



Brussels

NOTE FOR THE ATTENTION OF MR TUOMAS PÖYSTI, CHAIRMAN OF THE OLAF SUPERVISORY COMMITTEE

Via the Secretariat of the Supervisory Committee

Subject: Supervisory Committee report on the implementation by OLAF of its recommendations

Dear Mr Pöysti,

In 2014, for the first time, the Supervisory Committee (SC) decided to follow-up on the implementation by OLAF of its recommendations. On 10 February and 4 June 2014, the SC asked OLAF to report on the SC recommendations issued between 2012 and March 2014. OLAF welcomed this first follow-up exercise and replied on 5 March and 23 June respectively.

On 17 November the SC sent a report on the implementation by OLAF of its recommendations to OLAF and to the EU institutions. In addition to OLAF's comments on the SC's assessment regarding the *individual* recommendations (attached as Annex 2), I would like to draw your attention to two main comments I have on the SC report:

In my view, one main issue is the lack of a consistent methodology to identify the recommendations, which led to an inconsistency of the entire reporting exercise.

- Seventeen of the recommendations for which OLAF had been asked to provide its assessment on the implementation and had done so in March had not been included in the report. This number includes ten SC recommendations on the OLAF 2012 Instructions to Staff on Investigative Procedures and seven SC recommendations from the 2012 SC Annual report.
- For two other recommendations, OLAF had not been requested to provide its assessment on the implementation. However, the SC included them in the report and assessed them on behalf of OLAF, as "Implemented". The reply used by the SC as OLAF's self-assessment of the implementation had been copied from the text of OLAF's reply to Opinion 2/2012.

A second issue is the lack of proper dialogue with OLAF before issuing the report. Between the last OLAF self-assessment of 23 June and the issuing of the SC report in mid-November, the SC did not request any additional information or data, nor did it give OLAF the opportunity to provide any comments and/or clarifications. Had the SC report been discussed with OLAF prior to its issue, the implementation of recommendations could have been further clarified, additional information could have been provided. This would have

avoided SC statements such as: the implementation "*could not be verified*" or the recommendation "*seems to be misunderstood*".

Furthermore, the SC seems to have disregarded some of the replies and comments given by OLAF in March and June on the recommendations and on their implementation. It is therefore incorrect to state that "*...not only are the majority of the SC's recommendations not implemented, but [...] OLAF does not provide any relevant justification*".

In view of these issues, OLAF considers that this first SC exercise on reporting on the implementation of its recommendations has led to a misleading picture of OLAF's efforts to respond to the SC's concerns, which is even more serious, considering that the SC Report was transmitted to the Institutions.

On the basis of this experience and taking into account the practices of other bodies (such as the Internal Audit Service of the European Commission, the European Court of Auditors and the European Ombudsman) for issuing recommendations, I wish to start a discussion with the SC on how to best develop this exercise for the future.

For this purpose, I put forward some suggestions, enclosed with this letter in Annex 1. You will also find enclosed OLAF's comments on the SC assessment of individual recommendations in Annex 2. These could provide the basis for initiating such a discussion, on the occasion of your next plenary of 18 December.

Yours sincerely,



Giovanni KESSLER

Annex 1: OLAF's suggestions for issuing recommendations

Annex 2: OLAF's comments on SC's assessment of recommendations

Copy: B. Sanz Redrado, M. Hofmann, C. Arwidi, C. Scharf-Kröner, M. D'Ambrosio

Annex 1 – OLAF’s suggestions for issuing recommendations

1. Nature of recommendations

According to well established audit practices, recommendations are based on analyses and assessments of data and procedures, and are intended to help the organisation achieve, inter alia, effective governance and legal compliance objectives. In providing analysis and workable recommendations for improvements in critical areas, auditors/supervisors help the organisation meet its objectives.

- a) For OLAF to be able to implement the SC recommendations these have to be implementable and to relate to an activity which can take place recurrently (which would therefore happen again in the future). Recommendations that concern specific investigative acts of the past, or suggest actions for the past, cannot be retroactively implemented by OLAF. The status for such recommendations will hence always be “not implemented”.

