

# The **OLAF** report **2018**

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# The **OLAF** report **2018**

**Nineteenth report of the  
European Anti-Fraud Office,  
1 January to 31 December 2018**

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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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# 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 20<sup>th</sup> 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.

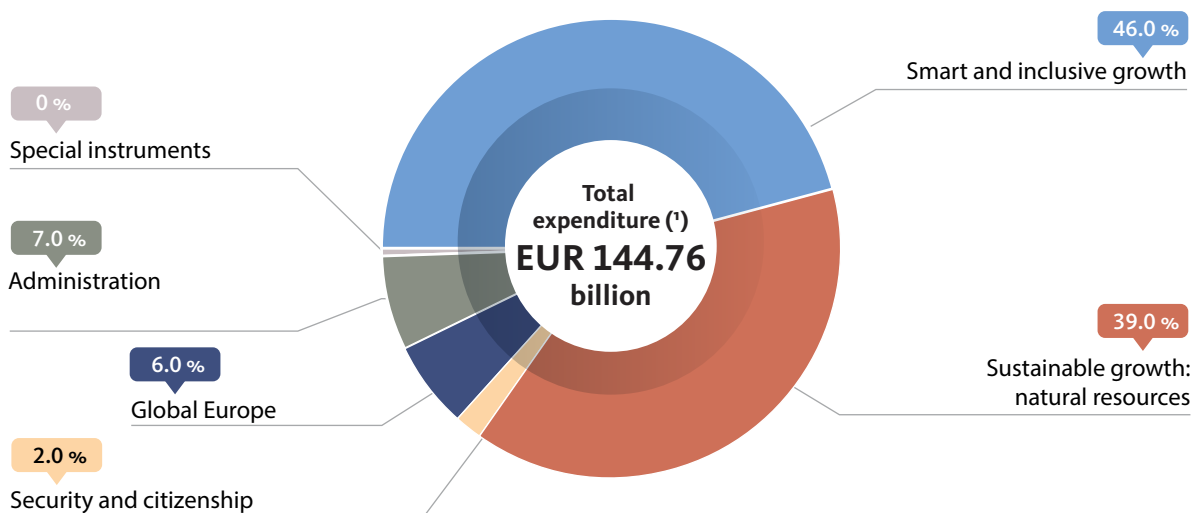
EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, travel and relocation allowances, social security and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures, and of other forms of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



