



The Director-General

Brussels

**NOTE FOR THE ATTENTION OF MR TUOMAS PÖYSTI,  
CHAIRMAN OF THE OLAF SUPERVISORY COMMITTEE AND  
MS CATHERINE PIGNON, RAPPORTEUR**

Via the Secretariat of the Supervisory Committee

**Subject: Supervisory Committee Opinion 4/2014  
Control of the duration of investigations conducted by OLAF**

Dear Mr Pöysti, dear Ms Pignon,

By note of 27 March 2015, the Supervisory Committee (SC) requested OLAF to provide comments on the *SC Opinion 4/2014 on Control of the duration of investigations conducted by OLAF* adopted on 25 March 2015. According to your note, these comments, to be provided by noon on 20 April 2015, will be published together with the SC Opinion.

Please find attached OLAF's comments.

Yours sincerely,

Giovanni Kessler

Copy: P. Kneuer, N. Ilett, B. Sanz Redrado, M. Hofmann, C. Scharf-Kroener, M. D'Ambrosio, C. Arwidi, M. Kaduczak

## **OLAF comments on the SC Opinion No 4/2014** **Control of the duration of investigations conducted by the** **European Anti-Fraud Office**

By note of 27 March 2015, the Supervisory Committee (SC) sent OLAF its Opinion No 4/2014<sup>1</sup> – *Control of the duration of investigations conducted by the European Anti-Fraud Office*, adopted in its plenary on 25 March 2015, and provided OLAF the opportunity to comment by noon on 20 April 2015. The document below outlines OLAF's comments on the SC Opinion. The references to paragraphs refer to the SC Opinion as adopted on 25 March.

### **Summary and OLAF's comments on the SC conclusions and recommendations**

- OLAF welcomes the SC's regular monitoring of the duration of OLAF's investigations, with a view to reinforce its investigative independence. Furthermore, OLAF welcomes the SC Opinion on the control of the duration of OLAF investigations and agrees with the SC on the importance of the control of the duration of investigations, on the importance of conducting its investigations continuously and over a proportionate period of time, and on having in place appropriate tools to monitor and manage the duration of investigations.

#### *Information provided to the SC for monitoring the duration of OLAF's investigations*

- Article 7 (8) of Regulation 883/2013 requires OLAF to provide the SC with information related to all investigations lasting more than 12 months on 1) the reasons and 2) the remedial measures envisaged with a view to speeding up the investigation. Article 15 (1) of the Regulation specifies that the SC may, in duly justified situations, ask OLAF for additional information on investigations. The Regulation is clear and does not leave room for interpretation on what information OLAF should provide the SC with periodically and automatically for cases lasting more than 12 months, nor on the fact that the SC needs to request additional case-related information.
- Articles 7 (8) and 15 (1) of the Regulation are reflected in the Working Arrangements agreed between OLAF and the SC, Articles 8 and 12, which state that OLAF will provide the SC on its own initiative with the reasons and remedial measures for investigations lasting more than 12 months, and that requests for additional information on investigations should be made by the SC with due justification.
- Since the investigations lasting more than 12 months are on-going investigations, they are subject to strict rules of confidentiality and data protection requirements. OLAF cannot automatically provide the SC with information which is not expressly foreseen by the Regulation. OLAF therefore cannot agree to SC's recommendation no 1 which suggests that the information provided periodically and automatically by OLAF on the investigations lasting more than 12 months should be enriched with additional case-related information.
- The SC recognises that OLAF respects the requirements set out in Regulation 883/2013 concerning the provision of information on investigations lasting more than 12 months, and that the Office has improved its compliance with reporting obligations as set out in the Regulation. The SC has furthermore acknowledged that OLAF respects the Working Arrangements agreed between OLAF and the SC.
- In line with the Working Arrangements and as reported by the SC, OLAF has in 2014 informed the SC of 658 instances where cases lasted more than 12 months,

concerning 391 investigations. It should be noted that the information concerning investigations lasting more than 12 months is only a part of the case-related information that OLAF transmits to the SC, which in 2014 included also full access to 119 cases in OLAF's case management system and 343 reports with specific case-related data, at the request of the SC and in application of the Working Arrangements.