Example of a recommendation that concerns a specific investigative act of the past:

Recommendation no 13: *"OLAF did not inform persons unrelated to the investigation that their personal data and telephone listings appear in the case file which seems contrary to requirements of Regulation 45/2001. OLAF to fulfil this legal obligation without delay."*

- b) Furthermore, recommendations should not be based on conclusions drawn from one specific case. The recommendations included in Opinion 2/2012 are based on the SC analysis of only one case, instead of addressing systemic aspects of OLAF's investigative practices. Addressing such aspects would require an examination of those practices in a series of cases.

Example of a recommendation based on a single, specific case:

Recommendation no 11: *"OLAF to indicate the legal basis prior to applying any measure potentially interfering in the fundamental rights to "private life" and "communications" of persons involved in an investigation."*

- c) Finally, recommendations should advise more than mere compliance with legal requirements, which is something that OLAF does systematically and is committed to.

Example of a recommendation advising for compliance with legal requirements:

Recommendation no 18: *"OLAF to follow rigorously the legal requirements on notifications to the institutions concerned by the opening of an investigation"*.

2. Procedure for issuing & following-up on recommendations

According to audit standards, recommendations are based on an analysis or an audit, to which comments can be provided before adoption/finalisation. According to established practices, the SC recommendations should be systematically based on a study/analysis and recognisable as such in the SC Opinions.

- a) After the SC has carried out its analysis, the SC and OLAF should discuss the main findings/conclusions, which would allow for a common understanding of the underlying issues. It would also provide OLAF with the opportunity to provide further

clarifications if needed. Once this dialogue has taken place, the SC would issue its recommendations in the context of an Opinion, which would then be sent to the Institutions.

- b) After the adoption of the Opinion including recommendations, the SC and OLAF could agree on a reasonable deadline for implementation and reporting on the progress achieved. The criteria for the follow-up of recommendations should be consistent and transparent both for OLAF and the SC. In accordance with the principle of sincere cooperation between EU institutions, a second dialogue should take place between OLAF and the SC, before the SC issues its report/assessment of the implementation of recommendations by OLAF.

This procedure could facilitate the implementation of the recommendations and lead to clearer results.

Annex 2 - OLAF comments on SC's assessment of recommendations

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
1	HR Strategy	OLAF to develop a human resources strategy based on a needs assessment, with focus on training, career development (also for temporary agents), succession planning and justified division of tasks among administrators and assistants.	<i>Fully implemented</i>	
2		A human resources strategy based on a needs assessment of OLAF's current activities should be developed and focus given to training, career development, succession planning and appropriate balance between assistants providing support services and administrators performing core investigative tasks.	<i>Fully implemented</i>	
3	Resources allocated to the ISRU	OLAF should increase the number of selectors with investigative experience;	<i>Could not be verified</i> <i>"The SC has received no substantial reply: the number of selectors recently joining the unit is not indicated ..."</i>	Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014, the SC did not request OLAF to provide the number of selectors recently joining the unit. Had this been the case, OLAF would have been ready to provide the SC with the additional information.
4		OLAF should apply the principle of	<i>Fully implemented</i>	

No	Recommendation	SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
	specialization of selectors more rigorously;		
5	OLAF should ensure that the selectors have the appropriate (legal, linguistic and sectorial) expertise and provide them with sufficient training;	<p><i>Could not be verified</i></p> <p><i>"The SC has received no substantial reply: [...] OLAF did not indicate any remedial measures to the concerns expressed by the SC in its Opinion 2/2014."</i></p>	<p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014, the SC did not request OLAF to provide any information on the remedial measures. Had this been the case, OLAF would have been ready to provide the SC with the additional information.</p>
6	OLAF should improve the functioning of the FNS, in order to allow it to cope with the upload of documents of greater size.	<i>Fully implemented</i>	
7	OLAF should adopt proper procedures for dealing with whistle-blowers.	<p><i>Not implemented</i></p> <p><i>"...the existing rules in the Staff Regulations and the Commission's Guidelines on Whistleblowing [...] could be supplemented by clear and detailed internal rules for dealing with whistle-blowing (Opinion 2/2014, paragraph 42)."</i></p>	<p>As stated in the self-assessment of June 2014, OLAF was ready to consider the need for additional internal guidelines. Consequently, early November 2014, OLAF has set up a Working Group which will issue inter alia internal guidelines on procedures for dealing with whistle-blowing. Had the SC report been discussed with OLAF prior to its issuing, the implementation of the recommendation could have been further clarified.</p>
8	OLAF should place the selectors in an organisational structure separate from the reviewers and maximally reduce the number of cases for selection allocated to	<i>Fully implemented</i>	

