. OLAF's results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations make in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent.

In terms of TOR, OLAF financial recommendations represent 1.40 % of the gross TOR collected for the EU-27, compared with 1.71 % for fraud detected by all the Member States together. When the United Kingdom is also taken into account, OLAF's recommendations represent 2.87 % against 1.83 % for the EU-28. This means that, for this period, OLAF's financial recommendations have almost matched the entire financial impact of the investigative and control activities of the Member States and have exceeded it if the United Kingdom is taken into account. The OLAF results are significantly influenced by the conclusion of a string of investigations linked to the undervaluation of imported goods. These results also highlight OLAF's commitment to using resources effectively and concentrating on cases where its input will create most added value.

OLAF results are significant also in the shared management areas, where the financial impact of the activities of all Member States together amounts to 1.50 % of payments (for the EU-27), while OLAF alone recommended the recovery of an amount representing 0.25 % of payments. In this area, OLAF's financial recommendations represent 14–17 % of the entire impact of investigative and control activities. There are countries where the financial impact of OLAF cases is particularly significant and, at times, even greater than that of national investigations.

⁽⁵⁾ The amount of financial recommendations is calculated as the sum of the amount recommended to be recovered and the amount recommended to be prevented from being unduly spent.

Table 7: Member State and OLAF detection of irregularities and their financial impact in the area of TOR, 2017–2021

Traditional Own Resources (TOR) 2017-2021				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % of TOR collected
	N	%	N	%
Austria	241	1.18%	7	0.52%
Belgium	1,511	1.38%	32	0.53%
Bulgaria	38	1.07%	8	1.04%
Croatia	48	1.13%	14	0.26%
Cyprus	6	0.03%	6	0.33%
Czechia	359	1.46%	19	1.08%
Denmark	342	1.03%	17	0.25%
Estonia	25	1.02%	4	0.12%
Finland	198	3.10%	5	0.04%
France	1,224	1.08%	20	0.31%
Germany	6,724	2.19%	42	0.13%
Greece	172	1.86%	16	16.96%
Hungary	184	2.10%	10	21.59%
Ireland	123	0.62%	7	0.11%
Italy	500	0.51%	34	0.39%
Latvia	97	2.23%	7	0.20%
Lithuania	188	2.47%	8	0.08%
Luxembourg	8	0.27%	1	0.01%
Malta	3	0.22%	3	0.58%
Netherlands	2,252	2.83%	46	2.16%
Poland	516	0.76%	27	0.29%
Portugal	96	1.37%	12	0.13%
Romania	187	1.21%	21	0.43%
Slovakia	39	0.28%	6	42.79%
Slovenia	56	1.46%	16	0.76%
Spain	1,611	2.24%	35	0.78%
Sweden	855	1.41%	18	0.17%
EU27	17,603	1.71%	441	1.40%
United Kingdom	3,431	2.65%	33	12.76%
EU28	21,034	1.83%	474	2.87%



Table 8: Member State and OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and agriculture and rural development funds, 2017–2021

Shared Management: Cohesion and Natural Resources 2017-2021				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	118	0.15%	2	0.02%
Belgium	208	0.27%	1	0.06%
Bulgaria	1,311	1.82%	21	0.93%
Croatia	364	0.61%	3	0.13%
Cyprus	46	0.47%	1	0.26%
Czech Republic	1,429	1.20%	9	0.11%
Denmark	112	0.19%	1	0.01%
Estonia	459	1.18%	3	0.00%
Finland	111	0.07%	0	0.00%
France	1,229	0.15%	9	0.01%
Germany	822	0.15%	2	0.38%
Greece	1,879	1.97%	16	0.05%
Hungary	1,993	1.26%	26	0.69%
Ireland	105	0.07%	0	0.00%
Italy	3,369	0.83%	23	0.96%
Latvia	253	1.04%	2	0.09%
Lithuania	916	0.81%	1	0.05%
Luxembourg	3	0.02%	0	0.00%
Malta	56	0.90%	0	0.00%
Netherlands	236	0.28%	0	0.00%
Poland	4,039	1.09%	24	0.09%
Portugal	2,318	1.25%	12	0.42%
Romania	3,738	8.03%	24	0.30%
Slovakia	1,039	15.41%	14	0.37%
Slovenia	150	0.28%	0	0.00%
Spain	3,178	0.98%	8	0.01%
Sweden	82	0.17%	1	0.02%
EU27	29,563	1.50%	203	0.25%
United Kingdom	1,937	0.26%	6	0.03%
EU28	31,500	1.45%	209	0.24%

6.3. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcome of its cases on the ground – indictments, dismissals or other judicial measures.

The arrival of the EPPO marks an important milestone in this respect. The EPPO is able to directly investigate and bring to court criminals responsible for damaging the EU's financial interests, as well as ensuring that the necessary steps are taken for the recovery of EU funds, when possible. In this context, the EPPO is responsible for direct follow-up on OLAF cases, when it has the authority required.

Under EU law, when requested by OLAF, national judicial authorities must send the office information on any action taken on the basis of its judicial recommendations. An analysis of the figures shows that, for OLAF recommendations issued between 2017 and 2021, around 35 % of the cases that OLAF has transmitted to national judicial authorities and on which those authorities have already taken a decision have led to indictments (Table 9).