- OLAF includes in its annual Reports indicators on the duration of its investigations which show the annual performance of the Office and which allow for comparison over time. Since the 2011 OLAF Report, and as transparently indicated in the report, a new indicator on the average duration has been used also to report on the performance of previous years. There is hence no problem of comparability as the SC suggests. For the sake of clarity and completeness, OLAF will include in its 2014 Report additional indicators on the duration of its investigations, all fully comparable over time.
- In its recommendations no 2 and no 3, the SC requests OLAF to better substantiate the information provided on the reasons for delay and remedial measures envisaged to speeding up the investigations lasting more than 12 months. OLAF agrees and has already, on its own initiative and in the context of the revision of the Working Arrangements, proposed to the SC to improve the information it provides automatically on the reasons and the remedial measures. OLAF received the reply of the SC on 30 March and has suggested a date for a next meeting and further discussions. OLAF is committed to conclude new Working Arrangements, more satisfactory for the SC, and therefore welcomes the SC intention to reach an agreement in the coming months.
- In this context, OLAF would like to stress that Regulation 883/2013 does not set any target for OLAF concerning the duration of its investigations. Over the years, more than half of OLAF investigations have lasted more than 12 months, this being the norm rather than the exception. The SC should take this into consideration when requesting more information on the reasons for delay and the remedial measures after only 12 months.

*OLAF's internal tools and procedures for managing the duration of investigations*

- Despite a heavily increased investigative activity, OLAF has reduced the duration of its investigations in recent years with the help of tools that the Office has developed to monitor and control the duration of its investigations and to manage the workload. OLAF senior and middle management receive every month statistical reports with extensive information drawn from OLAF's case management system, notably on the duration of investigations and on the workload. Other tools used for this purpose include regular meetings between investigators and managers, and work plans. OLAF takes note of the SC's recommendation that the Office should optimize the use of the tools it has put in place.
- Concerning the SC recommendation that the review carried out by the Investigation Selection and Review Unit (ISRU) should be reinforced, OLAF would like to recall that since the entry into force of Regulation 883/2013, it has continuously improved and refined its review procedures and intend to continue doing so in the future. It should also be noted that the day-to-day control and monitoring of the continuity of an investigation is the responsibility of the manager of the investigative unit, while the role of the ISRU is to review the investigation as a whole ex-post.
- With the entry into force of Regulation 883/2013 and of the Guidelines on Investigation Procedures for OLAF staff in October 2013, most of the managerial measures foreseen to improve the duration of investigations have started to be implemented in 2013. Therefore, since the 658 reports reviewed by the SC include cases dating back to 2007, these measures have not yet had their full impact. OLAF management is confident that a review of cases opened in 2013/2014 would better reflect the results of OLAF's latest efforts.

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<sup>1</sup> The process leading to the adoption of the Opinion was the following:

By note of 5 June 2014, the SC informed OLAF that it was "*assessing the duration of OLAF's investigations lasting more than 12-months*" and that the SC intended "*to examine in particular: a) whether the investigations have been conducted continuously over a period proportionate to the circumstances and complexity of the cases, as required by Article 7(5) of Regulation 883/2013; b) the usefulness of the 12-month reports as a management tool for OLAF and as a monitoring tool for the SC*". For this purpose, the SC requested general information on the management of cases lasting longer than 12 months, as well as access to a number of closed cases.

By note of 17 July 2014, OLAF replied and provided the requested information. As for the access to cases, OLAF proposed a method of sampling, random and statistically representative as laid down by Article 15 of the WA between OLAF and the SC. By note of 17 September 2014, OLAF reminded the SC that the access to cases was pending SC's reply.

On 6 October 2014, the Head of SC Secretariat informed OLAF of the SC's agreement with the proposed method of sampling. On 7 October, in the presence of two members of the SC Secretariat, a randomly representative sample of 25 cases was extracted. Access to these cases was granted by OLAF on 9 October 2014.

By note of 26 November 2014, the SC rapporteur Ms Pignon requested additional information on the planning and management of investigations, and to meet with OLAF staff in charge of the supervision of the duration of investigations. OLAF provided the requested information on 20 January 2015, and the meeting between SC rapporteur Ms Pignon and OLAF management took place on 21 January 2015.

By note of 9 February 2015, the SC requested OLAF to provide comments on its analysis on the duration of OLAF investigations by 23 February 2015. OLAF provided its comments on 6 March 2015.