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		<p>reviewers.</p> <p><i>OLAF could consider either decentralising the selection function to the investigative Directorates, or introducing a rotation system whereby investigators from each investigation unit are allocated, for a period of time, to the ISRU.</i></p>		
9	Follow-up of investigations	<p>An effective follow-up of investigations must be ensured (incl. feedback on OLAF recommendations).</p>	<p><i>Could not be verified</i></p> <p><i>"The SC has received no substantial reply. [...] due to the lack of access to OLAF cases, the SC is not in a position to assess OLAF's monitoring activity."</i></p>	<p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014 no further information or consultations were requested by the SC to further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information.</p> <p>Furthermore, in 2014, the SC has been granted all accesses it requested (118 case files in total). It should be noted that none of these accesses was requested with the motivation that it will serve the purpose of verifying OLAF's implementation of recommendations.</p>
10		<p>OLAF should continue to develop indicators describing the efficiency, quality and results of the follow-up of its investigations.</p>	<p><i>Could not be verified</i></p> <p><i>"The SC has received no substantial reply. [...] due</i></p>	<p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014 no further information or consultations were requested by the SC to</p>

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
			<i>to the lack of access to OLAF cases, the SC is not in a position to assess OLAF's monitoring activity."</i>	further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information. Furthermore, in 2014, the SC has been granted all accesses it requested (118 case files in total) . It should be noted that none of these accesses was requested with the motivation that it will serve the purpose of verifying OLAF's implementation of recommendations.
11	Right to private life	OLAF to indicate the legal basis prior to applying any measure potentially interfering in the fundamental rights to "private life" and "communications" of persons involved in an investigation.	<i>Not implemented</i> <i>"In Opinion 2/2012 [...] the SC identified at least two investigative measures which were applied without legal basis [...]. Until today, no valid legal basis for those measures has been indicated by OLAF."</i>	The recommendation is based on conclusions drawn on one specific case , for which OLAF considers having complied with all its legal obligations. Since 2012, when the recommendation was issued, the SC did not, to OLAF's knowledge, attempt to verify if the same practice can be found systematically in a series of investigations. Furthermore, the recommendation cannot be retrospectively implemented for that specific case, which is already closed.
12		OLAF did not analyse its competence to gather evidence by way of recording private telephone conversations which seems contrary to Article 7 of the EU Charter of Fundamental Rights. OLAF to make such a	<i>Partially implemented</i> <i>"...OLAF provided the SC with the legal analysis "as it stands today". Thus it would appear from OLAF's reply that this legal</i>	OLAF considers that the recommendation was implemented since the SC received the requested analysis in June 2014. OLAF underlined in its transmission letter that the analysis is to be continuously improved and updated, to take into account possible changes in the national legislations.