Member States' judicial authorities are independent and are under no obligation to follow OLAF's recommendations. Nonetheless, OLAF continues to

work to better understand why some national judiciaries dismiss a considerable number of the cases it transmits to them.

There are a number of reasons why a recommendation may be dismissed. Sometimes this relates to differences in interpretation of EU and national law between OLAF and national authorities. In other cases, national prosecutors may deem the evidence of criminal wrongdoing to be insufficient. Indeed, despite OLAF's considerable investigative efforts, its limited investigative powers and practical constraints mean that conclusive evidence of a criminal offence cannot always be collected.

OLAF's primary mission is protecting the EU's financial interests, not criminal prosecution. However, where an OLAF investigation finds sufficient grounds for suspecting a criminal offence, national authorities may investigate further, which can then lead to an indictment or to the dismissal of the case.

In order to address these issues and to improve follow-up at national level, OLAF liaises with Member States on a continuous basis, often before an investigation is closed.





Table 9: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued 2017-2021

Member State	No decision taken by JA	Decision taken by JA			Indictment rate (%)
		Total	Dismissed	Indictment	
Austria	0	3	1	2	67
Belgium	12	15	9	6	40
Bulgaria	13	4	3	1	25
Croatia	3	3	1	2	67
Cyprus	2	0	0	0	NA
Czechia	3	7	6	1	14
Denmark	2	1	0	1	100
Estonia	1	0	0	0	NA
Finland	1	0	0	0	NA
France	13	3	2	1	33
Germany	6	8	7	1	13
Greece	9	11	6	5	45
Hungary	12	6	2	4	67
Ireland	3	0	0	0	NA
Italy	19	21	10	11	52
Latvia	3	1	1	0	0
Lithuania	2	1	1	0	0
Luxembourg	4	0	0	0	NA
Malta	1	0	0	0	NA
Netherlands	8	6	6	0	0
Poland	8	10	7	3	30
Portugal	7	1	1	0	0
Romania	12	19	11	8	42
Slovakia	9	5	3	2	40
Slovenia	4	1	1	0	0
Spain	16	5	5	0	0
Sweden	2	2	2	0	0
United Kingdom	8	8	7	1	13
Total	183	141	92	49	35

6.4. Disciplinary monitoring

The disciplinary recommendations issued by OLAF concern serious misconduct of EU staff or members of the EU institutions and other EU bodies. They are directed at the authority having disciplinary powers in the institution or body concerned. When making such recommendations, OLAF does not specify the type of action that should be taken. The disciplinary

authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the disciplinary authority may consider several recommendations resulting from different investigations and, subsequently, impose one single sanction.

Table 10: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued 2017-2021

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Agencies	9	2	2	5
Committee of the Regions	2	1	0	1
Council of the European Union	2	0	0	2
EULEX	1	0	1	0
Eurojust	1	0	0	1
European Central Bank	1	1	0	0
European Commission	23	9	5	9
European Court of Auditors	2	0	1	1
European Court of Justice	1	0	0	1
European Economic and Social Committee	3	1	1	1
European External Action Service	6	1	2	3
European Investment Bank	12	9	0	3
European Parliament	34	9	6	19
Total	97	33	18	46

NB: EULEX, European Union Rule of Law Mission in Kosovo



7. Policies to fight fraud

7.1. OLAF's contribution to the European Commission's political priorities

In 2021, OLAF continued to contribute to the top political priorities of the EU by providing anti-fraud advice to the relevant Commission departments and to the national authorities to help them to prepare the control chapters of their recovery and resilience plans. Given the urgent need for financial support, prevention of irregularities and fraud is crucial to make sure that the money is available quickly where it is needed. OLAF will continue to work in close cooperation with the national authorities to support them in their efforts to prevent fraud.

The Commission's RRF is a game-changer that will see over EUR 720 billion being made available to Member States to help them recover from the pandemic and to support resilience. In an increasingly fraught world, the RRF will offer a way to mitigate the damage that has been wrought by the virus and other crises. That funding is there to help the EU recover after a huge shock. OLAF is playing a crucial part in protecting that transformational funding by distilling the vast expertise that it has gained over many years and sharing it in order to help protect the future.

The new design and delivery model of the RRF means that Member States play an important role in the prevention and early detection of fraud. Given its experience and expertise in this area, OLAF is working closely with Member States to develop anti-fraud measures to protect the RRF.

In practice, this has meant participating in the development of the anti-fraud provisions included in the legal act that created the RRF. OLAF also took part in screening the national plans submitted by the Member States to assess whether the requirements on control and anti-fraud measures were met.

OLAF paid particular attention to the control and audit mechanisms, which are the direct responsibility of Member States, to make sure that they were robust enough to ensure sound financial management and

prevent fraud. OLAF found that many Member States had a lot of experience in doing this and had existing structures already in place. However, OLAF was able to advise on where these existing structures could be strengthened in order to make them more effective.

The development of the RRF risk framework

The aim of the RRF is to mitigate the economic and social impact of the COVID-19 pandemic and make European economies and societies more sustainable, more resilient and better prepared for the challenges and opportunities of the green and digital transitions.

