



The Director-General

Brussels

**NOTE FOR THE ATTENTION OF MR TUOMAS PÖYSTI,  
CHAIRMAN OF THE OLAF SUPERVISORY COMMITTEE AND  
MR JOHAN DENOLF, MEMBER OF THE COMMITTEE**

Via the Secretariat of the Supervisory Committee

**Subject: Follow-up to the Supervisory Committee Recommendations  
issued between 2012 and 2014**

Dear Mr Pöysti, Mr Denolf,

Following our meeting of 29 June 2015, OLAF has provided you on 10 July written comments on the latest state of play on thirteen recommendations issued between 2012 and 2014 and addressed in the Supervisory Committee (SC) Report 2/2014 on *Implementation by OLAF of the SC's recommendations* of 17 November 2014. These thirteen recommendations were identified by the SC as high priority in its note of 12 June 2015.

In the meeting of 29 June, as well as in the note of 10 July, I have expressed the readiness of OLAF to report also on all other recommendations, which in the SC Report 2/2014 were not considered as fully implemented, and for which the SC had suggested that they could be assessed jointly at a later stage.

For this purpose, I am sending you a comprehensive table with OLAF's comments on all 43 recommendations, including the high priority ones reported on by OLAF on 10 July and the other 30 ones. Following the approach of the SC, eight recommendations which were assessed by the SC in its Report 2/2014 as implemented are not included in the table, with the exception of one identified by the SC as high priority.

The table takes into account recent considerable progress in the implementation of the recommendations, notably through the adoption of Guidelines on case selection and Whistleblowing procedures. Relevant documentation to support our assessment has been attached. For the high priority recommendations, the table includes also an update for one recommendation which had still one pending action on 10 July and on which the SC has in the meantime been informed<sup>1</sup>.

OLAF has furthermore put together a summary page ("traffic light") showing the status of implementation, similar to the one used by the SC in its Report 2/2014 for all the

<sup>1</sup> See Ares(2015)3119122 - 24/07/2015

50 recommendations. OLAF considers as implemented 45, on four there is disagreement and one recommendation is still pending, awaiting an Opinion from the SC. OLAF therefore considers that the follow-up of the recommendations issued by the SC between 2012 and 2014 can be closed with this one exception.

We of course remain available for any questions that you might have.

Yours sincerely,

  
Giovanni KESSLER

Encl: Table on OLAF report on 43 SC recommendations

Summary page ("traffic light") with status of implementation of all SC recommendations issued between 2012 and 2014

List of additional documentation:

1. List of training followed by staff of the Investigation Selection and Review Unit in the period 2012-2015
2. Transmission note whistleblowing procedures and annexes
3. Transmission note and annexes Guidelines on judicial, disciplinary and financial monitoring
4. Transmission note cases in which OLAF's recommendations have not been followed and annex
5. Transmission note and annexes OLAF Management Plan 2015
6. Administrative Arrangements between OLAF and the European Commission
7. Administrative Arrangements between OLAF and the EEAS
8. Practical Arrangements between OLAF and the European Parliament
9. Commission Decision C(2008)6866
10. Written confirmation of the decision on complaints concerning procedural guarantees in the context of OLAF investigations and Annex
11. Transmission note and annexes OLAF guidelines on case selection (Vademecum)
12. Agenda FPDNET of 8 July 2015 and note sent to FPDNET on IPPs 2016
13. OLAF reply to SC comments on IPPs 2015
14. Transmission note complaints received by OLAF and annex

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## Summary page implementation SC recommendations

Ref. Ares(2015)3655275 - 04/09/2015

|    | Recommendation                                | SC Status of implementation 17<br>November 2014 | OLAF Status of implementation<br>2 September 2015 |
|----|-----------------------------------------------|-------------------------------------------------|---------------------------------------------------|
| 1  | HR Strategy                                   | Fully implemented                               | Implemented                                       |
| 2  |                                               | Fully implemented                               | Implemented                                       |
| 3  | Resources allocated to the ISRU               | Could not be verified                           | Implemented                                       |
| 4  |                                               | Fully implemented                               | Implemented                                       |
| 5  |                                               | Could not be verified                           | Implemented                                       |
| 6  |                                               | Fully implemented                               | Implemented                                       |
| 7  |                                               | Not implemented                                 | Implemented                                       |
| 8  |                                               | Fully implemented                               | Implemented                                       |
| 9  | Follow-up of investigations                   | Could not be verified                           | Implemented                                       |
| 10 |                                               | Could not be verified                           | Implemented                                       |
| 11 | Right to private life                         | Not implemented                                 | Implemented                                       |
| 12 |                                               | Partially implemented                           | Implemented                                       |
| 13 | Data Protection                               | Not implemented                                 | Implemented                                       |
| 14 | Right to express views on the facts           | Could not be verified                           | Implemented                                       |
| 15 | Checks of economic operators                  | Could not be verified                           | Implemented                                       |
| 16 | Extension of the scope of investigation       | Could not be verified                           | Implemented                                       |
| 17 | DG's direct participation                     | Not implemented                                 | Disagreement                                      |
| 18 | Notification to institutions                  | Could not be verified                           | Implemented                                       |
| 19 | Conflict of interest                          | Could not be verified                           | Implemented                                       |
| 20 |                                               | Not implemented                                 | Disagreement                                      |
| 21 | Adoption of a complaints procedure            | Partially implemented                           | Implemented                                       |
| 22 | Publication of a complaints procedure         | Partially implemented                           | Implemented                                       |
| 23 | Guidelines on the IPPs                        | Pending                                         | Implemented                                       |
| 24 | Dialogue with stakeholders                    | Partially implemented                           | Implemented                                       |
| 25 | Application of the selection criteria by ISRU | Not implemented                                 | Implemented                                       |
| 26 |                                               | Not implemented                                 | Implemented                                       |
| 27 |                                               | Not implemented                                 | Implemented                                       |
| 28 |                                               | Not implemented                                 | Implemented                                       |
| 29 |                                               | Not implemented                                 | Implemented                                       |
| 30 |                                               | Could not be verified                           | Implemented                                       |
| 31 |                                               | Not implemented                                 | Disagreement                                      |
| 32 |                                               | Could not be verified                           | Implemented                                       |
| 33 |                                               | Not implemented                                 | Implemented                                       |
| 34 |                                               | Not implemented                                 | Implemented                                       |
| 35 | Transparency of the selection process         | Could not be verified                           | Implemented                                       |
| 36 |                                               | Could not be verified                           | Implemented                                       |
| 37 |                                               | Could not be verified                           | Implemented                                       |
| 38 |                                               | Not implemented                                 | Implemented                                       |
| 39 |                                               | Could not be verified                           | Implemented                                       |
| 40 | Internal evaluation of the ISRU               | Not implemented                                 | Pending                                           |
| 41 | The SC Secretariat                            | Fully implemented                               | Implemented                                       |
| 42 |                                               | Partially implemented                           | Implemented                                       |
| 43 |                                               | Partially implemented                           | Implemented                                       |
| 44 |                                               | Fully implemented                               | Implemented                                       |
| 45 | Budgetary procedure                           | Fully implemented                               | Implemented                                       |
| 46 | Consultation with the SC                      | Not implemented                                 | Implemented                                       |
| 47 | Reporting to the SC                           | Not implemented                                 | Implemented                                       |
| 48 |                                               | Not implemented                                 | Implemented                                       |
| 49 |                                               | Not implemented                                 | Implemented                                       |
| 50 |                                               | Not implemented                                 | Disagreement                                      |



## SC Recommendations follow-up OLAF report – 3 September 2015

**Summary:**

In its Report 2/2014 on *Implementation by OLAF of the SC's recommendations* of 17 November 2014, the SC reports on the assessment of 50 recommendations issued in six SC Opinions between 2012 and 2014. SC decided to continue the follow-up on 42 recommendations, out of which it identified on 12 June 2015 twelve high priority recommendations. One additional recommendation was identified on 12 June as high priority, despite being implemented and recognised as such in the SC Report 2/2014.