By note of 27 March 2015, the SC sent OLAF its adopted *Opinion No 4/204 – Control of the duration of investigations conducted by the European Anti-Fraud Office*, adopted by the SC at its plenary on 25 March 2015 and provided OLAF the opportunity to comment by noon on 20 April 2015. The present document is OLAF's reply to the Opinion adopted on 25 March.

## **Introduction: the information to be provided by OLAF to the SC on cases lasting more than 12 months**

Article 7(8) of Regulation 883/2013 states that *"If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and the remedial measures envisaged with a view to speeding up the investigation"*. This requirement is implemented through Article 8 of the Working Arrangements agreed and signed by OLAF and the SC in January 2014, which states: *"1. The DG will report to the SC on investigations which have not been closed within 12 months, indicating the reasons for which it was not possible to complete the investigation and the remedial measures, envisaged with a view to speeding up the investigation. 2. The reports will be drawn at the expiry of the 12-month period and every six months thereafter"*.

Regulation 883/2013 stipulates clearly the information to be provided by OLAF to the SC on cases lasting more than 12 months. Therefore, the Working Arrangements and the information to which the SC has access currently is the direct result of and in line with the Regulation.

Furthermore, it should be noted that the Regulation does not set any target for OLAF concerning the duration of investigations. Over the years, more than half of OLAF investigations have lasted more than 12 months, this being the norm rather than the exception.

### ***I Information provided to the Supervisory Committee for monitoring the duration of OLAF's investigations***

#### ***1. A new legal framework of the Supervisory Committee's monitoring (paragraphs 12-16)***

In paragraph 16 of its Opinion, the SC states that *"OLAF has formally complied with its regulatory obligation to regularly report to the SC on the investigations lasting more than 12 months"*. According to the SC, this represents a significant progress compared to previous years. The SC also *"underlines that this represented an important workload for OLAF"*. OLAF appreciates this acknowledgment by the SC.

#### ***2. Implementation of the new legal framework (paragraphs 17-44)***

On the cover page of its Opinion, the SC states that *"While Regulation 888/2013 has reinforced the role of the Supervisory Committee in the monitoring of the duration of OLAF's investigations, paradoxically, on its own initiative, OLAF has provided information which has been significantly reduced in comparison with previous periods"*. This view is repeated in paragraph 17 of the Opinion.

OLAF does not agree with SC's analysis that OLAF provides less information on its own initiative. The information which the SC receives from OLAF is the result of Regulation 883/2013 and of the agreed Working Arrangements, both of which OLAF has respected.

Regulation 883/2013 clearly sets out that OLAF must inform the SC on investigations lasting more than 12 months, at the expiry of the 12 months period and every six months thereafter. This means that the SC has more regular information on the cases lasting more than 12 months than it was the case under the previous Regulation, for cases lasting more than 9 months.

Article 7 (8) of the Regulation furthermore stipulates that OLAF must indicate to the SC for cases lasting more than 12 months 1) the reasons and 2) the remedial measures envisaged with a view to speeding up the investigation. Exactly the same information is

foreseen by Article 8 of the Working Arrangements. Consequently, OLAF introduced in its case management system (CMS) a new work form containing the two points required by the Regulation and Working Arrangements, which serves as a basis for the investigators to produce the information on investigations lasting more than 12 months, destined to the SC.

As reported by the SC, during 2014, OLAF has transmitted to the SC information on 658 instances where cases lasted more than 12 months, concerning 391 investigations. The information transmitted concerns on-going investigations. Therefore, any other additional information on on-going investigations must be requested by the SC following the provisions set out in Article 15 (1) paragraph 5 of Regulation 883/2013 and in accordance with EU data protection requirements<sup>2</sup> as reflected in Article 12 of the Working Arrangements.

### *2.1 Background information provided in the 12 month reports*

In paragraph 18, the SC mentions the “*significant reduction of background information provided by OLAF*” which makes it difficult for it to assess the proportionality of the duration of investigations against the background of factual information specific to each of them. The SC also mentions that the information transmitted does not contain time-barring considerations.

As already stated, OLAF's reporting is in line with the legal requirements and since 2013, a new work form was introduced in OLAF's CMS. This serves as a basis for the investigators to introduce information on the reasons for investigations lasting more than 12 months and the remedial measures envisaged to speed up the investigation. It should also be mentioned that Regulation 883/2013 does not foresee for time-barring considerations to be included in the 12 months reports.