One of the key pieces of work that OLAF undertook during 2021 was to help develop a risk framework for Member States to help them to guard against fraud during the implementation of the RRF. OLAF shared its knowledge and experience on serious irregularities (i.e. fraud, corruption and conflict of interest) that could affect the RRF. It developed a fraud risk framework and provided training to national authorities on how to develop and update their own fraud risk assessments. It also briefed audit bodies on the role that they can play in preventing and detecting fraud.

OLAF also advised Member States to update or create national anti-fraud strategies to take into account the risks linked to the new RRF. This will help to introduce additional safeguards covering the RRF and determine the anti-fraud actions to be taken in the near future.

Risks relate both to the achievement of the targets and to wider compliance with EU and national law, and in particular with sound financial management, preventing fraud, corruption, conflict of interest and double funding.

7.2. Commission anti-fraud strategy

OLAF coordinates the implementation of the Commission anti-fraud strategy, adopted in April 2019, and develops fraud risk analysis and anti-fraud policy measures to support Commission services. The anti-fraud strategy seeks to further improve the detection, sanctioning and prevention of fraud and to support the Commission's ongoing efforts to decrease the level of fraud against the EU budget.

The strategy promotes greater consistency and better coordination in the fight against fraud among Commission services and paves the way for evidence-based anti-fraud measures. It is accompanied by an action plan with 63 actions to be implemented by OLAF and Commission services. Good progress has been achieved: 47 of the 63 actions had been completed by November 2021. OLAF expects the great majority of the remaining actions to be completed by mid 2022 ⁽⁶⁾.

7.3. Support for Member States' anti-fraud actions

In 2021, OLAF implemented in parallel two EU funding programmes. On the one hand, projects financed under the Hercule III programme, which continued beyond its planned expiry in 2020, and, on the other, the first yearly cycle of the new Union Anti-Fraud Programme (UAFP).

The Hercule III programme financed projects designed to protect the EU's financial interests during 2014–2020. It had a budget of more than €100 million, which was used primarily to support the work of national and regional authorities in Member States, such as customs or law enforcement agencies. Due to the pandemic, many events planned for 2020 were postponed until at least 2021.

With the end of the Hercule III programme, the Commission, with OLAF as lead service, conducted a final evaluation of the performance of the programme. The evaluation looked at the relevance, effectiveness, efficiency, coherence and added value of the programme and at the sustainability of its results in the longer term. The concluding report with an accompanying staff working document was presented to the European Parliament and the Council of the European Union in December 2021. The evaluation concluded that, overall, the strategic objectives of the Hercule III programme had been fully met.

Replacing the Hercule III programme, the UAFP was established in 2021 ⁽⁷⁾. It runs for the 7 years of the current EU budget framework, until 2027. The UAFP focuses more on (1) the expenditure side of the budget, considering the new forms of EU expenditure, and (2) new trends in crime, including cybercrime. The UAFP also takes into account the new Customs Control Equipment Instrument, specifically supporting customs authorities.

⁽⁶⁾ December 2021 was, in principle, the due date for completing all actions included in the plan. By March 2022, 57 actions had been completed. According to OLAF's forecast, only very few actions will be partially completed or still ongoing by mid 2022, sometimes for reasons beyond the control of the Commission. OLAF and the Commission services are currently reflecting on the next steps to be taken to further reinforce the fight against fraud in the Commission in the framework of its anti-fraud strategy.

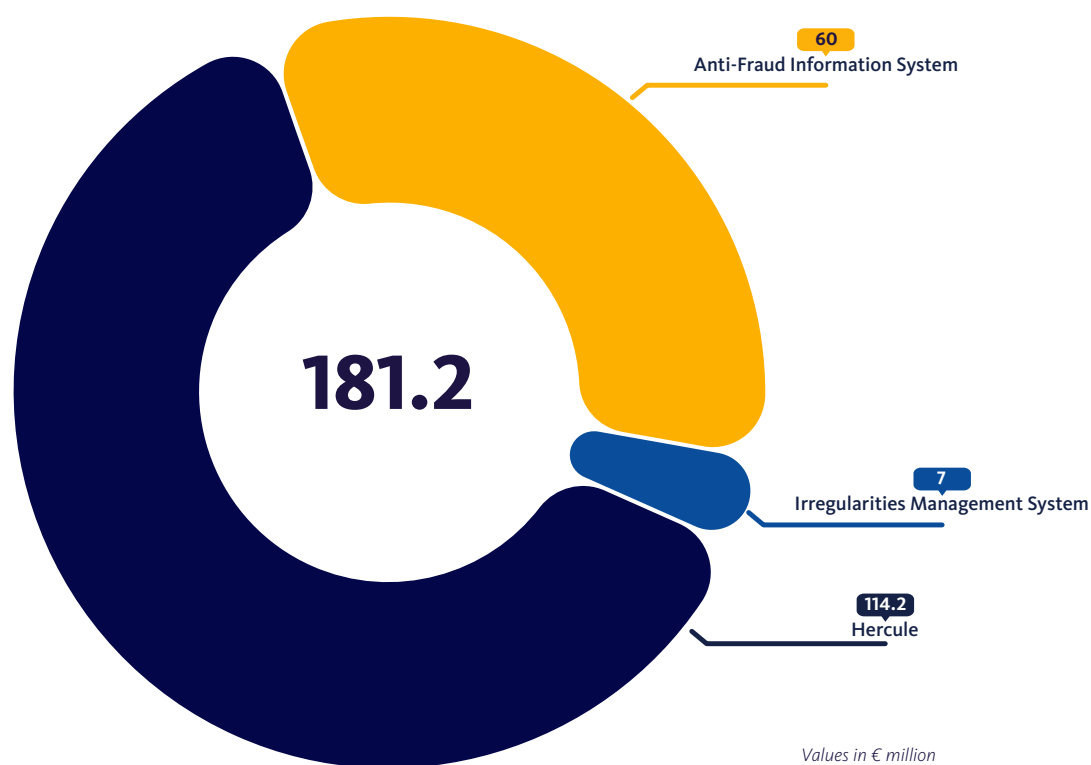
⁽⁷⁾ Regulation (EU) 2021/785 of the European Parliament and of the Council of 29 April 2021 establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/2014, OJ L 172, 17.5.2021, p. 110.