The table below includes OLAF's follow-up on the 43 recommendations. Out of the total of 43 recommendations: 38 are implemented, one is pending and on four there is disagreement, meaning that OLAF does not agree with the SC recommendation and therefore will not implement it.

| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                              | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                            | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p>OLAF should ensure that the ISRU has at its disposal sufficient and adequate resources to carry out its selection tasks.</p> <p>In particular, OLAF should:</p> <p><b>[nr 3]</b> Increase the number of selectors with investigative experience;</p> | <p><b>[nr 3]</b> Implementation could not be verified</p> <p>The SC has received no substantial reply: the number of selectors recently joining the unit is not indicated [...].</p> | <p>Number of selectors in the Investigation Selection and Review Unit: 1 June 2012: 15; 1 June 2013:16, 1 June 2014: 20, 1 June 2015: 22. The number of selectors has increased by almost 50% between 2012 and 2015.</p> <p>In an effort to increase the number of selectors with an investigative profile, several experienced colleagues, previously working in the investigation units, have been recently transferred to the Investigation Selection and Review Unit. It is intended to continue this regular practice of exchange of staff with the investigation units, organising internal mobility within the Office. This will contribute to the objectives of an increased investigative experience of case selectors. It will lead to an exchange of experiences and the</p> | <p><b>[nr 3]</b> Implemented</p>                                  |



| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                                                    | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                               | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                                                   |                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                         | broadening of the profiles of selectors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                   |
| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p>OLAF should ensure that the ISRU has at its disposal sufficient and adequate resources to carry out its selection tasks.</p> <p>In particular, OLAF should:</p> <p><b>[nr 5]</b> Ensure that the selectors have the appropriate (legal, linguistic and sectorial) expertise and provide them with sufficient training;</p> | <p><b>[nr 5]</b> Implementation could not be verified</p> <p>The SC has received no substantial reply: [...] OLAF did not indicate any remedial measures to the concerns expressed by the SC in its Opinion 2/2014.</p> | <p>Targeted trainings are specifically organised for selectors: for example, on 16-17 March 2015, a training was dedicated to the use of commercial databases with the support of OLAF analysts; on 26-27 March 2015, selectors participated to a tailor-made "customs" training module; in 2014 and 2015, a training on open sources for selectors was organised. Selectors attend the operational trainings for investigators designed by OLAF (CMS training, Computer Forensics in support of OLAF investigations, conference on the Romanian criminal law, drafting investigative reports, ethics, interview techniques, time management for investigators, open source). Selectors are also encouraged to enroll on language training courses in order to expand the linguistic coverage of the unit. They have access to the general training catalogue of the Commission (Financial Regulations; ABAC; management of grants/contracts; public procurements).</p> <p>Selectors are also trained "on the job" in Investigation Selection and Review Unit, by the more experienced colleagues. All Heads of sector in the unit have a specific investigative experience and are prepared to assist the programming and conduct of the relevant verification activities by selectors and to give them feed-back on intended and performed selection activities. Specific guidelines on selection procedures have been issued to support this information flow, with a view to promoting selection and verification best practices.</p> <p>Documentation attached: List of training followed by staff of the Investigation Selection and Review Unit in the period 2012-2015.</p> | <p><b>[nr 5]</b> Implemented</p>                                  |

| <i>SC Reference</i>                              | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                          | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <i>Opinion 2/2014<br/>Case selection in OLAF</i> | <p>OLAF should ensure that the ISRU has at its disposal sufficient and adequate resources to carry out its selection tasks.</p> <p>In particular, OLAF should:</p> <p><b>PH [nr 7]</b> Adopt proper procedures for dealing with whistle-blowers</p> | <p><b>[nr 7]_Not implemented</b></p> <p>The SC is fully aware of the rules in the Staff Regulations and the Commission's Guidelines on Whistleblowing (SEC(2012)679final) of December 2012. The SC however considered that they could be supplemented by clear and detailed internal rules for dealing with whistle-blowing (Opinion 2/2014, paragraph 42).</p> <p>The European Ombudsman stated, with regard to the above mentioned Guidelines, that "the Commission has been the most advanced institution by adopting guidelines on whistleblowing, <b>but not yet internal rules</b>"(emphasis added)<sup>1</sup>.</p> <p>The SC maintains its recommendation</p> | <p>OLAF has informed the SC, in its reply to SC Report 3/2014 of 17 December 2014, that an internal Working Group on "Whistleblowers" was set up on 10 November 2014 by decision of the OLAF DG to further strengthen the procedures for dealing with whistleblowers.</p> <p>The Working Group took on board issues raised by various stakeholders, including the SC. The Working Group worked closely together with IDOC and with the involvement of DG HR to put together a new OLAF procedure, complementing the GIP, applicable from 1 October 2013, on how to deal with whistleblowers.</p> <p><b>Update:</b> On 23 July a "Procedure on EU staff members reporting in accordance with Articles 22a and 22b of the Staff Regulations ('Whistleblowing')" has been adopted in the Directors meeting. The procedure was sent to the SC on 24 July.</p> <p>Documentation attached: Transmission note whistleblowing procedures and annexes (Ares(2015)3119122 - 24/07/2015).</p> | <b>Update: [nr 7] Implemented</b>                                 |
| <i>Opinion 1/2012<br/>Budget</i>                 | <b>[nr 9]</b> An effective follow-up of investigations must be ensured (incl. feedback on OLAF recommendations).                                                                                                                                    | <p><b>[nr 9]</b> Implementation could not be verified</p> <p>The SC has received no substantial reply.</p> <p>The SC notes that the OLAF DG issued, on 12 May 2014, Guidelines on judicial,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>OLAF considers that the internal organisation set up in 2012 allows for a more efficient and effective follow-up.</p> <p>As recognised by the SC, OLAF Director-General issued, on 12 May 2014, Guidelines on judicial, disciplinary and financial monitoring.</p> <p>Furthermore, OLAF Director-General informed the SC, on</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>[nr 9] Implemented</b>                                         |

<sup>1</sup> See European Ombudsman's Press release no. 16/2014, 28 July 2014, "What are EU institutions doing to protect whistle-blowers"? <http://www.ombudsman.europa.eu/en/press/release.faces/en/54626/html.bookmark>.