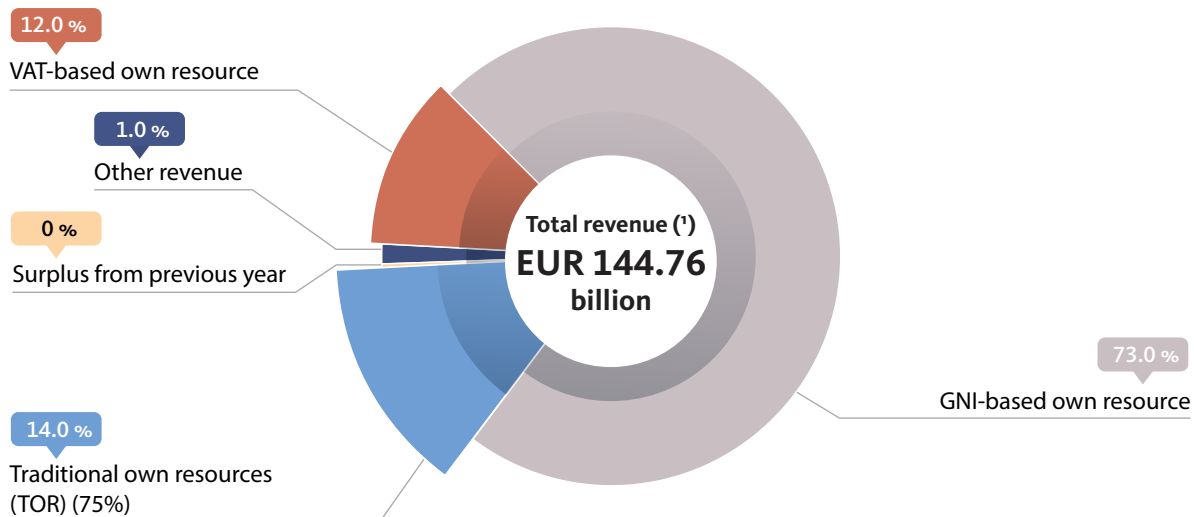
Figure 1: EU expenditure in 2018



(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

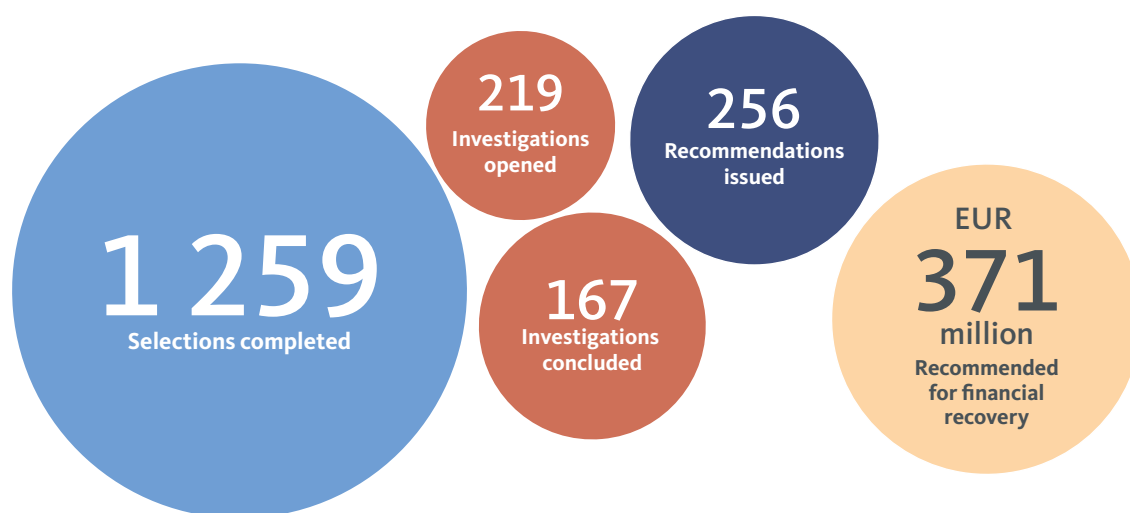


(¹) Source: OJ L67, 7.3.2019, p. 14

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
<b>Total</b>	<b>84</b>	<b>48</b>

**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
<b>Total</b>	<b>398</b>	<b>344</b>	<b>362</b>	<b>414</b>

## 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
<b>Total</b>	<b>300</b>	<b>619</b>	<b>469</b>	<b>545</b>	<b>350</b>

successfully seized at Szolnok by Hungarian customs officers (NTCA) and the experts from the National Food Chain Safety Office (NFCISO). 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
<b>Total</b>	<b>27</b>	<b>17</b>

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.