The Hercule component of the UAFP (with a budget of €114.2 million) is intended to support the protection of the EU's financial interests and strengthen cooperation and assistance between national authorities. In addition, the new UAFP funds two other activities operated by the European Commission: the Anti-Fraud Information System (with a budget of €60 million) and the Irregularities Management System (with a budget of €7 million).

The Anti-fraud Information System helps the customs authorities in each EU country in their joint efforts to prevent and detect customs fraud. The Irregularities Management System is an online platform that Member States can use to report suspected irregularities or fraud that could have an impact on the EU budget.

Figure 15: Union Anti-Fraud Programme



8. Communication

OLAF's communication in 2021 focused on its unique and vital role in helping keep European citizens safe and healthy, defending the money of European taxpayers from fraud and making sure EU funding reaches the people and projects it was intended for.

OLAF supported journalists in reporting on its investigative achievements, such as complex cross-border fraud schemes, evasion of customs duties by highly organised criminal groups and operations against smuggling of counterfeit, illicit and dangerous products. This included cases involving harm to the environment and Europe's green ambitions, such as those related to trade in illicit refrigerant gases or illegal pesticides and waste trafficking.

As the pandemic continued to dominate the news throughout 2021, OLAF's role in ensuring the safety of citizens – for example by stopping shipments of fake or substandard masks and sanitising gels – was also highlighted in the Office's communication. OLAF's work on fraudulent offers of vaccines against COVID-19 to national authorities in the EU therefore attracted attention during the first half of 2021. The protection of future funding to be provided for the EU's recovery from the COVID-19 crisis and cooperation with the newly created EPPO also generated much media interest, especially during the second half of 2021.

As it does every year, OLAF published its annual report on its activities of the previous year. In June 2021, OLAF's senior management presented the OLAF Report 2020 at a fully interactive virtual press conference, which allowed journalists to connect and ask questions online.

The report was also presented to several stakeholders, such as representatives of the EU institutions and civil society, in September 2021.

The general increase in awareness of and interest in OLAF's work was also reflected in the growth of the Office's Twitter account (renamed [@EUAntiFraud](#) in 2021), which saw a 30 % increase in its number of followers in 2021. Moreover, a dedicated OLAF LinkedIn page was created in 2021, which attracted about 1 800 subscribers in its first year of existence.

In 2021, OLAF organised its second Anti-Corruption Conference, entitled 'United against corruption – upholding the ethical standards of the EU institutions', bringing together high-level speakers and hundreds of representatives of EU institutions.

OLAF also set up an online outreach campaign encouraging the reporting of fraud and irregularities, organising seven webinars addressed to staff in the EU delegations around the world and EU officials based in Brussels who work on the EU's external action.

OLAF continued to develop its communication activities with international partners, for example through shared press/news items and social media posts with international bodies such as Europol and Eurojust, as well as through a virtual meeting of the [OLAF Anti-Fraud Communicators' Network \(OAFCN\)](#), which brings together communicators from national anti-fraud agencies, customs services and other relevant administrations.





9. The Supervisory Committee of OLAF

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of its investigative function. The committee's members are appointed by common agreement of the European Parliament, the Council and the Commission.

The members of the Supervisory Committee in 2021 were Mr Jan Mulder, Ms Maria Helena Pereira Loureiro Correia Fazenda, Ms Dobrinka Mihaylova, Ms Grażyna Stronikowska and Mr Rafael Muñoz.

The Director-General of OLAF keeps the committee regularly informed about the activities of the office, the implementation of OLAF's investigative function and follow-up on investigations.

On 21 October 2021, the Director-General of OLAF and the Chair of the Supervisory Committee formally signed new working arrangements. The signature of the working arrangements has begun a new chapter in the relations between the two bodies, which will continue to cooperate in pursuit of their shared objectives.



In 2021, the committee received 761 documents with information on investigations lasting for more than 12 months. In addition, the committee and its secretariat were given direct access to all 1 059 cases in OLAF's case management system, meeting the conditions of the new working arrangements.