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		legal analysis.	<i>analysis is still on-going.</i> "	
13	Data Protection	OLAF did not inform persons unrelated to the investigation that their personal data and telephone listings appear in the case file which seems contrary to requirements of Regulation 45/2001. OLAF to fulfil this legal obligation without delay.	<i>Not implemented</i> <i>"... In this particular case, OLAF actively acquired personal data of certain EU citizens unrelated to the investigation and processed them for the purpose of the investigation. [...] the SC is of the opinion that <u>OLAF is clearly obliged to inform them about their rights under Regulation No 45/2001, which has not yet been done.</u>"</i>	The recommendation is based on conclusions drawn on one specific case , for which OLAF considers having complied with all its legal obligations. Since 2012, when the recommendation was issued, the SC did not, to OLAF's knowledge, attempt to verify if the same practice can be found systematically in a series of investigations. Furthermore, the recommendation cannot be retrospectively implemented for that specific case, which is already closed. OLAF would also like to underline that the implementation of any measures related to data protection falls exclusively within the competences of the European Data Protection Supervisor.
14	Right to express views on all facts	OLAF to ensure that persons concerned are informed of each fact concerning them in a clear and accurate manner, with an expressly separate question asked for each particular allegation, so that they can express views on all the facts concerning them.	<i>Could not be verified</i> <i>"... The SC has received no substantial reply. The SC described a case where it seems that the allegations were not presented in a sufficiently clear and accurate manner. OLAF has not provided any explanation in this respect."</i>	The recommendation is based on conclusions drawn on one specific case , for which OLAF considers having complied with all its legal obligations. Since 2012, when the recommendation was issued, the SC did not, to OLAF's knowledge, attempt to verify if the same practice can be found systematically in a series of investigations. Furthermore, the recommendation cannot be retrospectively implemented for that specific case, which is already closed.

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
15	Checks of economic operators	OLAF to ensure a scrupulous legality check before applying Regulation 2185/96 (<i>on-the-spot checks of economic operators</i>) requiring justification in terms of the scale of fraud or seriousness of damage done to the EU financial interests (" <i>very limited evidence</i> " is <u>not</u> a valid justification).	<i>Could not be verified</i> <i>"In its Opinion 2/2012 [...] the SC identified an on-the-spot check which could have violated the fundamental rights of the persons concerned. The SC has received no satisfactory explanation or any information on OLAF's follow-up to the SC recommendation."</i>	The recommendation is based on conclusions drawn on one specific case , for which OLAF considers having complied with all its legal obligations. Since 2012, when the recommendation was issued, the SC did not, to OLAF's knowledge, attempt to verify if the same practice can be found systematically in a series of investigations. Furthermore, the recommendation cannot be retrospectively implemented for a specific on-the-spot check , which was performed in a case which is already closed.
16	Extension of the scope of investigation	OLAF to ensure a legality check of extension of the scope of an investigation, to respect in particular the requirement of "sufficiently serious suspicion" with regard to the new aspects.	<i>Could not be verified</i> <i>"In its Opinion 2/2012 [...] the SC identified an extension of the scope of an investigation which could have violated the regulatory requirements."</i>	The recommendation is based on conclusions drawn on one specific case , for which OLAF considers having complied with all its legal obligations. Since 2012, when the recommendation was issued, the SC did not, to OLAF's knowledge, attempt to verify if the same practice can be found systematically in a series of investigations. Furthermore, the recommendation cannot be retrospectively implemented for a specific extension of the scope of an investigation , which was performed in a case which is already closed.
17	DG's direct participation	DG not to participate personally in investigative activities (interviews, on-the-spot checks,	<i>Not implemented</i> <i>"The OLAF DG has refused</i>	The recommendation is based on conclusions drawn on one specific case , for which OLAF considers having complied with all

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		etc.) to avoid situations of a potential conflict of interest, especially in review of OLAF actions.	<p><i>to implement this recommendation.</i></p> <p><i>Regulation No 883/2013 introduced even more specific provisions in this respect in Article 7(1) and (2) [emphasis added]:</i></p> <p><i>1. The Director-General shall <u>direct the conduct of investigations</u> on the basis, where appropriate, of written instructions. <u>Investigations shall be conducted under his direction by the staff of the Office designated by him...</u>"</i></p>	<p>its legal obligations. Since 2012, when the recommendation was issued, the SC did not, to OLAF's knowledge, attempt to verify if the same practice can be found systematically in a series of investigations.</p> <p>Furthermore, OLAF would like to underline that the original recommendation as issued in SC Opinion 2/2012 raised the issue of a potential conflict of interest, referring to complaints submitted by EU officials under Article 90a of the Staff Regulation, implying that complainants lose the Director-General as an instance of independent and impartial review. In its report on the implementation, the SC has expanded the scope of this recommendation issued in December 2012.</p>
18	Notification to institutions	OLAF to follow rigorously the legal requirements on notifications to the institutions concerned by the opening of an investigation. OLAF, in particular, to notify the President when a Member of an institution or body (incl. the SC) is involved in an investigation.	<p><i>Could not be verified</i></p> <p><i>"Due to the lack of access to OLAF cases and to OLAF's unsubstantiated reply, the SC is not in a position to assess the implementation of this recommendation."</i></p>	<p>The recommendation is based on conclusions drawn on one specific case, for which OLAF considers having complied with all its legal obligations. Since 2012, when the recommendation was issued, the SC did not, to OLAF's knowledge, attempt to verify if the same practice can be found systematically in a series of investigations.</p> <p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014 no further information or consultations were requested by the SC to</p>