| <i>SC Reference</i>                     | <i>Original SC recommendations to OLAF</i>                                                                                                               | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                         |                                                                                                                                                          | disciplinary and financial monitoring. However, due to the lack of access to OLAF cases, the SC is not in a position to assess OLAF's monitoring activity.                                                                               | 5 June 2015, of the cases in which OLAF's recommendations have not been followed<br><br>Documentation attached: Transmission note and annexes Guidelines on judicial, disciplinary and financial monitoring (Ares(2014)1682921 - 23/05/2014). Transmission note cases in which OLAF's recommendations have not been followed (Ares(2015)2362498 - 05/06/2015).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                   |
| <i>Opinion 1/2013<br/>Budget</i>        | <b>[nr 10]</b> OLAF should continue to develop indicators describing the efficiency, quality and results of the follow-up of its investigations.         | <b>[nr 10]</b> Implementation could not be verified<br><br>The SC has received no substantial reply.<br><br><i>(see also the recommendation above [9])</i>                                                                               | OLAF Management Plan 2015 includes the impact indicator: <i>Results from the monitoring of the implementation of OLAF's recommendations</i> . OLAF is following closely the outcome of its financial, judicial and disciplinary recommendations. See page 6 of OLAF Management Plan 2015 sent to the SC on 4 February 2015.<br><br>OLAF has also reported on the results of the follow-up of its recommendations in its annual reports (financial recoveries made by relevant authorities following OLAF's financial recommendations, actions taken by national judicial authorities following OLAF's judicial recommendations, actions taken by appointing authorities following OLAF's disciplinary recommendations).<br><br>Documentation attached: Transmission note and annexes OLAF Management Plan 2015 (Ares(2015)448422 - 04/02/2015). | <b>[nr 10]</b> Implemented                                        |
| <i>Opinion No 2/2012<br/>Dalli case</i> | <b>PH [nr 11]</b> OLAF to indicate the legal basis prior to applying any measure potentially interfering in the fundamental rights to "private life" and | <b>[nr 11] Not implemented</b><br><br>In Opinion 2/2012 transmitted to the DG on 17 December 2012 the SC identified at least two investigative measures which were applied without legal basis and in probable violation of Article 7 of | The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 7 point 2.7. Pursuant to Article 7(2) of Regulation 883/2013, <i>"the staff of the Office staff shall carry out their tasks on production of a written authorisation"</i> issued                                                                                                                                                                                                                                                                                                                                                                                        | <b>[nr 11]</b> Implemented                                        |

| <i>SC Reference</i>                           | <i>Original SC recommendations to OLAF</i>                                                                                   | <i>SC assessment of the implementation</i><br><i>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                     | <i>OLAF</i><br><i>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <i>OLAF assessment of the implementation</i><br><i>3 September 2015</i> |
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|                                               | "communications" of persons involved in an investigation.                                                                    | <p>the Charter of Fundamental Rights of the EU (the right to "private life" and "correspondence").</p> <p>Until today, no valid legal basis for those measures has been indicated by OLAF.</p> <p>The SC does not agree with this OLAF position that the Office has some kind of a "blanket competence" to interfere in fundamental rights of the EU citizens. Every such possibility has to be carefully analysed and justified in advance on a case-by-case basis.</p> <p>(see also the recommendation below)</p> | <p>by the Director-General. Moreover, Article 6(1) 2nd subparagraph of Regulation 2185/96 requires that a specific written authorisation is to be issued for every on-the-spot check.</p> <p>Article 11.2 of OLAF Guidelines on Investigative Procedures (GIP), applicable from 1 October 2013, requires that such authorisation is issued for following investigative measures: interviews with persons concerned and witnesses, inspections of premises of EU institutions and bodies, on-the-spot checks on economic operators, digital forensic operations and for missions in third countries.</p> <p>Each investigative activity requiring Director-General's authorisation is subject to a prior thorough legality, necessity and proportionality check by the Investigation Selection and Review Unit in accordance with Article 12.1 and 12.2 of GIP, applicable from 1 October 2013. OLAF indicates the legal basis on the Authority to carry out specific investigative activity, on the basis of the Opinion on the proposed investigative activity.</p> <p>In that way, OLAF ensures that all measures which may possibly interfere with "private life" and "communications" of persons involved in investigation are scrutinised.</p> <p>Documentation sent on 10 July 2015 (Ares(2015)2915936 - 10/07/2015): OLAF Guidelines on Investigative Procedures, Workforms 16, 17, 62.</p> |                                                                         |
| <i>Opinion No 2/2012</i><br><i>Dalli case</i> | <b>PH [nr 12]</b> OLAF did not analyse its competence to gather evidence by way of recording private telephone conversations | <b>[nr 12] Partially implemented</b><br><br>The relevant legal analysis was promised by the OLAF DG in a note                                                                                                                                                                                                                                                                                                                                                                                                       | The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>[nr 12] Implemented</b>                                              |



| <i>SC Reference</i>                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                       | <i>SC assessment of the implementation</i><br><i>SC Report 17 November 2014</i>                                                                                                                                                                                | <i>OLAF</i><br><i>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <i>OLAF assessment of the implementation</i><br><i>3 September 2015</i> |
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|                                                   | which seems contrary to Article 7 of the EU Charter of Fundamental Rights. OLAF to make such a legal analysis.                                                                                                   | addressed to the SC on 8 February 2013.<br><br>On 11 June 2014, following two reminders sent by the SC, OLAF provided the SC with the legal analysis "as it stands today". Thus it would appear from OLAF's reply that this legal analysis is still on-going   | of 7 February 2013, page 8 point 2.9.<br><br>The outcome of the analysis was submitted to the SC on 11 June 2014, with the mention that this will be continuously updated to take into account eventual legislative changes. The outcome of the analysis did not reveal any specific doctrine common to legal orders of a prevailing number of Member States.<br><br>Where OLAF should intend to conduct an investigative activity involving recording of telephone conversation of third parties in the future, the Investigation Selection and Review Unit would conduct, in any case, a specific ad hoc legal assessment of such measure in the framework of the legality, necessity and proportionality check in accordance with Article 12 of GIP, applicable from 1 October 2013.<br><br>In that way, OLAF ensures that the SC recommendation to conduct legal analysis prior to taking such action is followed.<br><br>Documentation sent on 10 July 2015 (Ares(2015)2915936 - 10/07/2015): OLAF Guidelines on Investigative Procedures, Transmission to OLAF Directors and Heads of Unit of the internal legal analysis, Transmission to SC of the internal legal analysis. |                                                                         |
| <i>Opinion No 2/2012</i><br><br><i>Dalli case</i> | <b>PH [nr 13]</b> OLAF did not inform persons unrelated to the investigation that their personal data and telephone listings appear in the case file which seems contrary to requirements of Regulation 45/2001. | <b>[nr 13] Not implemented</b><br><br>In 2012 OLAF actively sought data (including name, address, phone number, ID number) of certain persons unrelated to the investigation in question. OLAF requested and received, used and stored this personal data, but | The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 7 point 2.8.<br><br>Since the SC did not agree with the explanation of OLAF, the OLAF Data Protection Officer offered the SC in a plenary meeting of 23 June 2015 the same explanation and concluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>[nr 13] Implemented</b>                                              |