On the basis of the information provided by OLAF, the committee delivers opinions to the Director-General of OLAF and reports to the EU institutions. In 2021, the committee delivered five opinions:

- ▶ Opinion No 1/2021 on OLAF's recommendations not followed by the relevant authorities,
- ▶ Opinion No 2/2021 on working arrangements between OLAF and the EPPO,
- ▶ Opinion No 3/2021 on supervision of OLAF internal investigations – strategic conclusions and best practices,
- ▶ Opinion No 4/2021 on OLAF's preliminary draft budget for 2022,
- ▶ Opinion No 5/2021 on analysis of OLAF's investigations lasting for more than 36 months in 2019.

In its opinions, the committee issues recommendations to the Director-General of OLAF. OLAF reports annually to the committee on the state of implementation of these recommendations. In its [report on the implementation of the committee's recommendations for 2021](#), OLAF assessed the majority of the recommendations as implemented or ongoing.

Details of the committee's work can be found in its annual activity reports. These [reports and other relevant information](#) are publicly available on the OLAF website.

10. Data protection and complaints

10.1. Data protection

The protection of personal data has always been a high priority for OLAF, which continues to work hard to ensure that it meets all the requirements set out in EU law, including the decisions and recommendations of the European Data Protection Supervisor. These have a significant impact on how OLAF carries out its investigative activities, including on-the-spot checks and the forensic examination of digital media.

OLAF has its own data protection officer and applies the highest data protection standards in accordance with Regulation (EU) 2018/1725 ⁽⁸⁾ and Commission Decision (EU) 2018/1962 ⁽⁹⁾.

The decision sets out how OLAF informs data subjects of any activity involving the processing of their personal data and how it handles their rights in relation to access, rectification, erasure, restriction of processing and communication of a personal data breach. In November 2021, the Director-General adopted, in accordance with Article 17(8) of Regulation (EU, Euratom) No 883/2013, [OLAF guidelines on data protection for investigative activities](#), available on the OLAF website.

OLAF staff were provided in 2021 with regular data protection training in accordance with their tasks, thus maintaining a high level of awareness and ensuring consistent compliance with the rules in place.

Throughout the year, OLAF received and handled, in a timely manner, 10 requests from data subjects.

⁽⁸⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

⁽⁹⁾ Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council, OJ L 315, 12.12.2018, p. 41.

Six requests related to access to personal data; one request was for access combined with rectification and an objection to processing of personal data; two requests were for erasure combined with restriction of processing; and one request was for restriction of processing. Another request for access to personal data was still pending at the end of 2021. In 2021, two complaints were filed against OLAF with the European Data Protection Supervisor.

10.2. Complaints

In the past, persons affected by an OLAF investigation could address complaints directly to the Director-General of OLAF. This was without prejudice to their right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the EU or national courts.

Regulation (EU, Euratom) 2020/2223 ⁽¹⁰⁾, which amended Regulation (EU, Euratom) No 883/2013, establishes a Controller of Procedural Guarantees and a new complaints mechanism. Under the rules of the complaints mechanism, the controller is in charge of complaints lodged by persons concerned in OLAF's investigations regarding the Office's compliance with procedural guarantees and rules governing the conduct of its investigations. The new complaints mechanism is without prejudice to the means of redress available under the Treaties, including actions relating to compensation for damage.

Until the appointment of the Controller of Procedural Guarantees, OLAF offered to complainants two options: (1) to suspend the treatment of the complaint until the Controller is appointed, (2) to expressly and unconditionally waive their right for the complaint to be dealt with under the new rules, receiving only a response under the OLAF complaints procedure.

⁽¹⁰⁾ Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations, OJ L 437, 28.12.2020, p. 49.



In 2021, OLAF received six complaints from persons concerned in its investigations that fell within the remit of the Controller. One complainant chose for OLAF to deal with the complaint, whereas the Controller will handle the other five complaints.

10.3. European Ombudsman

The European Ombudsman opened six inquiries concerning OLAF in 2021.

Two of the inquiries concerned OLAF's lack of a timely reply to citizens' requests. OLAF eventually replied to the citizens' requests and the Ombudsman closed both inquiries, concluding that OLAF had settled the matter.

A third inquiry concerned how OLAF had conducted an investigation into alleged fraud and how it dealt with two related complaints by the persons concerned. The Ombudsman found no procedural errors, misuse of discretion or manifest error of assessment in OLAF's investigation and judged that OLAF's reply to the complaints had been adequate. The Ombudsman concluded that there had been no maladministration on the part of OLAF.

Two other inquiries were opened in 2021 concerning requests for public access to OLAF documents. The Ombudsman closed one inquiry by finding that there had been no maladministration on the part of OLAF when it refused to grant public access to the requested document. In the other case, the Ombudsman considered that no further enquiries were necessary.

The Ombudsman also dealt with a sixth case concerning an OLAF decision not to open an investigation and concluded that there had been no maladministration on the part of OLAF.

Finally, in 2021 the Ombudsman discontinued an inquiry that had been opened in 2020, which concerned how OLAF had investigated suspected evasion of anti-dumping duties.

10.4. Relevant case law

During 2021, the Court of Justice of the European Union handed down three decisions of particular relevance to OLAF.