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
				<p>further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information.</p> <p>As regards the lack of access to OLAF cases, in 2014, the SC has been granted all accesses it requested (118 case files in total). It should be noted that none of these accesses was requested with the motivation that it will serve the purpose of verifying OLAF's implementation of recommendations.</p>
19	Conflict of interest	OLAF to verify whether there was any potential conflict of interest between the duties of the national expert and his participation in investigation activities.	<p><i>Could not be verified</i></p> <p><i>"The SC was not in a position to verify the implementation of this recommendation, since OLAF has not provided any relevant documents allegedly implementing the recommendation."</i></p>	<p>The recommendation is based on conclusions drawn on one specific case, for which OLAF considers having complied with all its legal obligations. Furthermore, the recommendation cannot be retrospectively implemented for that specific case, which is already closed.</p> <p>Furthermore, for this specific recommendation, the SC has not consulted OLAF on the status of the implementation, and attributed on behalf of OLAF the assessment "Implemented". OLAF was therefore never requested to provide any follow-up or relevant documents to prove the status of implementation since the issuing of the recommendation in the Opinion 2/2012. The reply used as OLAF self-assessment of the implementation was copied by the SC from the</p>

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
				text of OLAF's reply to Opinion 2/2012.
20		If such verification had been done, the Committee recommends including it into the case file.	<i>Not implemented</i>	<p>The recommendation is based on conclusions drawn on one specific case, for which OLAF considers having complied with all its legal obligations. Furthermore, the recommendation cannot be retrospectively implemented for that specific case, which is already closed.</p> <p>Furthermore, for this specific recommendation, the SC has not consulted OLAF on the status of the implementation, and attributed on behalf of OLAF the</p>

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
				<p>assessment "Implemented". OLAF was therefore never requested to provide any follow-up or relevant documents to prove the status of implementation since the issuing of the recommendation in the Opinion 2/2012. The reply used as OLAF self-assessment of the implementation was copied by the SC from the text of OLAF's reply to Opinion 2/2012.</p>
21	<p>Adoption of a complaints procedure</p>	<p>The OLAF DG should set up an internal procedure for dealing with individual complaints concerning OLAF investigations.</p>	<p><i>Partially implemented</i></p> <p><i>"[...] the SC does not consider the complaints procedure to be properly established and formalized [...]."</i></p>	<p>OLAF and the SC have different views regarding the implementation of this recommendation.</p> <p>OLAF considers that the internal procedure for dealing with individual complaints is effectively in place.</p>
22	<p>Publication of a complaints procedure</p>	<p>The OLAF DG should publish the procedure on OLAF's website after its adoption.</p>	<p><i>Partially implemented</i></p> <p><i>"OLAF has published on its website a description of the manner in which complaints in connection with OLAF's investigations and addressed to OLAF are treated. However, the SC considers that the complaints procedure has not as yet been properly formalized."</i></p>	<p>OLAF and the SC have different views regarding the implementation of this recommendation.</p> <p>OLAF considers that the <i>"description of the manner in which complaints in connection with OLAF's investigations and addressed to OLAF are treated"</i> is in fact the complaints procedure.</p>
23	<p>Guidelines on</p>	<p>The OLAF DG should issue</p>	<p><i>Pending</i></p>	