In paragraph 19, the SC states that the information transmitted does not contain details about the financial interests at stake and highlights that this kind of information, if not available in the first months of an investigation, may become available once the investigation has progressed. The SC also considers that the importance of financial interests should not be completely excluded from the information provided to the SC. OLAF would like to recall that, as already explained during the meeting on the revision of the Working Arrangements of 5 December 2014, such information is sometimes difficult or even impossible to estimate, or not relevant. Any estimation for this field in the CMS, especially in the earlier and middle stages of an investigation, is likely to be unreliable. Due to this unreliability and the fact that the data is rarely used, OLAF has decided to remove this field from CMS and replace it with the recommended amount for recovery, which becomes available only at the end of the investigation.

In paragraph 20, the SC “*regrets that OLAF discontinued the constructive approach used prior to the entering into force, on 1 October 2013, of Regulation 883/2013, a period during which OLAF did not consider that it should limit the information which it was bound to provide under the former Regulation 1073/1999*”.

OLAF would like to recall that OLAF and the SC co-authored the Working Arrangements and jointly agreed on the information to be received for the cases lasting more than 12 months, and furthermore that OLAF is legally bound to what is foreseen by the Regulation.

### *2.2 Information on reasons for non-completion of investigations within 12 months*

In paragraph 21, the SC states that “*OLAF has abandoned the list of pre-defined categories of reasons which previously existed in the 9-month reports. This has led to a high degree of heterogeneity of the reports drawn up by each investigator.*”

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<sup>2</sup> EDPS Opinion of 19 July 2007 (Case 2007-73)

OLAF abandoned the pre-defined categories of reasons when the new work form was adapted to reflect the requirements of the Regulation 883/2013. Concerning the heterogeneity of the information provided, it should be recalled that OLAF's investigative staff includes around 130 investigators, working in 8 different investigative units. Practically all of them are regularly required to provide information on investigations lasting more than 12 months for SC's purposes. In 2014, there were 658 such instances concerning 391 investigations for which information was provided to the SC. Therefore it can be expected that there is not exactly the same amount of quantitative and qualitative information. Moreover, there are by definition significant differences between investigations in different sectors, both within and between Directorates. Since each case is different and has its own particularities, also the length of the information provided may vary significantly.

As acknowledged by the SC, the information is put together exclusively for the SC and is not used by OLAF for its own monitoring of the duration of its investigations. Therefore, any further streamlining and approximation would require a significant additional workload for OLAF. The SC should consider its request to receive more information concerning the investigations lasting more than 12 months in the context of the resource constraints that OLAF is facing.

According to paragraph 23, the SC identifies the complexity of the matter under investigation as the reason most frequently mentioned for investigations lasting more than 12 months and states that the criteria to define such complexity is less reflected in the information provided, which may be a sign that the investigators need to have clear guidelines on their application.

OLAF would like to stress that the factors which can make a case complex vary greatly between sectors. For example, a Customs investigation could require input from many Member States, while a Structural Funds investigation into a single large project could require analysis of very large quantities of documentation.

In paragraph 24 of the Opinion, it is stated that the SC receives few information indicating the actual impact (duration expressed in months) of the lack of or slow cooperation on the duration of the investigation. It is true that the lack of cooperation or the slow cooperation of the stakeholders delays the investigation, but it is not clear how this impact could usefully be further qualified or quantified. OLAF would welcome any SC guidance in this respect.

OLAF would like to recall that it has already suggested to the SC measures that would improve the information provided on the reasons for investigations lasting more than 12 months, in the context of the ongoing discussions on the Working Arrangements. As proposed by OLAF, the SC could be granted automatic access to the 12 months information and "pick lists", agreed with the SC, could be inserted in CMS. This would allow the investigators to choose from a predetermined list of reasons. On 30 January 2015, OLAF sent the SC an invitation to specify the information needed for its monitoring purposes and received the SC reply on 30 March. OLAF looks forward to continuing the discussions on the revision of the Working Arrangements as foreseen.

### *2.3 Information on remedial measures to speed up investigations*

In paragraph 31 of its Opinion, *"the SC adheres to OLAF's position that the 12-month period following the opening of an investigation, after which Regulation 883/2013 requires OLAF to indicate remedial measures to speed it up, does not necessarily correspond to the reality of OLAF's investigations"*. OLAF appreciates SC's acknowledgment. It follows that it might in most cases not be appropriate to describe "remedial" measures after 12 months of investigation nor sometimes after 18 months, whereas comments of substance would be appropriate for investigations after 24, 30 or more months.