| <i>SC Reference</i> | <i>Original SC recommendations to OLAF</i>                 | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                     | <p>OLAF to fulfil this legal obligation without delay.</p> | <p>refused to inform the involved persons.</p> <p>Nevertheless, in his note of 5 March 2014, the OLAF DG claims that the SC recommendations were implemented, despite these persons still not having been informed, because OLAF is carrying out the EDPS' general recommendations which allow for not informing persons unrelated to an investigation that OLAF is processing their personal data.</p> <p>The SC understands that the practice of not informing EU citizens that their personal data are processed by OLAF concerns exclusively persons whose data happen to appear in documents dealt with by OLAF, but without the intention of acquiring them and without any attempts to process them for the purposes of an investigation.</p> <p>In this particular case, OLAF actively acquired personal data of certain EU citizens unrelated to the investigation and processed them for the purpose of the investigation.</p> <p>Therefore, the SC is of the opinion that <u>OLAF is clearly obliged to inform them about their rights under Regulation No 45/2001, which has not yet been done.</u></p> | <p>that OLAF was under no obligation to send a privacy statement to persons called or calling the two numbers in question, when those persons had no relevance to the investigation and no violation of the right to information was committed. OLAF has, in other words, fulfilled its legal obligation.</p> <p>OLAF would also like to underline that the implementation of any measures related to data protection falls exclusively within the competences of the European Data Protection Supervisor.</p> <p>OLAF Instructions to Staff on Data Protection for Investigative Activities adopted on 19 April 2013 by the Director-General, in consultation with the OLAF Data Protection Officer, cover all the recommendations received from the European Data Protection Supervisor concerning processing of personal data in the framework of the OLAF investigations. The Instructions were sent to the SC.</p> <p>Documentation sent on 10 July 2015 (Ares(2015)2915936 - 10/07/2015): OLAF Instructions to Staff on Data Protection, further documentation on data protection can be found on the OLAF intranet <a href="http://olaf-intranet/data-protection/">http://olaf-intranet/data-protection/</a></p> |                                                                   |

| <i>SC Reference</i>                     | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                                                                    | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                 | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <i>Opinion No 2/2012<br/>Dalli case</i> | <b>PH [nr 14]</b> OLAF to ensure that persons concerned are informed of each fact concerning them in a clear and accurate manner, with an expressly separate question asked for each particular allegation, so that they can express views on all the facts concerning them.                                                                  | <p><b>[nr 14]</b> Implementation could not be verified</p> <p>The SC has received no substantial reply.</p> <p>The SC described a case where it seems that the allegations were not presented in a sufficiently clear and accurate manner. OLAF has not provided any explanation in this respect.</p> <p>The SC also issued a very precise recommendation and is not aware of any steps taken by OLAF to implement it</p> | <p>The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 8 point 2.10.</p> <p>Since 1 October 2013, Article 9(4) of Regulation 883/2013 and Article 18 of GIP clarify the procedure for providing the opportunity to comment to persons concerned. The Regulation provides for a “summary of facts” to be submitted. When preparing the summary of facts, the investigators are instructed to include all facts related to the person concerned, in line with the SC recommendation.</p> <p>Documentation sent on 10 July 2015 (Ares(2015)2915936 - 10/07/2015): OLAF Guidelines on Investigative Procedures, Workforms 32, 36, 37, 40.</p> | <b>[nr 14]</b> Implemented                                        |
| <i>Opinion No 2/2012<br/>Dalli case</i> | <b>PH [nr 15]</b> OLAF to ensure a scrupulous legality check before applying Regulation 2185/96 ( <i>on-the-spot checks of economic operators</i> ) requiring justification in terms of the scale of fraud or seriousness of damage done to the EU financial interests (“ <i>very limited evidence</i> ” is <u>not</u> a valid justification) | <p><b>[nr 15]</b> Implementation could not be verified</p> <p>The SC has received no substantial reply.</p> <p>In its Opinion 2/2012 transmitted to the DG on 17 December 2012, the SC identified an on-the-spot check which could have violated the fundamental rights of the persons concerned.</p> <p>The SC has received no satisfactory explanation or any information on OLAF's follow-up to the SC</p>             | <p>The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 6 point 2.6.</p> <p>In accordance with Article 12 of GIP, which entered into force on 1 October 2013, OLAF performs a scrupulous legality, necessity and proportionality check before applying Regulation (EC) No 2185/96.</p> <p>The legality, necessity and proportionality check is required prior to each on-the-spot check. Every check is documented in the Investigation Selection and Review Unit opinion included in each investigation file. In that way, a thorough legality check is ensured in line with the SC recommendation.</p>                                   | <b>[nr 15]</b> Implemented                                        |

| <i>SC Reference</i>                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                           | <i>SC assessment of the implementation</i><br><i>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                             | <i>OLAF</i><br><i>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <i>OLAF assessment of the implementation</i><br><i>3 September 2015</i> |
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|                                                   |                                                                                                                                                                                                                      | recommendation.                                                                                                                                                                                                                                                                                                                                                                                                             | Documentation sent on 10 July 2015 (Ares(2015)2915936 - 10/07/2015): OLAF Guidelines on Investigative Procedures, Workforms 16, 17, 62.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                         |
| <i>Opinion No 2/2012</i><br><br><i>Dalli case</i> | <b>PH [nr 16]</b> OLAF to ensure a legality check of extension of the scope of an investigation, to respect in particular the requirement of “sufficiently serious suspicion” with regard to the new aspects.        | <b>[nr 16]</b> Implementation could not be verified<br><br>The SC has received no substantial reply.<br><br>In its Opinion 2/2012 transmitted to the DG on 17 December 2012, the SC identified an extension of the scope of an investigation which could have violated the regulatory requirements.<br><br>The SC has received no satisfactory explanation or any information on OLAF's follow-up to the SC recommendation. | The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 6 point 2.5.<br><br>In accordance with Article 12.3 of GIP, which entered into force on 1 October 2013, a legality and necessity check by the Investigation Selection and Review Unit is required on each proposal for case scope extension. Every check is documented in the Investigation Selection and Review Unit opinion included in each investigation file. In that way, a thorough legality check is ensured in line with the SC recommendation.<br><br>Documentation sent on 10 July 2015 (Ares(2015)2915936 - 10/07/2015): OLAF Guidelines on Investigative Procedures, Workform 16. | <b>[nr 16]</b> Implemented                                              |
| <i>Opinion No 2/2012</i><br><br><i>Dalli case</i> | <b>PH [nr 17]</b> DG not to participate personally in investigative activities (interviews, on-the-spot checks, etc.) to avoid situations of a potential conflict of interest, especially in review of OLAF actions. | <b>[nr 17] Not implemented</b><br><br>The OLAF DG has refused to implement this recommendation.<br><br>Regulation No 883/2013 introduced even more specific provisions in this respect in Article 7(1) and (2) [emphasis added]:<br><br><i>1. The Director-General shall direct the conduct of investigations on the basis,</i>                                                                                             | The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 5 point 2.3.<br><br>OLAF does not share the legal opinion of SC in this matter. In accordance with Article 7(1) of Regulation 883/2013, the function of the DG is to ‘direct’ the investigations and not to exercise a function of independent and impartial review. Such function, in OLAF’s opinion, is reserved to the competent national and EU administrative or judicial bodies. It is also to                                                                                                                                                                                           | <b>[nr 17]</b> Disagreement                                             |