The first case related to a former member of the Court of Auditors who, whilst he was in office, had been investigated by OLAF concerning allegations of serious irregularities in connection with missions he had undertaken and possible insurance fraud (*European Court of Auditors v Pinxten*, case C-130/19). Following OLAF's final report, which found the existence of possible fraud and recommended a criminal, financial and disciplinary follow-up, the Court of Auditors began proceedings before the Court of Justice to declare that the former member had failed to comply with his obligations as a member of the institution and to impose an appropriate sanction.

The Court of Justice, sitting as a full court, found that the former member had breached his obligations and deprived him of two-thirds of his pension rights. In its judgment of 30 September 2021, the Court rejected the former member's arguments concerning the legality of OLAF's investigation. It stated, in particular, that in a case where OLAF discovers, during an inspection, evidence of illegal activities of which it was not aware previously, it may extend the scope of its investigation to cover these new matters if they are sufficiently related to the ongoing investigation or, if not, open a new investigation. In addition, the Court confirmed that OLAF may, during an inspection, have access to and, if necessary, take copies of documents contained in a file marked 'private' where those documents concern the suspected illegal activities in question.

The second case concerned an individual who brought an action for damages against the Commission after he had been cleared of wrongdoing by a French court in the context of the criminal follow-up of OLAF's recommendations in an internal investigation relating to allegations of wrongdoing in Eurostat. Although the individual had not been considered by

OLAF a person concerned in its investigation, the French authorities nevertheless decided to charge him, along with other Eurostat officials, with having misappropriated funds from the EU budget. The case was dismissed by the French first instance court in 2013, and appeals made by the Commission before the higher courts were rejected.

The applicant sought more than €1 million in damages for the harm that he considered he had suffered at the hands of OLAF and the Commission, notably by reason of OLAF's failure to offer him the opportunity to comment before concluding its investigation. He succeeded in his case before the General Court, but this was overturned on appeal before the Court of Justice.

In its judgment of 10 June 2021 (*Commission v De Esteban Alonso*, case C-591/19 P), the Court of Justice clarified that OLAF has to offer an EU official the opportunity to comment where the person is referred to by name in the investigation or is implicated in the facts under investigation. In order to determine whether a person is implicated, the Court specified that account must be taken of only information that existed at the time of the investigation. It was therefore not possible to consider the applicant implicated based on the findings in the later French investigation. Similarly, an official cannot be considered implicated simply because he or she holds a senior position in the organisation and was close in the managerial structure to two persons suspected of involvement. On this basis, the Court of Justice concluded that OLAF had validly considered the applicant not implicated in the facts and was therefore justified in not offering him the opportunity to comment.

The third case also relates to an action for damages, this time brought by a legal person that, following an investigation by OLAF, was excluded by the contracting authority from a consortium awarded an EU-funded project. As part of its investigation, OLAF carried out an on-the-spot check at the premises of the applicant, during which OLAF made digital forensic images of the applicant's hard disks before

putting an end to the on-the-spot check when the applicant refused to provide certain information. In its action, the applicant claimed, in particular, that OLAF's power to access information under Article 7(1) of Council Regulation (Euratom, EC) No 2185/96⁽¹⁾ is limited to data connected with the matter under investigation and that OLAF had breached this provision by seeking to collect documents that, in the applicant's view, were unnecessary for the proper conduct of the on-the-spot check.

The applicant's case having been rejected by the General Court, it appealed to the Court of Justice (case C-650/19 P, *Vialto Consulting v Commission*). In its judgment of 28 October 2021, the Court of Justice interpreted Article 7(1) of Council Regulation (Euratom, EC) No 2185/96 as conferring on OLAF a right of access, under the same conditions as national administrative inspectors, to all information, including computer data, necessary for the proper conduct of an on-the-spot check. OLAF may also use the same physical inspection techniques as national inspectors, including making copies of the relevant material. In this regard, the Court clarified that the creation of a digital forensic image of computer data does not amount to making a copy of those data within the meaning of the said Article 7(1). In fact, the forensic image constitutes an intermediate step in the examination of the data by OLAF, which precedes the identification by the investigator of those documents that he or she considers relevant to make copies of for the purposes of the investigation. OLAF's actions during the on-the-spot check at the applicant's premises did not therefore constitute a violation of Council Regulation (Euratom, EC) No 2185/96.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, OJ L 292, 15.11.1996, p. 2.



11. Staff and budget

Ensuring the adaptation of OLAF to the new reality that followed the commencement of operations of the EPPO was the number one priority together with the well-being of all OLAF staff, from officials to service providers.

The COVID-19 pandemic continued to have an impact on human resources in 2021. The remediation measures put in place and the commitment, adaptability and output of OLAF staff have been exemplary.

All the necessary procedures and protocols adopted by the Commission to keep staff safe when working in the office were put into place swiftly and effectively.

They were adapted throughout the year as the situation evolved.

Events and training related to the core business continued in a virtual format while all team-building and other morale-boosting events (i.e. Away Days, sports events etc.) were cancelled. Hybrid working methods ensured business continuity at the same time as minimising health risks. Business travel was permitted for investigators and other operational staff, so that OLAF could continue to carry out all essential on-the-spot activities and investigations.

OLAF reorganisation for optimal coordination with the EPPO

A minor reorganisation of OLAF took place in June 2021 in parallel to the commencement of operations by the EPPO. The reorganisation was designed to ensure an optimal coordination with the EPPO, easing the potential transfer of cases, exchange of information and cooperation with OLAF's new partner.