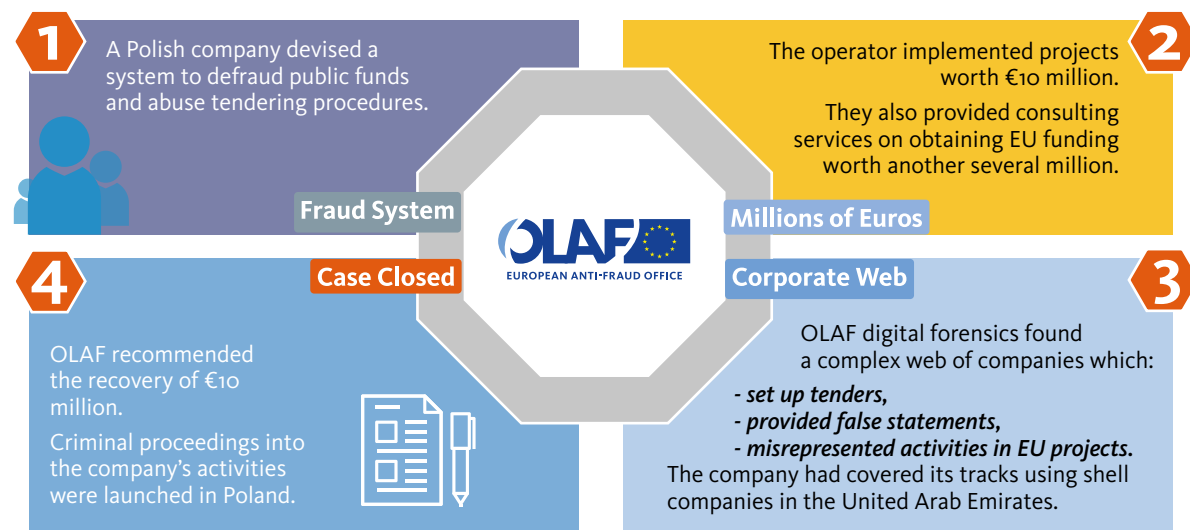
This type of fraud is not only damaging for EU financial interests, but it also distorts free and fair competition, prevents the growth of agricultural operators and stems private initiatives. The combined financial impact of the cases OLAF has analysed so far is roughly EUR 10 million.

### 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<sup>(1)</sup> 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

(<sup>1</sup>) 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 authorities<sup>2</sup>.

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%<sup>3</sup> 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.

<sup>(2)</sup> 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.

<sup>(3)</sup> 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%
<b>Total</b>	<b>25 699</b>	<b>2.05%</b>	<b>480</b>	<b>2.67%</b>





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%
<b>Total</b>	<b>50 153</b>	<b>2.01%</b>	<b>277</b>	<b>0.45%</b>

## 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. 883/2013<sup>4</sup>, 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.

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<sup>(4)</sup> 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%
<b>Grand Total</b>	<b>208</b>	<b>319</b>	<b>203</b>	<b>116</b>	<b>36%</b>

\* 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
<b>Total</b>	<b>46</b>	<b>13</b>	<b>12</b>	<b>21</b>





## 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 Package<sup>5</sup> 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)<sup>6</sup>.

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.