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
	the IPPs	guidelines on the application of the three selection principles established by the Regulation, including on the application of financial indicators as a proportionality criterion.		
24	Dialogue with stakeholders	The OLAF DG should enter into a constructive dialogue with the stakeholders on the determination and implementation of IPPs, in particular with regard to financial indicators and possible follow-up of dismissed cases.	<i>Partially implemented</i> <i>"However, it does not appear [...] that the financial indicators were discussed with the stakeholders, or established on the basis of input from them."</i>	OLAF and the SC have different views regarding the implementation of this recommendation. OLAF is always consulting with the stakeholders in the context of the IPPs.
25	Application of the selection criteria by ISRU	OLAF should require the selectors to better explain illegal or irregular activities to which the allegations refer and the way in which they affect the financial interests of the EU.	<i>Not implemented</i>	OLAF and the SC have different views with regard to the implementation of this recommendation.
26		OLAF should require the selectors to systematically make reference to relevant legal instruments. <i>OLAF could consider compensating for the lack of sufficient legal expertise by the introduction of appropriate training and of procedures for</i>	<i>Not implemented</i> <i>"...Moreover, one recommendation [nr 26] seems to be misunderstood [...] During its review of the selection</i>	Had the SC report been discussed with OLAF prior to its issuing, the implementation of the recommendation could have been further clarified. Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014 no further information or

No	Recommendation	SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
	<i>consultations with OLAF's Legal Advice Unit.</i>	<i>function of the ISRU, the SC did not have the opportunity to examine the decisions taken by the DG, since it has been provided only with the paper version of the opinions of the ISRU and had no access to OLAF case files."</i>	consultations were requested by the SC to further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information.
27	OLAF should establish a list of concrete and measurable indicators for assessing the reliability of the source, credibility of the allegations and sufficiency of suspicions.	<i>Not implemented</i> <i>"The SC has received no substantial reply: the SC has not been provided with a copy of the guidelines mentioned by OLAF."</i>	Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014 no further information or consultations were requested by the SC to further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information.
28	OLAF should clarify the application of the proportionality principle and provide the selectors with clearer guidelines. <i>In particular, OLAF should better assess the forecast of the manpower required and other foreseeable costs, weighted against the likelihood of financial recovery or prosecution, and deterrent value. Financial indicators, which are relevant for</i>	<i>Not implemented</i> <i>"The response received is not relevant to the recommendations."</i>	Had the SC report been discussed with OLAF prior to its issuing, the implementation of the recommendation could have been further clarified.

No	Recommendation	SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
	<p><i>the assessment of the seriousness of the risk involved, should be used as an element of reference and as internal guidelines on the application of the proportionality principle.</i></p>		
29	<p>OLAF should clarify and more rigorously apply the indicators established in the IPPs for evaluating "efficient use of resources". <i>In particular: workload of investigation units, its impact on on-going investigations and availability of expertise. Better cooperation between ISRU and investigation units may be necessary.</i></p>	<p><i>Not implemented</i></p> <p><i>"The response received is not relevant to the recommendations."</i></p>	<p>OLAF and the SC have different views with regard to the implementation of this recommendation. Had the SC report been discussed with OLAF prior to its issuing, the implementation of the recommendation could have been further clarified.</p>
30	<p>OLAF should pay special attention to cases it decides to dismiss on grounds of subsidiarity or added value. In particular, verify that the recipient authority has the necessary powers to take over the dismissed cases.</p>	<p><i>Could not be verified</i></p> <p><i>"The SC has received no substantial reply."</i></p>	<p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014 no further information or consultations were requested by the SC to further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information.</p>
31	<p>OLAF should pay special attention to cases it decides to dismiss on grounds of</p>	<p><i>Not implemented</i></p> <p><i>"The SC does not agree</i></p>	<p>OLAF and the SC have different views regarding the applicability of this recommendation.</p>