OLAF takes note that according to the SC the remedial measures are not always specified and has already, in the context of the ongoing discussions on the Working Arrangements,

suggested to the SC measures that would improve the information provided. In line with the proposal for the reasons as described under point 2.2 above, the investigators would be able to choose from a predetermined "pick list" the remedial measures to be included in the information provided to the SC.

#### *2.4 Period covered by the 12-month reports*

The SC notes in paragraph 37 that the period covered by the information provided is not always indicated. The SC considers that this situation leads to time-consuming work for the SC to identify for each investigation reported if any information was provided in other instances and also might be confusing for OLAF managers in charge of the control of duration.

Indeed the Regulation does not distinguish between the different periods covered by the information provided, stipulating only that reporting should be done *"at the expiry of that 12-month period and every six months thereafter"*. OLAF would like to point out that the period covered can be identified in every case because the opening date is always clearly indicated.

#### *2.5 Statistical data available in the OLAF Case Management System*

In paragraph 39, the SC mentions that that given the reduced information that OLAF provides on its own initiative, the SC is obliged to make frequent requests for additional information and that by the time OLAF replies to the SC's request, the statistical information provided is already outdated.

OLAF would like to point out that it provides the SC with the information required by the Regulation, article 7 (8). Article 15 (1) of the Regulation clearly specifies that the SC must ask OLAF in case it considers that it needs additional information on investigations. When replying to the SC's requests, the statistical data extracted from CMS is the one available at the moment of the extraction.

#### *2.6 Information on OLAF statistics on the duration of investigations*

In paragraph 42, the SC mentions that OLAF's method of calculation of the average duration of investigations has changed since its 2011 Report and considers that the annual figures and statistics (before and after 2011) cannot be strictly compared since they were calculated using two different methods.

As already repeatedly explained by OLAF, orally, by mail and more recently in its reply to *SC draft Opinion on statistics on investigative performance of OLAF*, the data mentioned by the SC is fully comparable. The OLAF Reports usually present data spanning over five years, which offers a clear overview and allows the reader to compare the data and visualise the relevant trends. Prior to 2011, the indicator used for the average duration of investigations looked only at the age of investigations concluded during the year. The new indicator introduced in 2011 looks at the age of all investigations ongoing and those concluded during the year. OLAF has used the same new methodology to recalculate the average duration of investigations also for previous years, making the results for different years fully comparable.

OLAF has prepared a chart showing the duration of investigations over the years 2005-2014 using the two different indicators, see Chart 1 below. As it is visible from the chart, over the last years the results of the two indicators follow the same trend. This demonstrates that even if in 2011 the indicator had not been changed, the duration of investigations would have decreased, from 27 months in 2011 to 22.7 months in 2012, 22.3 months in 2013 and 23.3 months in 2014, showing that investigations are indeed completed in less time than before.