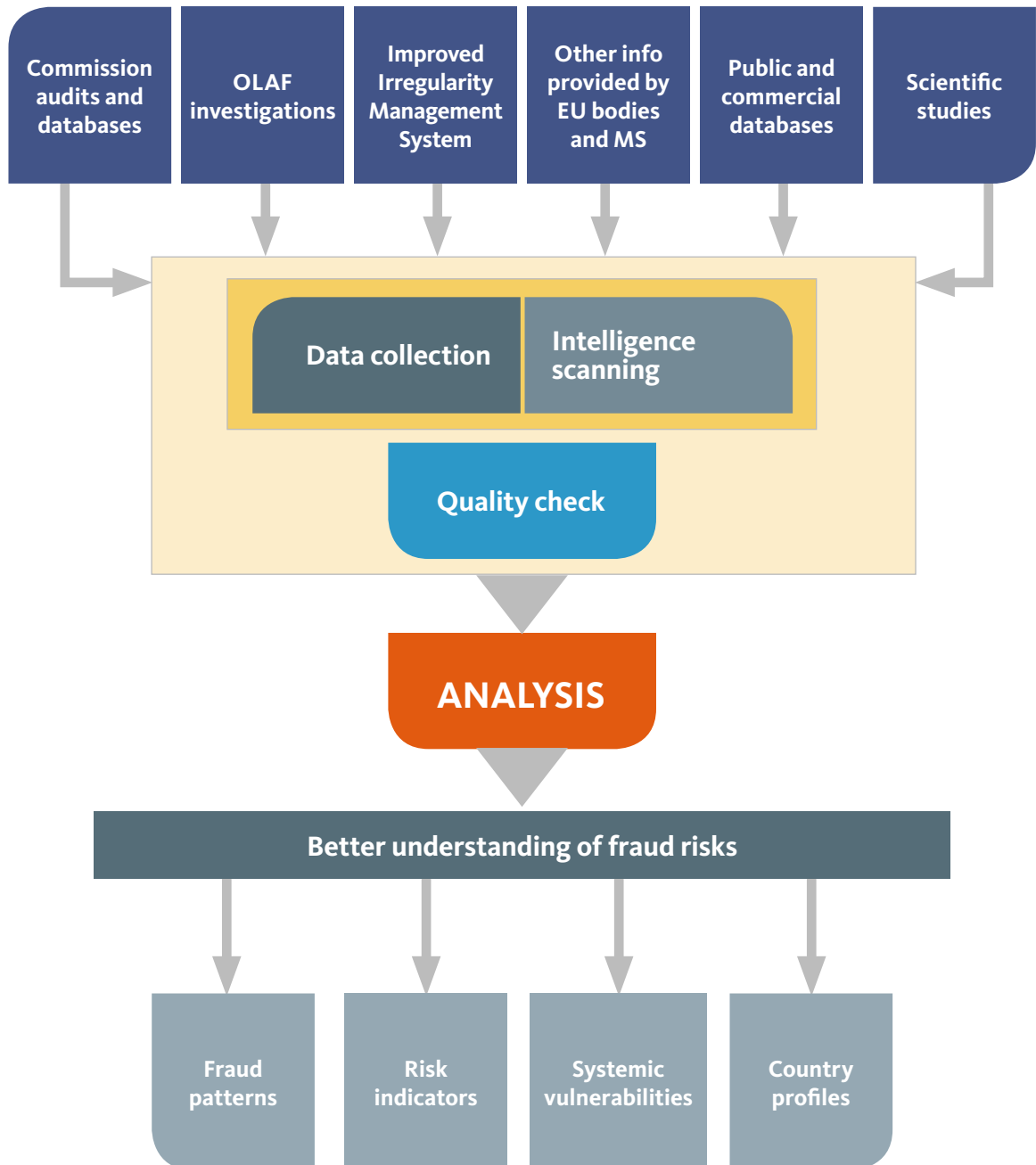
Ultimately, this strengthened analysis aims to improve prevention, detection and investigation, for example through better data on fraud patterns and systemic vulnerabilities, which can be acted upon through developing risk indicators tailored to specific sectors or regions and widening knowledge about 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.

<sup>(5)</sup> 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).

<sup>(6)</sup> <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)<sup>7</sup>

The Regulation concerning investigations conducted by the European Anti-Fraud Office (“the OLAF Regulation”)<sup>8</sup> 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 2017<sup>9</sup>.

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 operational<sup>10</sup>. 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)<sup>11</sup>. 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.

<sup>(7)</sup> COM (2018) 338 final - 2018/0170/COD

<sup>(8)</sup> 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.

<sup>(9)</sup> Commission Report on the Evaluation of the application of Regulation No. 883/2013, COM(2017)589 final.

<sup>(10)</sup> This is currently envisaged for the end of 2020.

<sup>(11)</sup> 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 2013<sup>12</sup> 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.

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<sup>(12)</sup> 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