No	Recommendation	SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
	subsidiarity or added value. In particular: establish a system of monitoring (prompt, systematic and clearly evidenced) and reporting on cases dismissed on grounds of subsidiarity/added value.	<i>with the statement that OLAF needs a legal basis to establish a system of monitoring of and reporting on cases dismissed on grounds of subsidiarity/added value."</i>	OLAF has already explained its position.
32	OLAF should improve the quality, clarity and consistency of the motivation of opinions on opening decision. In particular, by introducing into the work-form "Opinion on opening decision" a pre-determined list of: relevant legal instruments (to be used when assessing OLAF's competence to act).	<i>Could not be verified</i> <i>"The SC has received neither a substantial reply, nor a copy of an amended work-form."</i>	Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014, no further information or consultations were requested by the SC to further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information.
33	OLAF should improve the quality, clarity and consistency of the motivation of opinions on opening decision. In particular, by introducing into the work-form "Opinion on opening decision" a pre-determined list of: concrete and measurable indicators for assessing the reliability of the source, credibility of the allegations and sufficiency of suspicions (to be used when evaluating the sufficiency of information).	<i>Not implemented</i> <i>"The SC does not agree with OLAF's statement."</i>	OLAF and the SC have different views regarding the applicability of this recommendation. OLAF has already explained its position.
34	OLAF should improve the quality,	<i>Not implemented</i>	OLAF and the SC have different views

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		<p>clarity and consistency of the motivation of opinions on opening decision. In particular, by introducing into the work-form "Opinion on opening decision" a pre-determined list of: concrete and measurable indicators for assessing the IPPs.</p>	<p><i>"The SC does not agree with OLAF's statement."</i></p>	<p>regarding the applicability of this recommendation. OLAF has already explained its position.</p>
35	<p>Transparency of the selection process</p>	<p>OLAF should improve the transparency of the selection process. In particular, give better feedback to the source of information on the action (not) taken by OLAF following the information provided by the source.</p>	<p><i>Could not be verified</i></p> <p><i>"The SC has received no substantial reply. The SC was not informed of the revision of the selection opinion form and was not provided with a copy of it."</i></p>	<p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014, the SC did not request OLAF to provide any additional information on the revision of the selection opinion form. Had this been the case OLAF would have been ready to provide the SC with the additional information.</p>
36		<p>OLAF should improve the transparency of the selection process. In particular, reinforce internal consultation and exchange of information between the ISRU and the investigation (support) units.</p>	<p><i>Could not be verified</i></p> <p><i>"The SC has received no substantial reply. [...] OLAF did not inform the SC which concrete initiatives it has taken to improve the internal consultation."</i></p>	<p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014, no further information or consultations were requested by the SC to further verify the implementation status. Had this been the case, OLAF would have been ready to provide the SC with the additional information.</p>
37		<p>Conclusions of the selection opinions should clearly specify actions that OLAF should take following a decision to dismiss or open an investigation or coordination case: to inform the</p>	<p><i>Could not be verified</i></p> <p><i>"The SC has received no substantial reply. The SC was not informed of any</i></p>	<p>Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014, the SC did not request OLAF to provide any additional information on the revision of the selection opinion form. Had this been the case, OLAF would have been ready</p>

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		national or EU authorities better placed to act.	<i>revision of the selection opinion form and was not provided with a copy of it."</i>	to provide the SC with the additional information.
38		Conclusions of the selection opinions should clearly specify actions that OLAF should take following a decision to dismiss or open an investigation or coordination case: to protect (or not) the identity of the source.	<i>Not implemented</i> <i>"The SC believes that actions to take by the selectors should be specified in the opinion, in order to allow the management team to better verify compliance with the general rules."</i>	OLAF and the SC have different views with regard to the implementation of this recommendation. OLAF considers that the protection of the identity of the source is already foreseen by general rules.
39		Conclusions of the selection opinions should clearly specify actions that OLAF should take following a decision to dismiss or open an investigation or coordination case: to inform (or not) the source of information of OLAF's decisions.	<i>Could not be verified</i> <i>"The SC has received no substantial reply. The SC was not informed of any revision of the selection opinion form and was not provided with a copy of it."</i>	Between the OLAF self-assessment in June and the issuing of the SC Report in mid-November 2014, the SC did not request OLAF to provide any additional information on the revision of the selection opinion form. Had this been the case, OLAF would have been ready to provide the SC with the additional information.
40	Internal evaluation of the ISRU	OLAF should carry out an internal evaluation of the activities of the ISRU. <i>Such evaluation could be carried out either by OLAF's internal auditor and/or by a special team designated by the Director-General, in close consultation</i>	<i>Not implemented</i> <i>"The recommended internal evaluation concerns the selection function of the ISRU only. The SC is of the opinion that OLAF should carry out</i>	The original recommendation refers to an internal evaluation of the activities of the Investigation Selection and Review Unit (ISRU), which comprise both the selection and review functions. Since then, it seems that the SC has changed the scope of the recommendation, referring now only to the selection function.