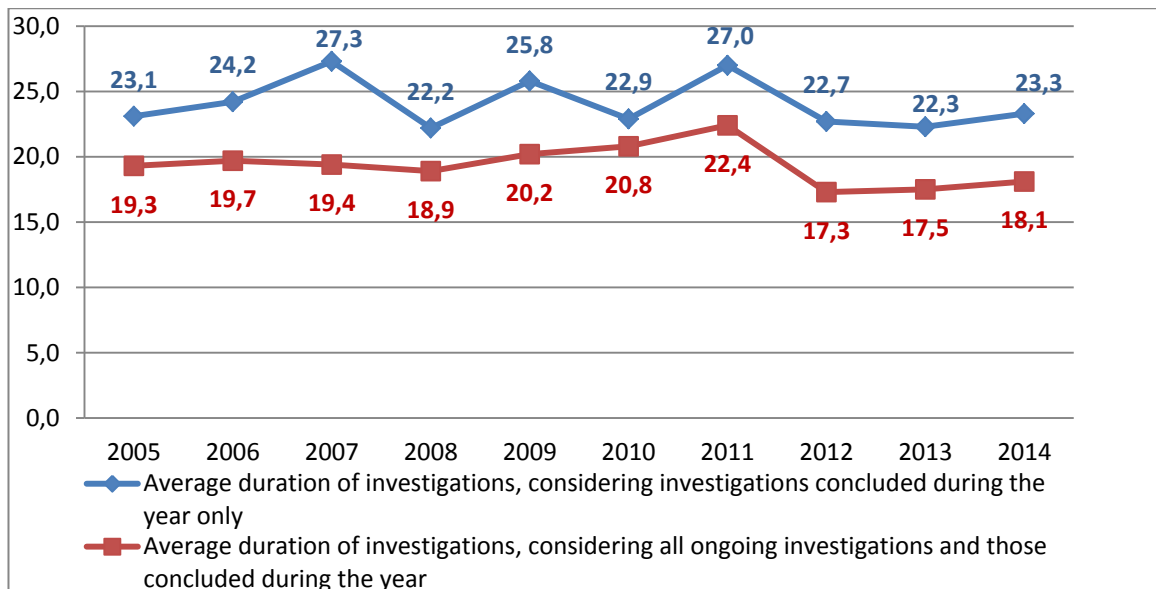


Chart 1: Average duration of OLAF's investigations 2005-2014 (in months)

OLAF has decided to include in the OLAF Report 2014 statistics on the average duration of investigations closed in 2014, as it did prior to 2011, in addition to the average duration of investigations closed and investigations still open, and the percentage of on-going investigations lasting more than 20 months. OLAF hopes that the use of a broader spectrum of indicators for the duration of its investigations will address the concerns of the SC on the use of indicators on the duration of investigations.

## **II OLAF's internal tools and procedures for managing the duration of investigations**

### **1. Observations (paragraphs 50-61)**

As acknowledged by the SC in paragraph 51, "OLAF has put in place a number of relevant tools for managing investigations and thus reinforced the internal control of their duration".

OLAF attaches great importance to the internal control of the duration of investigations and has, indeed, put in place an internal, fully fledged system for monitoring purposes. With the entry into force of Regulation 883/2013 and of the Guidelines on Investigation Procedures for OLAF staff in October 2013, different managerial measures foreseen to improve the duration of investigations have been introduced. These measures have started to be implemented in 2013, while the information reviewed by the SC for the purpose of this Opinion includes cases dating back to 2007. It is expected that a review of cases opened in 2013/2014 would better reflect the results of OLAF latest efforts.

However, it should be noted that since 2012, the duration of OLAF's investigations has decreased, as shown in Chart 1 above, even though the number of investigations has heavily increased and OLAF's investigative staff, which has been kept constant despite general staff cuts in OLAF, has had to deal with an increased workload.

#### **1.1 Internal control of the progress of investigations during their lifecycle**

The SC acknowledges in paragraph 53 that OLAF has put in place different managerial tools for controlling the duration of investigations. These include among others checking the progress of the investigations in OLAF's CMS, monthly reports including statistics which are discussed in regular management meetings, investigation planning and time

scheduling. OLAF welcomes the SC's recognition and, as already demonstrated, is committed to decrease the duration of investigations.

OLAF considers that one of the most important tools for the control of the duration of its investigations is the monthly statistical reports on investigative performance, including indicators on duration of cases and workload. These are prepared by a dedicated Unit in Directorate C. The statistics include parameters on OLAF's global performance and on the performance of each investigative unit and are drawn from the data recorded in CMS on an on-going, permanent, basis.<sup>3</sup>

The reports are distributed to the OLAF Senior Management allowing them to monitor, analyse and discuss monthly the overall performance of the Office, including the duration of cases and the workload of investigators. The analysis provides the basis for decisions such as reallocation of staff or prioritisation of investigations. In addition, each investigative Head of Unit receives every month the statistics concerning his/her unit in order to monitor and manage the unit's performance. Once a year, statistics on the overall performance of OLAF's investigative function are discussed at a meeting bringing together all the investigative Heads of Unit. The OLAF statistics are a powerful tool that allows managers to constantly monitor the investigative performance of the Office and to take the appropriate measures to prevent and remedy the excessive duration of investigations.

A further step forward will be the release of OLAF Content Management system in early 2016, which will provide managers and staff with additional tools to facilitate the planning and monitoring of the progress of the investigations.

