



Response to the Supervisory Committee's Opinion 1/2012 on OLAF's preliminary draft budget for 2013

Introduction

I welcome the Supervisory Committee's support on the 2013 budget proposal and would like to provide some clarifications and answers on the comments and recommendations made in the Opinion 1/2012.

I. Resources

Allocation of resources to priority activities

I am pleased to see that the strategy used in order to reorganise the Office is acknowledged as a step in the right direction. This is even more visible if you take into account both internal and external staff. As a result of the reorganisation not only the investigative function, but also OLAF's policy function has been reinforced.

Follow up of investigations - monitoring activities

I agree that it is important to assess the impact of investigations and OLAF addressed this through the integration of the monitoring of its recommendations in the OLAF investigation procedure (Article 27 and 28 of the OLAF Instructions to Staff on Investigative procedures). The importance attached to the implementation of the OLAF investigation results was one of the driving reasons for extracting the recommendations from the content of the final reports, thereby giving the OLAF results more visibility. Furthermore, the "implementation of recommendations with results" will be used as one of the result indicators of OLAF's objectives in the Management Plan 2013.

However, it needs to be pointed out that, although OLAF contributes to the possible conviction by the national judicial authorities, it does not have responsibility for the complete process from detection to conviction.

As you point out, the conviction rate of OLAF investigations is not very high. One of the aims of the reorganisation is to improve this. For this reason the units dealing with the investigations are now also in charge of the monitoring activities, which means that there is a continuity between the investigative and monitoring activities. This way the monitoring function has been even reinforced by placing the staff of the former specialised follow-up unit in the investigative units.

In relation to the monitoring of the financial recoveries, it needs to be kept in mind that OLAF does not have any recovery competence and that the Authorising Officers of the DGs were reminded of their responsibilities in the Commission Anti-Fraud Strategy (CAFS). Within the framework of their responsibilities for recovery, the DGs agreed to undertake the recoveries as indicated in the OLAF reports and inform OLAF of the results of their actions. It will be on the basis of this information that OLAF will be able to report on the implementation of the recommendations.

HR Strategy

It needs to be stated that the reorganisation process itself included a strategy for handling with staff matters in the context of the reorganisation. In order to integrate competent and motivated staff into new units, staff was consulted on their interests and their competences were assessed before a transfer was made. Furthermore training was organised in order to train staff in the newly established procedures.

Concerning training after the reorganisation in order to further address possible needs, a distinction needs to be made between:

- OLAF internal training, such as the one organised on the new procedures,
- Training organised by the European Commission (EC), which has an elaborated portfolio of training courses (e.g. finance, audit, negotiation, languages, etc.) and which can be used by OLAF staff without any budgetary impact on the OLAF budget and
- External training, for which a budget is provided and specific needs can be covered.

For OLAF, the internal training is of particular importance as it is directly related to the investigative activities of the Office. This internal training cannot be externalised as the substance matter is so specialised that it only can be provided by experienced OLAF staff. Therefore, the quality of OLAF's training cannot be simply judged by the amount of money spent on the training activities.

A limited decrease in the budget does not have a major impact on addressing training needs. Furthermore, OLAF has the possibility to increase the training budget itself, if required through an internal budget transfer (see 2010 and 2012 in the table hereunder).

Evolution Training Budget 2008-2013

	2008	2009	2010	2011	2012	2013
Budget	225.000	225.000	200.000	220.000	199.000	199.000
Outturn	122.457	182.325	235.728	213.169	180.798	

*15/11/2012

As the training requirements are not always covered by the general EC training, are often very specific and not readily available on the market, use was made of internal training provided by experienced investigators.

Training provided until mid-November (registered in SYSLOG)

Task related training:

EC Central	OLAF	Total in days
422.63	993.18	1,415.81
29.85 %	70.15 %	100.00 %

-> of which 696 days specific investigation related training organised by OLAF to 896 participants

Language training:

EC Central	OLAF	Total in days
869.83	15.00	884.83
98.30 %	1.70 %	100.00 %

IT-training

EC Central	OLAF	Total in days
166.27	48.20	214.47
77.53 %	22.47 %	100.00 %

Temporary agents

The decision on the "re-grading" of temporary agents (Decision of the Director of OLAF for a single re-grading exercise regarding the OLAF temporary agents engaged pursuant to Article 2(a) of the Conditions of employment of other servants of the European Union and employed for an indefinite period) , as well as the one on the duration of contract (Decision of the Director of OLAF modifying the policy for the engagement and use of OLAF's temporary agents) were signed by the Director General on 16.10.2012. The decision on the re-grading has been implemented in coordination with DG HR and the staff representatives, and duly communicated to the staff.