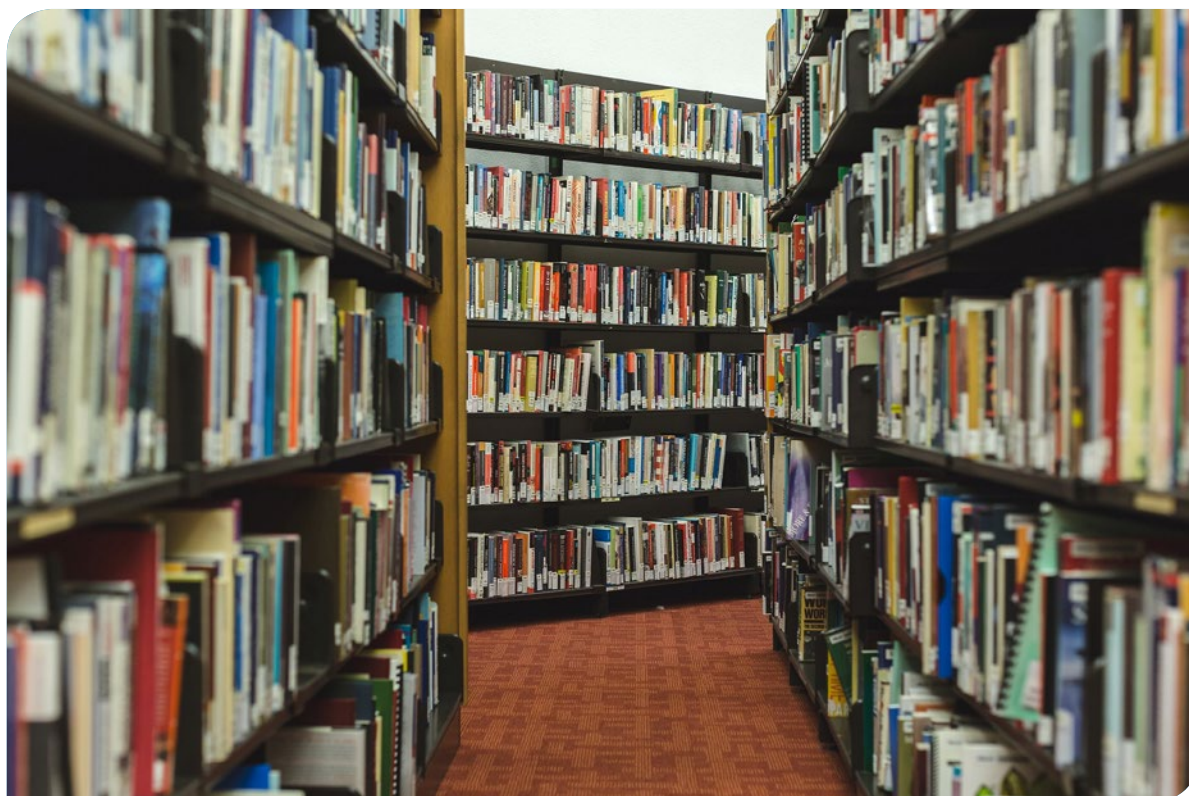
The protection of personal data has always been a high priority for OLAF. Since OLAF was set up as an independent investigative body, it has taken all necessary measures to ensure effective implementation of the requirements of the applicable legal framework, including recommendations of the European 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 2018/1725<sup>13</sup> 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 OLAF<sup>14</sup>. 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

<sup>(13)</sup> OJ L 295, 21.11.2018, p. 39–98

<sup>(14)</sup> 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. 1049/2001<sup>15</sup>. 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

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<sup>(15)</sup> 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*<sup>16</sup>, 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. 2185/1996<sup>17</sup>, 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.

<sup>(16)</sup> Judgment of the General Court of 3 May 2018 in case T-48/16, *Sigma Orionis SA v European Commission*.

<sup>(17)</sup> 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.



