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**Statement by the Chairman of the OLAF Supervisory Committee
on the main points of the Supervisory Committee 2014 Annual Report**

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The OLAF Supervisory Committee is an independent high level committee of external experts appointed by common accord between the European Parliament, Council and the Commission. The Supervisory Committee has its own role in the governance and accountability arrangements with OLAF with a mission to ensure independence of the investigative function of OLAF and to monitor developments in the duration of investigations and application of procedural guarantees. In its role the Supervisory Committee delivers objective observations and, also transparently, criticisms with the aim of making the European Anti-Fraud Office OLAF stronger in its core mission to protect European tax-payers' money and public trust in the integrity of the European Union Institutions, bodies and agencies and their members and staff.

The Supervisory Committee Annual Report for 2014 summarises the work done by the Committee. The Report contains as annexes the Opinions and Reports of the Committee. Only the text itself and the annexes present the position of the Supervisory Committee. OLAF has been consulted on the Opinions and Reports and OLAF replies are available on the OLAF website (see http://ec.europa.eu/anti_fraud/about-us/reports/official_responses_from_olaf_en.htm).

The Supervisory Committee Annual Report has raised or has been referred to in various public debates and media articles. Public debate on the role and performance of OLAF is very much appreciated but some of these do not relate to what the Supervisory Committee has said.

The Chairman and Members of the Supervisory Committee presented the Annual Report on 4th May 2015 in the hearing of the Budgetary Control Committee of the European Parliament (CONT Committee) and will be presented to the Council of the European Union Anti-Fraud Working Group on 18th May 2015. The speaking notes of the Chairman of the Supervisory Committee are to be found on this link.

http://ec.europa.eu/anti_fraud/documents/reports-sup_comm/2015/scar_2014_speaking_notes.pdf

Some of the questions addressed in the presentation and in the Supervisory Committee Annual Report (SCAR),

http://ec.europa.eu/anti_fraud/documents/reports-sup_comm/2015/scar_2014_supcom_en.pdf):

Are the working relations between OLAF and Supervisory Committee deteriorating? Is the Supervisory Committee prevented from working? The Supervisory Committee and OLAF have devoted considerable time to improving their working relations and also to improving the Working Arrangements with OLAF. There is an intense dialogue between the Supervisory Committee and the senior management of OLAF. The core issue is not the implementation of the working arrangements but the lack of clarity concerning the role and mandate of the Supervisory Committee and the interpretation of the role of the Supervisory Committee (see SCAR p. 13-14, para. 36-40). The Supervisory Committee access to information is described in individual Opinions and Reports (see SCAR Annexes). In Report 1/2014 on Safeguarding OLAF Independence, the Supervisory Committee considers that Supervisory Committee access to case related information should be improved and clarified (Report 1/2014 p. 6-9 para. 16 - 30).

Are the statistics provided by OLAF reliable? The Supervisory Committee finds that OLAF reporting on the duration of investigations has not provided a comprehensive view of the investigative performance of OLAF. The average duration of investigations provides only a limited view of the development of the duration of investigations (SCAR p. 12 para 31). The Supervisory Committee will continue its work on the external reporting on the duration of OLAF investigations and statistics and will address, in an Opinion requested by the Director General of OLAF, the allegations of the manipulation of statistics.

Are OLAF investigations opened in a lawful manner? Has the Supervisory Committee found illegal activities in OLAF investigations? There is no Supervisory Committee statement of an unlawful act in an individual investigation. The role of the Supervisory Committee is not to judge the legality of individual acts in investigations but to monitor developments in the application of procedural guarantees. Hence the Supervisory Committee does not make statements on the lawfulness of individual acts of investigation. In the Report 3/2014 on the 423 cases the Supervisory Committee found that the cases opened in the context of the reorganisation of OLAF did not contain an appropriate and sufficient assessment of the incoming information against the criteria of sufficiently serious suspicion based on the case law of the European Court of Justice (SCAR p. 7 para. 1-3). It is to be noted that OLAF disagrees with the legal interpretation of the Supervisory Committee concerning requirements of the Union Regulations on OLAF investigations. The Supervisory Committee continues its assessment of the legality check and review in OLAF, SCAR p. 9, para. 14 – 16).

Can OLAF gather evidence by way of recording of private telephone conversations? Has OLAF violated Member State laws on this issue or has there been an illegal phone tapping? The issue handled by the Supervisory Committee is the clarity and general sufficiency of the legal bases for some investigative measures used in at least one OLAF investigation. In an earlier Opinion 2/2012 the Supervisory Committee questioned OLAF's competence to gather evidence by way of recording private telephone conversations due to the lack of a clear legal basis in the Union law. The Supervisory Committee recommended that OLAF carry out legal analyses of the question. In 2014 the Supervisory Committee received OLAF's analyses. In the Supervisory Committee Opinion the analyses would appear to confirm OLAF's lack of sufficient legal bases to record private telephone conversations without the consent of all participating parties and without judicial authorisation (SCAR p. 10 para 21-22). It is to be noted that the Supervisory Committee has not carried out any assessment beyond this on the topic concerning legality or the consequences of this type of gathering of evidence. The Supervisory Committee does not express judgments on the legality of individual acts of investigation.

What is the core message of the Supervisory Committee? The European Union Institutions should improve the procedures ensuring the accountability of OLAF (SCAR, Foreword by the Chairman, p.5). This implies also that the accountability and role, status and obligations of the Members of the Supervisory Committee should be clarified and improved.

The Supervisory Committee Chairman hopes public discussion on the functioning of OLAF and how it will improve will further strengthen OLAF's work for the benefit of the European citizens. The Supervisory Committee is an independent and objective high level group of experts; it is not and should not be seen as a party to any conflict or contentious discussion. The individual acts of all Union institutions including OLAF are to be considered legal and reliable unless the contrary is decided in a competent court or authority. The regular monitoring by the Supervisory Committee maintains this trust and assumption of legality maintaining rule of law and efficiency in the Union. The Supervisory Committee shares with OLAF the overall mission to strengthen the rule of law and good administration through reliable, high quality and efficient investigations of fraud and illegal activities respecting procedural guarantees and fundamental rights.