The SC also mentions in its paragraph 53 that the monitoring of the progress of the investigations by managers is not evident in the case files. OLAF would like to underline that the SC has examined only 25 complete case files and that drawing such a general conclusion may therefore be premature. It is important to stress that the day-to-day monitoring activities of managers are not necessarily reflected in the case files.

As regards the time-barring concerns raised by SC in paragraph 54, OLAF would like to underline that it always gives full consideration to time-barring whenever this is relevant. Besides using the information available in the "mini country profiles", investigators can consult on this matter the OLAF Legal Advice Unit and the Advisers of Directorate A and B. However, it should be noted that the risk of time-barring is difficult to determine since its calculation depends on the qualification of the crime under national law. An OLAF investigation is in itself meant to determine any possible crimes, and to prove and disprove allegations. The time-barring is taken into account by OLAF when it is relevant to decisions on the relative priority of investigations. It may well also be the case that even if prosecution is time-barred, financial recovery is still possible, so continued investigation is justified.

It should be noted that the decision on time-barring is a legal act adopted by the judicial authorities taking into consideration not only the qualification of the facts under criminal law but several other factors (unknown by OLAF) that could eventually have an impact on the effective calculation of the time-barring period.

### *1.2 Measures to speed up investigations lasting more than 12 months*

The SC identifies different categories of measures to speed up investigations lasting more than 12 months. As stated by the SC in paragraph 56, *"remedial measures appear to be particularly needed as far as the allocation of investigative resources and the management of cooperation with stakeholders is concerned"*.

OLAF agrees with the SC that in many cases the allocation of investigative resources is of great importance to speed up the investigations and therefore this is closely monitored on

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<sup>3</sup> Upon request, OLAF can provide the SC with a sample of such reports.

a monthly basis. The monthly reports discussed by senior and middle management include details statistics on resources and allow for decisions. As explained to the SC, OLAF has already taken measures to reinforce those units most affected by a heavy workload, by transferring competences to other units and by re-allocating resources.

Regarding the management of cooperation with stakeholders during investigations, OLAF welcomes SC's acknowledgment that OLAF has a proactive approach. Indeed, in such situations OLAF sent reminders, organised meetings with stakeholders, escalated its requests to another and higher level, or informed the Member State's authority, adapted its investigative strategy and found new ways to gather evidence or to compensate for the lack of information.

### *1.3 Review of the duration of investigations at their final stage*

The SC refers to the checks on the continuity of investigations carried out by ISRU upon completion of investigations. The SC welcomes this new layer in the chain of control of the duration of investigations. However, in paragraph 60, the SC notes that the results of the ISRU assessment of continuity of the investigations are unsubstantiated and sometimes inconsistent with the case files and that it is unclear how ISRU comments should be taken into account for future investigations.

OLAF would like to point out that since Regulation 883/2013 entered into force, the ISRU has progressively established a consistent approach to verify the duration of investigations. When checking the continuity of the investigations, as in general when exercising its review function, ISRU acts to improve the overall quality of OLAF's work. Therefore the ISRU aims at introducing constructive comments in the review exercise. Since October 2013, ISRU uses a new review form, which includes a field 1.5 on "*Continuity of investigation*".

ISRU reviewers check systematically in CMS if there are significant delays or time gaps in the conduct of the investigation. If the reviewers find such gaps, they submit their questions to the investigative unit and accordingly mention in field 1.5 the exact dates between which there was no investigative activity identifiable in the investigative file. There may sometimes be specific reasons for this, e.g. fluctuation of investigators, reorganisation, long sickness or even death of the investigator or change of unit. These specific circumstances are then explained in the relevant field. If reviewers cannot find any specific explanation, they draw the attention to the facts.

In cases where reviewers find that there are elements in the file which might indicate that the duration is disproportionate to the complexity and circumstances of the case, all elements of the file are rigorously assessed. However, it should be noted that not every single discontinuity assessed by the reviewers leads to the conclusion that the duration of an investigation is disproportionate. The reviewers include in the review opinion the reason why it has been considered that the duration of the investigation was or was not proportionate to the complexity and circumstances of the case. The opinion might also contain an assessment of what concretely could be done in the future to avoid unjustified delays.

It should also be noted that the management of the investigative units is responsible for the ongoing monitoring and control of the duration of the OLAF investigations, while ISRU is primarily in charge of the ex-post review. The conclusions and comments provided by the ISRU can serve to identify possible weaknesses and to prevent that similar situations occur in the future.