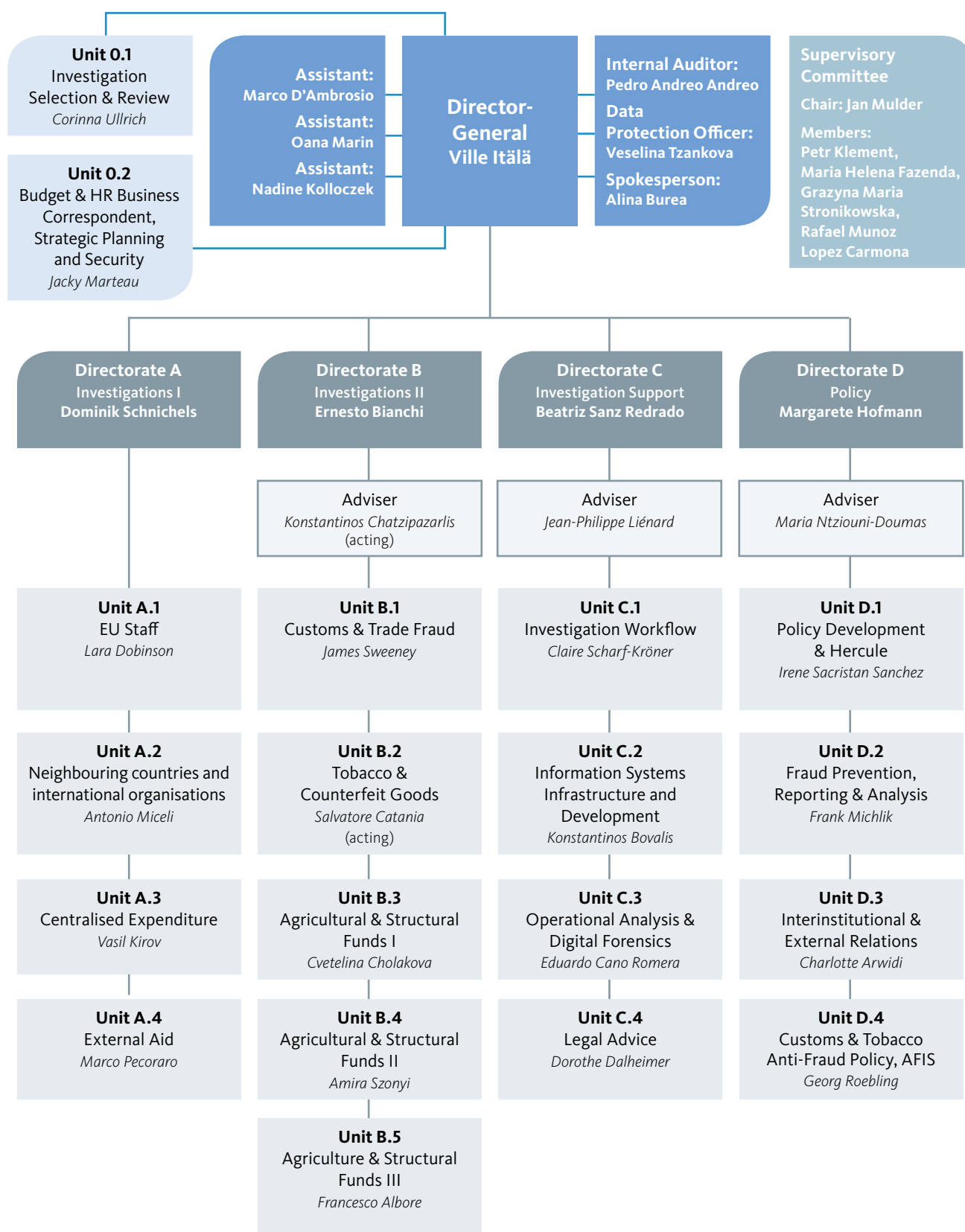
OLAF Directors and Director-General

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
<b>Total</b>	<b>437</b>	<b>435</b>	<b>440</b>	<b>439</b>	<b>422</b>	<b>415</b>	<b>405</b>	<b>389</b>



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
<b>Total</b>	<b>59.1</b>

## 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
<b>Total average duration of cases</b>	<b>27.2</b>	<b>29.3</b>	<b>23.6</b>	<b>21.8</b>	<b>21.0</b>	<b>21.0</b>	<b>18.9</b>	<b>17.6</b>	<b>18.6</b>

**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
<b>Total average duration of cases</b>	<b>28.5</b>	<b>33.1</b>	<b>30.0</b>	<b>28.2</b>	<b>26.9</b>	<b>27.9</b>	<b>25.0</b>	<b>23.6</b>	<b>25.0</b>

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
<b>Total</b>	<b>172</b>	<b>175</b>	<b>199</b>	<b>353</b>	<b>397</b>	<b>364</b>	<b>346</b>	<b>309</b>	<b>256</b>

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
<b>Total</b>	<b>975</b>	<b>1041</b>	<b>1264</b>	<b>1294</b>	<b>1417</b>	<b>1372</b>	<b>1136</b>	<b>1293</b>	<b>1211</b>





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
<b>Total</b>	<b>37</b>	<b>421</b>	<b>458</b>





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