| <i>SC Reference</i>                            | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                     | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                                |                                                                                                                                                                                                                                                                                                | <p><i>where appropriate, of written instructions. Investigations shall be conducted under his direction by the staff of the Office designated by him.</i></p> <p><i>2. The staff of the Office shall carry out their tasks on production of a written authorisation showing their identity and their capacity. The Director-General shall issue such authorisation indicating the subject matter and the purpose of the investigation, the legal bases for conducting the investigation and the investigative powers stemming from those bases.</i></p> <p>The SC maintains its recommendation.</p> | <p>be reminded that the DG may neither seek nor take any instruction from any institution, body, office or agency in the performance of this duty, as stipulated in Article 17(3) of the Regulation. The Staff Regulations define the situation of conflict of interests and the Commission's Rules of Procedure lay down steps to be taken in situations where the Director-General would be prevented from exercising his duties for reasons of conflict of interests.</p> <p>The SC expressed its intention to ask the Legal Services of the three Appointing Institutions for a legal opinion on the matter. OLAF would be interested to receive the legal opinion.</p>                                                                                                                                                                                                                                               |                                                                   |
| <p><i>Opinion No 2/2012<br/>Dalli case</i></p> | <p><b>[nr 18]</b> OLAF to follow rigorously the legal requirements on notifications to the institutions concerned by the opening of an investigation. OLAF, in particular, to notify the President when a Member of an institution or body (incl. the SC) is involved in an investigation.</p> | <p><b>[nr 18]</b> Implementation could not be verified</p> <p>Due to the lack of access to OLAF cases and to OLAF's unsubstantiated reply, the SC is not in a position to assess the implementation of this recommendation.</p>                                                                                                                                                                                                                                                                                                                                                                     | <p>The original recommendation made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 3 point 2.2.</p> <p>Article 4(6) of Regulation 883/2013 does not specify who within an institution, body, office or agency should be informed when member of that institution becomes a person concerned. In accordance with the principle of institutional autonomy enshrined in various provisions of the Treaties, the specification of such contact person is in the competence of each institution or body. OLAF makes a considerable effort to include a clear indication of such contact points in the Administrative Arrangements negotiated with each institution and body. In that respect, OLAF already concluded such</p> | <p><b>[nr 18]</b> Implemented</p>                                 |



| <i>SC Reference</i>                                      | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                                 | <i>SC assessment of the implementation</i><br><i>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                     | <i>OLAF</i><br><i>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <i>OLAF assessment of the implementation</i><br><i>3 September 2015</i> |
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|                                                          |                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>arrangements with the Commission, the European Parliament and the European External Action Service (EEAS). The SC has been informed about the signature of such Administrative Arrangements. Discussions on arrangements have been initiated also with the Council, the Court of Auditors and the European Economic and Social Committee.</p> <p>Documentation attached: Administrative Arrangements between OLAF and the European Commission, Administrative Arrangements between OLAF and the EEAS, Practical Arrangements between OLAF and the European Parliament.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                         |
| <p><i>Opinion No 2/2012</i></p> <p><i>Dalli case</i></p> | <p><b>[nr 19]</b> OLAF to verify whether there was any potential conflict of interest between the duties of the national expert and his participation in investigation activities.</p> <p><b>[nr 20]</b> If such verification had been done, the Committee recommends including it into the case file.</p> | <p><b>[nr 19]</b> Implementation could not be verified</p> <p>The SC was not in a position to verify the implementation of this recommendation, since OLAF has not provided any relevant documents allegedly implementing the recommendation.</p> <p><b>[nr 20] Not implemented</b></p> <p>The SC disagrees with OLAF's statement that there should be no mention included in the case file with regard to verifications concerning potential conflict of interest.</p> <p>The SC maintains its recommendation.</p> | <p>The original recommendations made in Opinion 2/2012 referred to a specific investigative measure conducted in the framework of one investigation. A detailed reply for that specific case was already provided by OLAF in its reply to SC Opinion 2/2012 of 7 February 2013, page 10 point 2.11.</p> <p><b>[nr 19]</b> As already explained previously to the SC, possible conflicts of interests are considered prior to the appointment of any investigator for a given case. Specific rules concerning the seconded national experts (SNE) are set out in Commission Decision C(2008)6866. These rules require both the SNE and his employer (national authority) to confirm that no conflicts of interest in the appointment of the SNE as a member of staff. In addition, Article 6(5) of the Commission Decision places the obligation to inform the Director-General of any possible conflict arising during his appointment on the SNE directly. An obligation to inform of possible conflicts of interest applies not only to SNEs but to all OLAF staff.</p> <p>OLAF therefore considers that a system for prior verification of potential conflict of interests is in place.</p> <p><b>[nr 20]</b> Declarations by the SNE and by his or her employer are</p> | <p><b>[nr 19]</b> Implemented</p>                                       |

| <i>SC Reference</i>                                             | <i>Original SC recommendations to OLAF</i>                                                                                            | <i>SC assessment of the implementation</i><br><i>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <i>OLAF</i><br><i>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <i>OLAF assessment of the implementation</i><br><i>3 September 2015</i> |
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|                                                                 |                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>kept in the SNE's personal records in accordance with Article 6(5) of Commission Decision C(2008)6866. For reasons of confidentiality and data protection, all personnel matters are kept in personal files which are under the responsibility of the Human Resource unit of OLAF. Including such documents in an individual investigation file could be in violation of the duties of OLAF as a controller of personal data under Regulation 45/2001.</p> <p>Documentation attached: Commission Decision C(2008)6866.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | [nr 20] Disagreement                                                    |
| <p><i>Opinion 2/2013</i></p> <p><i>Complaints procedure</i></p> | <p>[nr 21] The OLAF DG should set up an internal procedure for dealing with individual complaints concerning OLAF investigations.</p> | <p>[nr 21] <b>Partially implemented (substantive action taken, but additional measures required)</b></p> <p>OLAF and the SC have different views with regard to the degree of the implementation of the SC's recommendation.</p> <p>On 20 January 2014, OLAF published on its website a description of the manner in which complaints related to OLAF's investigations and addressed to OLAF are treated. The OLAF DG considered that he had formalized an already existing internal complaints procedure by publishing the description on OLAF's website and that this did not require a written decision from him (letter to the SC of 17 February 2014). Following a discussion with the SC, he adopted a "written confirmation" of the</p> | <p>OLAF considers that an internal procedure for dealing with individual complaints is formalized and effectively in place. A formal decision fixing the procedure and specifying the complainants' rights has been taken in the Directors meeting of 9 January 2014 and has been consequently published on OLAF's website (see <a href="http://ec.europa.eu/anti_fraud/olaf-and-you/complaints-on-olaf-investigations/index_en.htm">http://ec.europa.eu/anti_fraud/olaf-and-you/complaints-on-olaf-investigations/index_en.htm</a>). The Director-General of OLAF confirmed this decision in a note to the SC of 4 April 2014 duly dated and signed.</p> <p>All complaints are handled under general principles enshrined in the European Code of Good Administrative Behaviour. Moreover, currently, other administrative bodies such as the European Ombudsman and European Data Protection Supervisor exercise to a large extent a function of a complaint review and OLAF makes all efforts to scrupulously follow their recommendations.</p> <p>The public is informed on OLAF's website of the possibility to complain, of the addressee of such complaint and of the competent units within OLAF dealing with such complaint, as well as of all alternative remedies. Experience shows that the procedure as it presently stands is sufficiently structured to allow complainants to make all points they wish to raise and</p> | [nr 21] Implemented                                                     |