Furthermore, Unit R.1 has a person specialised in career development who has been trained by DG HR (called "Relop") and who can be consulted by any member of staff on the opportunities for further career development.

II. Budgetary Procedure

Commission Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office (OLAF) of 28 April 1999 states in Article 6(2): "After consulting the Surveillance Committee, the Director shall send the Director-General for Budgets a preliminary draft budget to be entered in the special heading for the Office in the annual general budget."

There are two options at which stage the Supervisory Committee could be involved:

1. Presentation and negotiation of "OLAF's preliminary budget" with and to DG BUDG in the 2nd half of February/beginning of March. (The exact

agenda is included in the budgetary circular and published on the website of DG BUDG - Budgweb.)

The preliminary draft budget of OLAF is based on the following elements:

- Salaries of permanent, temporary and external staff (71.8% of OLAF's total budget):

The budget estimations for salaries are based on the results given by a calculation matrix, which uses the salary payments data of February of the current year as a basis for the calculation (available in the first week of February). This matrix is used by all services of the EC and the information is not open for discussion.

- Building related costs (12.4%):

For this budget area OLAF puts a lump-sum amount at the disposal of the DG managing the EU buildings (OIB). This is based on the square meters of office space in use and only fluctuates according to the estimated inflation rate.

- Other type of costs (15.8% - IT, missions, investigation budget):

For these areas, use is made the of estimated inflation rate, historical data and budgetary programming for the future prepared by OLAF's investigative units.

- Supervisory Committee (0.34%):

This budget has never been altered over the years and has never been questioned by DG BUDG.

The preliminary draft budget proposed by OLAF in this phase of the negotiation includes only partial information, the needs determined by OLAF, taking into account the political orientation of the College. At this stage OLAF is not yet aware about possible flat-rate cuts according to the Commission's budget objectives/targets, which are only disclosed by DG BUDG during the hearings. As such, information at this stage provided to the Supervisory Committee would be only partial information; therefore OLAF presented its budget proposal to the Supervisory Committee only after the hearings when the information is more accurate.

An intervention at this stage would have the advantage that the Opinion of the Supervisory Committee will be part of the negotiations during the hearing with DG BUDG.

The disadvantage would be that the Opinion will be based on preliminary figures which are modified in accordance with the outcome of the hearing. It also has to be taken into account that information to be used for the drafting of the budget is provided at the last minute to OLAF by other services of the EC and that the mandatory Commission deadlines are very strict and cannot be altered.

2. Submission of the "draft budget" in Badgbud (application developed by DG BUDG for monitoring the budget procedure). This is expected in the 2nd half of March/beginning of April at the latest. It has been continuous practice to involve the Supervisory Committee at this stage.

An intervention at this stage would have the advantage that the Opinion of the Supervisory Committee will be based on the definitive draft budget as presented to the Budgetary Authority.

The disadvantage would be that the Opinion has to be drafted at short notice in order to be included in the draft budget. Further on in the process, OLAF's administration has no influence.

I understand that in future you prefer to be involved at the earlier stage as per option 1, and I am happy to do this.

III. The Secretariat of the Supervisory Committee

Budget line

I would like to point out that any changes in this respect are not in my competence, but have to be addressed to the budgetary authorities.

However, I would like to give the following explanations of the current situation. Concerning the budget line for the expenditure of the Supervisory Committee and its secretariat, I would like to emphasise that the Supervisory Committee disposes already of a separate budget line admittedly in the annex 3 of heading V of the General budget of the Commission.

The budget line of the Supervisory Committee has already been separated from the budget of OLAF since it is the only line which appears in chapter 03 of OLAF's budget (complete ABB reference 24.010600.030100).