The reorganisation took place amidst pandemic conditions, with very limited access to the OLAF premises, but has proved successful, and has been widely welcomed by OLAF staff and management. Some adjustments have been made so that both the EPPO and OLAF could reach full cruising speed.

The creation of the EPPO also had an impact on OLAF staff numbers, with several posts transferred from OLAF to the EPPO over the course of the past few years, including 10 posts

in 2021. Two additional posts were transferred from OLAF to other departments of the European Commission. The gradual handover of posts to the EPPO will end only in 2023, with the transfer of 16 further posts. The challenge for OLAF will be to maintain its high level of performance despite fewer resources and increasing workload, while at the same time supporting the work of the EPPO, which has begun its own investigations.

The vacancy rate increased at the end of 2021 to 8.3 % (compared with 3.9 % at the end of 2020) mainly because of the vacant posts set aside to meet the scheduled staff reductions, the transfer of posts to the EPPO in 2022 and the vacancies for management positions. However, after taking out the posts left vacant for the aforementioned reasons, the real vacancy rate would fall to 4.5 %.

CHALLENGES AHEAD

In 2021, OLAF continued to invest in the professional development of its staff, with a broad offer of learning and development programmes. Despite the lockdown linked to the COVID-19 pandemic, 119 training sessions were provided to OLAF staff in 2021, including specialised training for OLAF investigators, forensic experts and analysts, general training courses for all OLAF staff and sessions run by other European Commission departments and services, other EU institutions and other EU or national public or private bodies. OLAF supported its managers with specialised external training, coaching and support.

Further recruitment and training are expected to be completed during 2022 and 2023 to support OLAF, in particular through specialised EPSO competitions and the recruitment of senior and middle managers. Classroom and online training (be it investigative or other types of specialised training) as well as group and individual coaching will also be organised in accordance with OLAF's needs. The traditional offer of career guidance, welcome sessions for newcomers, training for OLAF senior and middle managers, and training on change management will also continue.

OLAF is constantly adapting to reflect the reallocation of resources, the new domains of activity and the reality of transnational fraudsters' activities.

DIVERSITY AND INCLUSION IN OLAF

The share of women in middle management positions in OLAF continued to improve in 2021, with 44 % of all middle management posts held by women, compared with just 10.5 % in 2013.

Despite its independent investigative status, OLAF remains part of the European Commission, and an increase in staff mobility within the Commission meant that the overall share of women working for OLAF increased from 41.2 % in 2020 to 42 % in 2021. This remains above the overall Commission target of 40 %. OLAF's own target of at least one woman appointed to a first middle management post for 2020–2022 was met in 2021.

OLAF has full parity at senior management level, with 50 % of senior managers being female.



Two OLAF staff members took part in the 2021 Commission Female Talent Development Programme and 11 were enrolled in the newly created OLAF Female Talent Development Programme, fully designed and managed by OLAF.

OLAF remains committed to building a diverse and inclusive working environment, in line with the overall priorities of the European Commission. In February 2021, OLAF organised an Open Council – an interactive debate with all OLAF staff members – dedicated to equality, diversity and inclusion. The debate was followed by the preparation of an OLAF action plan on equality, the creation of the OLAF Equality Network in June 2021 and the creation of an OLAF Charter on Equality, Diversity and Inclusion (due for consultation among OLAF staff in the course of 2022).

In addition, OLAF has promoted staff awareness on these issues through the publication of news on equality and inclusive communication, as well as basic training on unconscious bias, diversity, inclusion, respect, dignity and accessibility via its local intranet.

Recruitments in 2021**18** officials**5** temporary agents**3** contract agents**5** seconded national experts**Departures in 2021****30** officials**10** temporary agents**5** contract agents**10** seconded national experts**Table 11: Number and breakdown of OLAF staff from 2015 to 2021**