| <i>SC Reference</i>                            | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                  | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                       | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                                |                                                                                                                                                                                                                             | existence of the complaints procedure, without, however, publishing any formal decision on OLAF's website. Therefore, the SC does not consider the complaints procedure to be properly established and formalized as yet, due to the lack of a formal decision, duly dated, signed and published, fixing the procedure and specifying the complainants' rights. | the Director-General (with the help of the services in charge) to fully review any matters raised by a complainant and to take appropriate remedial action if and to the extent necessary. Indeed, incoming complaints (the number of which is however limited) are scrutinised in depth and the complainants receive a fully reasoned response within two months. OLAF therefore considers that the point can be put to rest.<br><br>Documentation attached: Written confirmation of the decision on complaints concerning procedural guarantees in the context of OLAF investigations and Annex (Ares(2014)1058281 - 04/04/2014). |                                                                   |
| <i>Opinion 2/2013<br/>Complaints procedure</i> | <b>[nr 22]</b> The OLAF DG should publish the procedure on OLAF's website after its adoption.                                                                                                                               | <b>[nr 22] Partially implemented</b><br><br>OLAF has published on its website a description of the manner in which complaints in connection with OLAF's investigations and addressed to OLAF are treated. However, the SC considers that the complaints procedure has not as yet been properly formalized (see above).                                          | See reply to recommendation 21.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>[nr 22]</b> Implemented                                        |
| <i>Opinion 1/2014<br/>OLAF IPPs</i>            | <b>[nr 23]</b> The OLAF DG should issue guidelines on the application of the three selection principles established by the Regulation, including on the application of financial indicators as a proportionality criterion. | <b>[nr 23] Pending</b><br><br>The SC notes that, instead of reviewing the level of financial threshold (or indicators), OLAF abolished them completely, leaving selectors without any formal guidance on application of the proportionality principle in this respect. Moreover, OLAF has not introduced any internal follow-up                                 | OLAF Director-General adopted on 5 June 2015 Guidelines on case selection, presented in the form of a practical Vademecum, aiming at clarifying to selectors how to apply the selection principles established by Regulation 883/2013.<br><br>The Vademecum provides guidelines on the three selection principles and includes the consideration of a potential financial impact if identifiable at this stage. Furthermore, the Vademecum includes instructions on the following Workforms: "Opinion on opening decision", "Decision to open                                                                                       | <b>[nr 23]</b> Implemented                                        |

| <i>SC Reference</i>                                  | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                      | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                                      |                                                                                                                                                                                                                                                 | <p>procedure for cases in which there is a "sufficient suspicion" of fraud, but which have been dismissed on the basis of subsidiarity, proportionality or investigation policy priorities.</p> <p>However, the SC has noted, in the framework of its analysis of the ISRU's opinions on selection of cases, that the financial indicators, when they are used by the selectors, were not a determining factor when proposing to dismiss or open a case (see SC's Opinion 2/2014, paragraph 64).</p>                                                                                                                                                               | <p>an investigation case", "Decision to dismiss a case", "Information on decision to dismiss a case".</p> <p>OLAF informed the SC of the adoption of the Guidelines on case selection by letter of 26 June 2015 and considers the implementation of recommendations 23, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38 and 39 as completed through the adoption of the Vademecum.</p> <p>Documentation attached: Transmission note of OLAF guidelines on case selection and annexes (Vademecum) (Ares(2015)2687119 - 26/06/2015).</p>                                                                         |                                                                   |
| <p><i>Opinion 1/2014</i></p> <p><i>OLAF IPPs</i></p> | <p><b>[nr 24]</b> The OLAF DG should enter into a constructive dialogue with the stakeholders on the determination and implementation of IPPs, in particular with regard to financial indicators and possible follow-up of dismissed cases.</p> | <p><b>[nr 24] Partially implemented</b></p> <p><b>(substantive action taken, but additional measures are required)</b></p> <p>OLAF informed the SC of a number of measures adopted in order to ensure regular consultation with Directorates-General (DGs) of the Commission on matters related to fraud prevention and detection. For example, OLAF supported the DGs in devising their anti-fraud strategy and action plans; OLAF set up a Fraud Prevention and Detection Network with the DGs concerned, in the framework of which the IPPs for 2013 and 2014 were discussed and an OLAF "Guidance note for treatment of dismissed cases" was discussed and</p> | <p>As recognised by the SC in its Report 2/2014, OLAF has taken substantive action to discuss with its stakeholders the Investigative Policy Priorities (IPPs).</p> <p>Most recently, in the meeting of 8 July 2015 of the Fraud Prevention and Detection Network (FPDNET), the IPPs 2016 and the financial indicators were discussed. A note has been sent to the FPD network requesting them feedback on the current IPPs as well as on the use of financial indicators.</p> <p>Documentation attached: Agenda FPDNET of 8 July 2015 and note sent to FPDNET on IPPs 2016 (Ares(2015)2843262 - 07/07/2015).</p> | <p><b>[nr 24]</b> Implemented</p>                                 |

| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                  | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                  | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                                                   |                                                                                                                                                                                                                             | <p>distributed to the relevant DGs.</p> <p>However, it does not appear from these measures that the financial indicators were discussed with the stakeholders, or established on the basis of input from them.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                         |                                                                   |
| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p><b>OLAF should require the selectors:</b></p> <p><b>[nr 25]</b> to better explain illegal or irregular activities to which the allegations refer and the way in which they affect the financial interests of the EU;</p> | <p><b>[nr 25] Not implemented</b></p> <p>The response received is not relevant to the recommendations.</p> <p>Moreover, one recommendation <b>[nr 26]</b> seems to be misunderstood, since it refers to the need to make reference to the relevant legal instruments relating to the protection of the financial interests of the EU (as required by Article 5.4 of the GIP) and not to the legal basis for the opening and dismissal of cases. During its review of the selection function of the ISRU, the SC did not have the opportunity to examine the decisions taken by the DG, since it has been provided only with the paper version of the opinions of the ISRU and had no access to OLAF case files.</p> <p>The SC maintains its recommendations.</p> | <p>See reply to recommendation 23, in particular, point 3b of the Vademecum.</p> <p>Regarding the possibility of the SC to examine the decisions taken by the Director-General, it should be noted that OLAF has not received any request from the SC for access to case files to verify the implementation of this recommendation.</p> | <b>[nr 25] Implemented</b>                                        |
| <p><i>Opinion 2/2014</i></p>                                      | <p><b>[nr 26]</b> to systematically make reference to relevant</p>                                                                                                                                                          | <p><b>[nr 26] Not implemented</b></p> <p>The response received is not relevant to</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>See reply to recommendation 23, in particular, point 2.2 of the Vademecum.</p>                                                                                                                                                                                                                                                       | <b>[nr 26] Implemented</b>                                        |



| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                         | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                         | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <i>Case selection in OLAF</i>                                     | <p>legal instruments.</p> <p><i>OLAF could consider compensating for the lack of sufficient legal expertise by the introduction of appropriate training and of procedures for consultations with OLAF's Legal Advice Unit.</i></p> | <p>the recommendations.</p> <p>Moreover, one recommendation [nr 26] seems to be misunderstood, since it refers to the need to make reference to the relevant legal instruments relating to the protection of the financial interests of the EU (as required by Article 5.4 of the GIP) and not to the legal basis for the opening and dismissal of cases. During its review of the selection function of the ISRU, the SC did not have the opportunity to examine the decisions taken by the DG, since it has been provided only with the paper version of the opinions of the ISRU and had no access to OLAF case files.</p> <p>The SC maintains its recommendations.</p> | <p>Regarding the possibility of the SC to examine the decisions taken by the Director-General, it should be noted that OLAF has not received any request from the SC for access to case files to verify the implementation of this recommendation.</p>                                                                                         |                                                                   |
| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p>[nr 27] OLAF should establish a list of concrete and measurable indicators for assessing the reliability of the source, credibility of the allegations and sufficiency of suspicions.</p>                                       | <p>[nr 27] <b>Not implemented</b></p> <p>The SC has received no substantial reply: the SC has not been provided with a copy of the guidelines mentioned by OLAF. The SC's Opinion 2/2014 clearly reflects that, if they exist, they have not been fully applied.</p> <p>The SC maintains its recommendation.</p>                                                                                                                                                                                                                                                                                                                                                           | <p>See reply to recommendation 23.</p> <p>Concrete and measurable indicators for assessing the reliability of the source, credibility of the allegations and sufficiency of suspicions cannot be included in a pre-determined list.</p> <p>However, point 4 of the Vademecum (4.2, 4.3, 4.4) contains detailed instructions on the matter.</p> | <p>[nr 27] Implemented</p>                                        |
| <p><i>Opinion 2/2014</i></p>                                      | <p>[nr 28] OLAF should clarify the application of the proportionality</p>                                                                                                                                                          | <p>[nr 28] <b>Not implemented</b></p> <p>The response received is not relevant to</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>See reply to recommendation 23, in particular, point 5.1.1 of the Vademecum.</p>                                                                                                                                                                                                                                                            | <p>[nr 28] Implemented</p>                                        |

| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                 | <i>OLAF<br/>Current state of play 3 September 2015</i>                              | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <i>Case selection in OLAF</i>                                     | <p>principle and provide the selectors with clearer guidelines.</p> <p><i>In particular, OLAF should better assess the forecast of the manpower required and other foreseeable costs, weighted against the likelihood of financial recovery or prosecution, and deterrent value. Financial indicators, which are relevant for the assessment of the seriousness of the risk involved, should be used as an element of reference and as internal guidelines on the application of the proportionality principle</i></p> | <p>the recommendations. The SC's Opinion 2/2014 clearly reflects that the assessment carried out by the ISRU is incomplete.</p> <p>The SC maintains its recommendation.</p>                                                                               |                                                                                     |                                                                   |
| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p><b>[nr 29]</b> OLAF should clarify and more rigorously apply the indicators established in the IPPs for evaluating "efficient use of resources". <i>In particular: workload of investigation units, its impact on on-going investigations and availability of expertise.</i></p>                                                                                                                                                                                                                                    | <p><b>[nr 29] Not implemented</b></p> <p>The response received is not relevant to the recommendations. The SC's Opinion 2/2014 clearly reflects that the assessment carried out by the ISRU is incomplete.</p> <p>The SC maintains its recommendation</p> | <p>See reply to recommendation 23, in particular, point 5.1.2 of the Vademecum.</p> | <p><b>[nr 29]</b> Implemented</p>                                 |

| <i>SC Reference</i>                                    | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                                   | <i>SC assessment of the implementation SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                        | <i>OLAF Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                   | <i>OLAF assessment of the implementation 3 September 2015</i> |
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|                                                        | <i>Better cooperation between ISRU and investigation units may be necessary.</i>                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                      |                                                               |
| <i>Opinion 2/2014</i><br><i>Case selection in OLAF</i> | <b>OLAF should pay special attention to cases it decides to dismiss on grounds of subsidiarity or added value.</b> In particular:<br><br><b>[nr 30]</b> Verify that the recipient authority has the necessary powers to take over the dismissed cases;                                                       | <b>[nr 30]</b> Implementation could not be verified<br><br>The SC has received no substantial reply.                                                                                                                                                                                                                                                                                                         | See reply to recommendation 23, in particular, point 5.1.3 of the Vademecum.                                                                                                                                                                                                                                                         | <b>[nr 30]</b> Implemented                                    |
| <i>Opinion 2/2014</i><br><i>Case selection in OLAF</i> | <b>OLAF should pay special attention to cases it decides to dismiss on grounds of subsidiarity or added value.</b> In particular:<br><br><b>[nr 31]</b> Establish a system of monitoring (prompt, systematic and clearly evidenced) and reporting on cases dismissed on grounds of subsidiarity/added value. | <b>[nr 31]</b> Not implemented<br><br>The SC does not agree with the statement that OLAF needs a legal basis to establish a system of monitoring of and reporting on cases dismissed on grounds of subsidiarity/added value. Such system could be implemented only internally (within OLAF), in order to allow it to ensure a proper follow-up to its own cases.<br><br>The SC maintains its recommendation. | OLAF does not agree with the interpretation of the SC. In OLAF's view, it has no legal basis, since such a system would not be only internal, but would involve also verifying the follow-up of cases with Member States and other stakeholders. In addition, OLAF does not have the resources available to establish such a system. | <b>[nr 31]</b> Disagreement                                   |
| <i>Opinion</i>                                         | <b>OLAF should improve the quality, clarity and</b>                                                                                                                                                                                                                                                          | <b>[nr 32]</b> Implementation could not be                                                                                                                                                                                                                                                                                                                                                                   | See reply to recommendation 23, in particular, the Vademecum contains a whole section dedicated to the competence of                                                                                                                                                                                                                 | <b>[nr 32]</b> Implemented                                    |

| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                                                                                                                                                                                  | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                         | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                  | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <p>2/2014</p> <p><i>Case selection in OLAF</i></p>                | <p><b>consistency of the motivation of opinions on opening decision.</b> In particular, by introducing into the work-form "Opinion on opening decision" a pre-determined list of:</p> <p>[nr 32] relevant legal instruments (to be used when assessing OLAF's competence to act);</p>                                                                                                                                                                       | <p>verified</p> <p>The SC has received neither a substantial reply, nor a copy of an amended work-form.</p>                                                                                                                                                       | <p>OLAF, containing also specific referral about the legal instruments. The Vademecum also contains the workform "Opinion on opening decision".</p>                                                                                                                                                                     |                                                                   |
| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p><b>OLAF should improve the quality, clarity and consistency of the motivation of opinions on opening decision.</b> In particular, by introducing into the work-form "Opinion on opening decision" a pre-determined list of:</p> <p>[nr 33] concrete and measurable indicators for assessing the reliability of the source, credibility of the allegations and sufficiency of suspicions (to be used when evaluating the sufficiency of information);</p> | <p>[nr 33] Not implemented</p> <p>The SC does not agree with OLAF's statement. A list such as that proposed by the SC does not necessarily need to be exhaustive, but rather give some guidance to the selectors.</p> <p>The SC maintains its recommendation.</p> | <p>See reply to recommendation 23.</p> <p>Concrete and measurable indicators for assessing the reliability of the source, credibility of the allegations and sufficiency of suspicions cannot be included in a pre-determined list. However, point 4 of the Vademecum contains detailed instructions on the matter.</p> | <p>[nr 33] Implemented</p>                                        |