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		<i>with Directors A and B.</i>	<i>such an internal evaluation independently of the SC's assessment of the review function of the ISRU (which is currently on-going and no completion date can yet be indicated)."</i>	OLAF considers it appropriate to wait for SC's assessment of the review function of the ISRU, which is currently on-going, before undertaking any other evaluation. Therefore, OLAF and the SC have different views regarding the best timing for implementing this recommendation.
41	The SC Secretariat	OLAF to ensure adequate staffing of the SC Secretariat (8 posts).	<i>Fully implemented</i>	
42		OLAF to ensure independent functioning of the SC Secretariat as a precondition of the independence and effective functioning of the SC itself, in particular: staff to be appointed, evaluated and promoted on the basis of SC input.	<i>Partially implemented</i> <i>"substantive action taken, but additional measures required"</i>	OLAF and the SC have different views regarding the implementation of this recommendation. OLAF has already explained its position.
43		Appointment, appraisal and promotion of the SC Secretary and the Secretariat staff should be made following the SC input.	<i>Partially implemented</i> <i>"substantive action taken, but additional measures required"</i>	OLAF and the SC have different views regarding the applicability of this recommendation. OLAF has already explained its position.
44		OLAF to indicate global SC Secretariat's expenses separately from other positions.	<i>Fully implemented</i>	
45	Budgetary procedure	The OLAF DG should consult the SC on the preliminary draft budget before it is sent to the	<i>Fully implemented</i>	

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		Director-General for Budget in any form.		
46	Consultation with the SC	The OLAF DG should consult with the SC on the details of the [complaints] procedure before its adoption.	<i>Not implemented</i> <i>"The SC's concerns and expectations were discussed with the OLAF DG during technical meetings with the SC Chairman on 18 December 2013. Moreover, the formal establishment of the procedure has not been completed yet."</i>	OLAF received the SC recommendation on 30 January 2014, after the publication of the complaints procedure on its website on 20 January 2014. The recommendation cannot be retrospectively implemented.
47	Reporting to the SC	The OLAF DG should provide the SC, by 6/03/2014, with an assessment of the implementation of 2012 and 2013 IPPs, with a summary of stakeholders' feedback; in future the documents should be attached to the new draft IPPs transmitted annually to the SC.	<i>Not implemented</i> <i>"The SC does not agree with OLAF's position and believes that an assessment of IPPs implementation is crucial."</i>	OLAF and the SC have different views regarding the applicability of this recommendation.
48		The OLAF DG should report regularly to the SC on complaints received by OLAF and on the way they have been handled.	<i>Not implemented</i>	OLAF is currently reflecting on how to best comply with its obligations in relation to the SC, in line with Regulation 883/213 and the Working Arrangements.
49		OLAF should improve its reporting to the SC. In particular, inform	<i>Not implemented</i>	OLAF already committed itself to inform the SC

No	Recommendation		SC assessment of status of implementation	OLAF comments on SC assessment and status of implementation
		the SC whenever actions or omissions of EU or national authorities are likely to jeopardize OLAF's investigative independence and of the measures foreseen to improve cooperation with these authorities.	<i>"To date, the SC has not received any relevant information from the OLAF DG, though the SC is aware of the existence of relevant situations."</i>	of such cases, in accordance with article 4 of the Working Arrangements. Had the SC report been discussed with OLAF prior to its issuing, the implementation of the recommendation could have been further clarified.
50		OLAF should improve its reporting to the SC. In particular, inform the SC of all dismissed cases in which information has been transmitted to national judicial authorities, in accordance with Article 17(5) of Regulation No 883/2013.	<i>Not implemented</i> <i>"The SC does not agree with OLAF's restrictive interpretation."</i>	OLAF and the SC have different views regarding the applicability of this recommendation.