The other 2 chapters managed by OLAF are:

- 24.010600.01 XX XX: staff, building and other management expenditure
- 24.010600.02 XX XX: investigation, communication & publication and protection of the Eurocoins.

The Head of the Secretariat has been granted a sub-delegation by the Head of the Office, as authorising officer by delegation of OLAF, since his appointment after the OLAF reform on 1 February 2012. This sub-delegation empowers the Head of the secretariat of the Supervisory Committee to implement independently the budget at the disposal of the Supervisory Committee (Chapter 03 of Annex 3 of the EC general budget) in compliance with the Charter of Authorising Officers, the Financial Regulation and the Implementing Rules.

OLAF does not control the relevance of the budget execution (what the money is spent on), but OLAF's financial unit R.2 Budget ensures the administrative execution of payments and controls commitments and payments on compliance with the above mentioned Financial Regulation, applicable to all EU bodies.

Over the years the budget allocation for the Supervisory Committee:

- has always been the same amount (200K),
- has never been subject to any cuts,
- has never been entirely used and
- has never been proposed as an item for discussion in the hearings with DG BUDG.

Budget implementation 2005-2012

	2005	2006	2007	2008	2009	2010	2011	2012*	2013
Budget	200.000	200.000	200.000	200.000	200.000	200.000	200.000	200.000	200.000
Outturn	100.000	170.750	175.000	196.190	200.000	200.000	195.234	195.500	
Payments	70.204	124.872	154.896	165.557	194.500	148.592	168.147	110.867	

(*) situation on 19/10/2012

As presented in the draft budget (Volume 3 of Section III and Working document part VI) the appropriation at the disposal of the Supervisory Committee is intended to cover all expenditure resulting from the mandate of the Members of the Supervisory Committee, namely:

- allowances granted to the Members of the Supervisory Committee for the time dedicated to the fulfilment of their functions, as well as their travel expenses and ancillary costs,
- costs incurred by Members of the Supervisory Committee officially representing the Supervisory Committee,
- all operating expenditure, such as the cost of purchase of equipment, stationery and office supplies and expenditure arising from communications and telecommunications (postal charges, telephone, fax and telegraph charges), documentation and library expenditure, the purchase of books and subscriptions to information media,
- travel, subsistence and incidental expenses of experts, invited by the Members of the Supervisory Committee to participate in study groups and working parties, and the cost of organising such meetings where they are not covered by the existing infrastructure (in the headquarters of the institutions or external offices),
- expenditure on specialised studies and consultations contracted out to highly qualified experts (individuals or firms) where the Members of the Supervisory Committee are unable to entrust such studies to suitable staff of the Office.

OLAF has never transferred a budget from or to the budget line of the Supervisory Committee in order to avoid any conflict of interest. For the same reason, OLAF is not in favour of transferring unused funds from the Supervisory Committee budget (Chapter 03) to be used for any other purposes under Chapter 01 & 02 of its budget in the future.

Staff

The Secretariat of the OLAF Supervisory Committee is fully provided for by OLAF and the revised Regulation 1073/1999 does not change this. The legislative framework does not require an earmarking of posts for the Supervisory Committee Secretariat.

Currently, the Secretariat has 6 posts. Furthermore, one additional person was made available to the Supervisory Committee on a temporary basis to smooth the transition from the old Committee and Secretariat to the new ones. In the current situation of increased workload and staff cuts, it is very difficult to justify an increase in the staff of the Supervisory Committee Secretariat to a number of staff which the Secretariat never had in practice.

I am pleased that we have recently jointly raised the issue of the impact of staff cuts on the capacity of OLAF and the Supervisory Committee to do their work with the Presidents of the European Parliament, the Council of the European Union and the European Commission. We are looking forward to a positive outcome.

Finally, I would like to assure you that as the Director General of OLAF, being the responsible AIPN, as foreseen in the new Regulation 1073/1999 I will consult you on staff decisions in the Supervisory Committee Secretariat. With regard to performance evaluation, evaluation of work of staff of the Secretariat by the Members of the Committee will serve for me as a basis to form an opinion on their performance.

Giovanni KESSLER



18 DEC. 2012