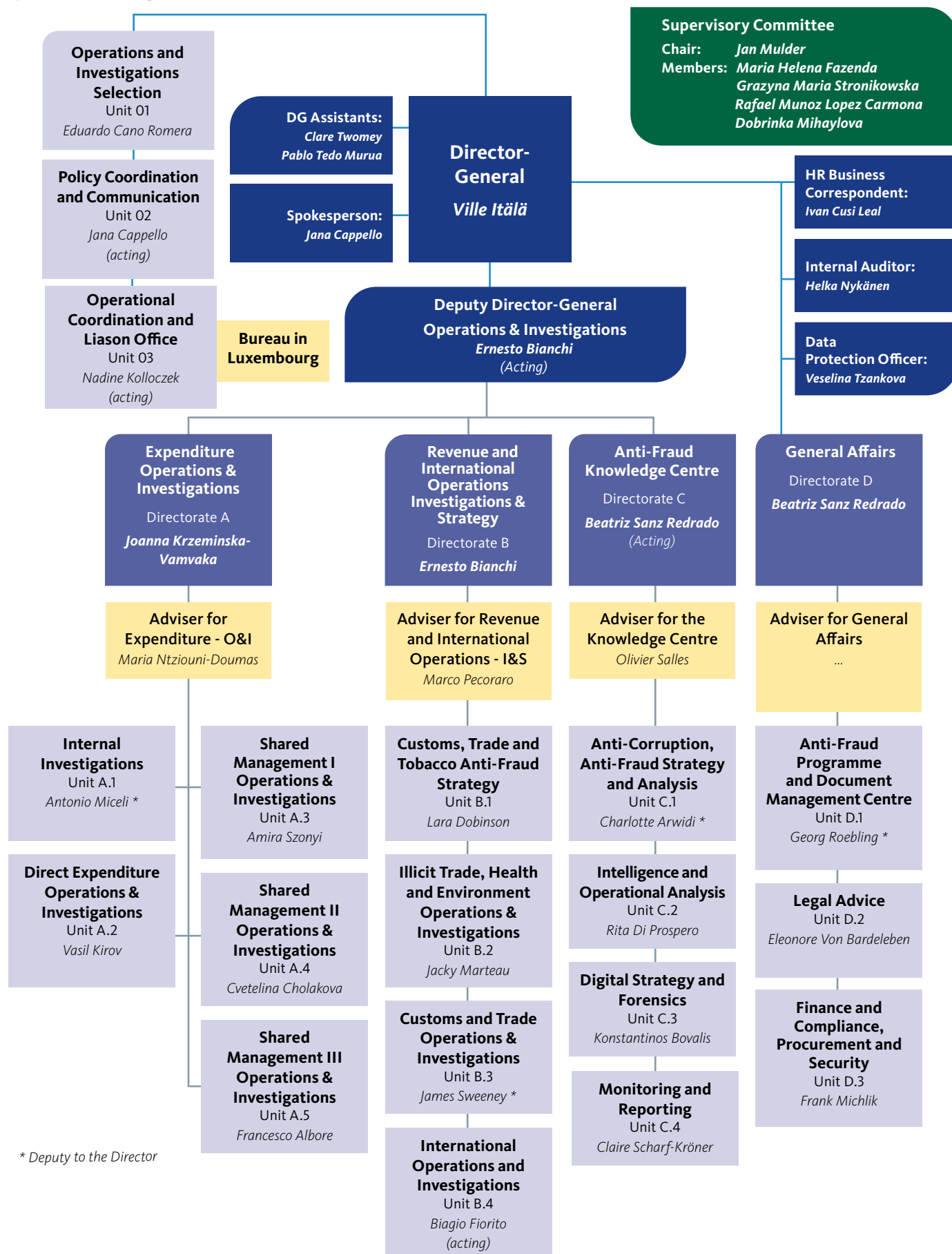
	2015	2016	2017	2018	2019	2020	2021
Establishment posts occupied	356	336	318	318	329	323	304
Establishment posts vacant	11	24	32	27	17	13	20*
External staff	55	55	55	44	47	43	47
Total	422	415	405	389	393	379	371

(*) There are 8 frozen vacant posts to be transferred to the EPPO and to the Commission on 1 January 2022 (6 for the EPPO, 1 for synergies and efficiencies (see Commission communication – The synergies and efficiencies initiative: Stock-taking and way forward, C(2019) 2329 final, 26 March 2019), 1 surcharge (post not included in OLAF's establishment plan)).

Table 12: OLAF's administrative budget in 2021 (€ million)

EU staff	43.2
Infrastructure	7.1
IT	5.9
External agents (contract staff, seconded national experts and interims)	2.3
Missions	1.3
Anti-fraud measures	0.8
Training, meetings and committees	0.4
Total	61

Figure 16: OLAF organisation chart (status: 31 December 2021)





12. Statistical annex: additional data on OLAF's investigative activity

Table 13: OLAF's investigative performance in 2021

	2017	2018	2019	2020	2021
Incoming information	1 295	1 211	1 095	1 097	1 122
Investigations opened/reclassified/split	215	219	223	290	234
EPPO support cases opened					8
Investigations merged/concluded	197	167	181	230	212
Investigations closed and sent to the EPPO					20
Recommendations issued	309	256	254	375	294

Table 14: Selections completed and their duration

	2017	2018	2019	2020	2021
Selections completed	1 111	1 259	1 174	1 098	1 110
Average duration (in months) of selection phase	2.4	2.6	2.3	1.7	1.9

Table 15: Average duration of closed investigations (months)

	2017	2018	2019	2020	2021
Average duration of investigation	21.9	23.1	24.3	24.3	25.2
Average duration of selection corresponding to these cases	1.7	1.9	2.0	2.4	2.1
Total average duration of cases	23.6	25.0	26.3	26.7	27.3

Table 16: Percentage of ongoing investigations lasting more than 20 months

	2017	2018	2019	2020	2021
Percentage of ongoing investigations lasting more than 20 months	22 %	22 %	29 %	26 %	33 %

Table 17: Recommendations issued

Type of recommendation	2017	2018	2019	2020	2021
Financial	195	168	157	222	194
Judicial	80	48	64	87	44
Disciplinary	10	18	18	34	18
Administrative	24	22	15	32	38
Total	309	256	254	375	294

Table 18: Incoming information by source

Source	2017	2018	2019	2020	2021
Private	889	807	663	698	760
Public	406	404	432	399	362
Total	1 295	1 211	1 095	1 097	1 122



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