| <i>SC Reference</i>                              | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                            | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                         | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                         | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <i>Opinion 2/2014<br/>Case selection in OLAF</i> | <b>OLAF should improve the quality, clarity and consistency of the motivation of opinions on opening decision.</b> In particular, by introducing into the work-form "Opinion on opening decision" a pre-determined list of:<br><br>[nr 34] concrete and measurable indicators for assessing the IPPs. | <b>[nr 34] Not implemented</b><br><br>The SC does not agree with OLAF's statement. A list such as that proposed by the SC does not necessarily need to be exhaustive, but rather give some guidance to the selectors.<br><br>The SC maintains its recommendation. | See reply to recommendation 23.<br><br>It is not possible to simplify in a pre-determined list concrete and measurable indicators for assessing the IPPs. However, in point 5.2 of the Vademecum the selectors are instructed to systematically assess whether the IPPs are at stake, as well as to assess the relevance of the IPPs for the opening decision. | <b>[nr 34] Implemented</b>                                        |
| <i>Opinion 2/2014<br/>Case selection in OLAF</i> | <b>OLAF should improve the transparency of the selection process.</b><br><br>In particular:<br><br>[nr 35] Give better feedback to the source of information on the action (not) taken by OLAF following the information provided by the source;                                                      | <b>[nr 35] Implementation could not be verified</b><br><br>The SC has received no substantial reply.<br>The SC was not informed of the revision of the selection opinion form and was not provided with a copy of it. [...]                                       | See reply to recommendation 23, in particular, point 6 of the Vademecum. In addition, please refer to the clarifications inserted in part IV of the Vademecum - Workform "Information on Decision to Dismiss a Case".                                                                                                                                          | <b>[nr 35] Implemented</b>                                        |
| <i>Opinion 2/2014<br/>Case selection in</i>      | <b>OLAF should improve the transparency of the selection process.</b><br><br>In particular:                                                                                                                                                                                                           | <b>[nr 36] Implementation could not be verified</b><br><br>The SC has received no substantial reply.                                                                                                                                                              | See reply to recommendation 23, in particular, point 2.2 and 5.1.2 of the Vademecum.                                                                                                                                                                                                                                                                           | <b>[nr 36] Implemented</b>                                        |



| <i>SC Reference</i>                          | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                     | <i>SC assessment of the implementation SC Report 17 November 2014</i>                                                                                                                                                                                    | <i>OLAF Current state of play 3 September 2015</i>                                                                                                                                                                          | <i>OLAF assessment of the implementation 3 September 2015</i> |
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| <i>OLAF</i>                                  | [nr 36] Reinforce internal consultation and exchange of information between the ISRU and the investigation (support) units.                                                                                                                                    | [...] OLAF did not inform the SC which concrete initiatives it has taken to improve the internal consultation.                                                                                                                                           |                                                                                                                                                                                                                             |                                                               |
| <i>Opinion 2/2014 Case selection in OLAF</i> | <b>Conclusions of the selection opinions should clearly specify actions that OLAF should take following a decision to dismiss or open an investigation or coordination case:</b><br><br>[nr 37] to inform the national or EU authorities better placed to act; | [nr 37] Implementation could not be verified.<br><br>The SC has received no substantial reply. The SC was not informed of any revision of the selection opinion form and was not provided with a copy of it.<br><br>The SC maintains its recommendation. | See reply to recommendation 23, in particular, point 6 of the Vademecum, Part III of the Vademecum Workform "Decision to dismiss a case" and part IV of the Vademecum Workform "Information on Decision to Dismiss a Case". | [nr 37] Implemented                                           |
| <i>Opinion 2/2014 Case selection in OLAF</i> | <b>Conclusions of the selection opinions should clearly specify actions that OLAF should take following a decision to dismiss or open an investigation or coordination case:</b><br><br>[nr 38] to protect (or not) the identity of the source;                | [nr 38] Not implemented<br><br>The SC believes that actions to take by the selectors should be specified in the opinion, in order to allow the management team to better verify compliance with the general rules.                                       | See reply to recommendation 23, in particular, point 1.2 of the Vademecum provides specific instructions to the selectors on whistleblower protection.                                                                      | [nr 38] Implemented                                           |
| <i>Opinion</i>                               | <b>Conclusions of the</b>                                                                                                                                                                                                                                      | [nr 39] Implementation could not be                                                                                                                                                                                                                      | See reply to recommendation 23, in particular, point 6 of the                                                                                                                                                               | [nr 39] Implemented                                           |

| <i>SC Reference</i>                              | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                 | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                             | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                           | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <i>2/2014<br/>Case selection in OLAF</i>         | <p><b>selection opinions should clearly specify actions that OLAF should take following a decision to dismiss or open an investigation or coordination case:</b></p> <p>[nr 39] to inform (or not) the source of information of OLAF's decisions.</p>                                      | <p>verified.</p> <p>The SC has received no substantial reply. The SC was not informed of any revision of the selection opinion form and was not provided with a copy of it.</p> <p>The SC maintains its recommendation.</p>                                                                                                                                           | <p>Vademecum. The Vademecum also contains the workform "Opinion on opening decision".</p>                                                                                                                                                                                                                                        |                                                                   |
| <i>Opinion 2/2014<br/>Case selection in OLAF</i> | <p>[nr 40] OLAF should carry out an internal evaluation of the activities of the ISRU.</p> <p><i>Such evaluation could be carried out either by OLAF's internal auditor and/or by a special team designated by the Director-General, in close consultation with Directors A and B.</i></p> | <p>[nr 40] <b>Not implemented</b></p> <p>The recommended internal evaluation concerns the selection function of the ISRU only. The SC is of the opinion that OLAF should carry out such an internal evaluation independently of the SC's assessment of the review function of the ISRU (which is currently on-going and no completion date can yet be indicated).</p> | <p>The SC recommendation was included in the SC Opinion 2/2014 "Case selection in OLAF".</p> <p>Since May 2014 the SC has been working on a SC Opinion on the review function of the ISRU.</p> <p>OLAF prefers to have a general SC overview on the work of the ISRU before considering carrying out an internal evaluation.</p> | [nr 40] Pending                                                   |
| <i>Opinion 1/2012<br/>Budget</i>                 | <p><b>PH [nr 42]</b> OLAF to ensure independent functioning of the SC Secretariat as a precondition of the independence and effective functioning of the SC itself, in particular:</p>                                                                                                     | <p>[nr 42] <b>Partially implemented</b></p> <p><b>(substantive action taken, but additional measures required)</b></p> <p>The OLAF DG still has not sub-delegated powers with regard to the Secretariat staff to the Head of the</p>                                                                                                                                  | <p>Staff is appointed, evaluated and promoted according to Staff Regulations of officials and the Conditions of Employment of other servants of the European Union.</p> <p>OLAF Director-General has never put into question any proposal of staff appointment submitted by the Head of the SC Secretariat.</p>                  | [nr 42] Implemented                                               |

| <i>SC Reference</i>                        | <i>Original SC recommendations to OLAF</i>                                                                                                  | <i>SC assessment of the implementation</i><br><i>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <i>OLAF</i><br><i>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <i>OLAF assessment of the implementation</i><br><i>3 September 2015</i> |
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|                                            | staff to be appointed, evaluated and promoted on the basis of SC input.                                                                     | <p>Secretariat.</p> <p>Article 6(1) of the Commission Decision 1999/352/EC establishing OLAF (as amended by Commission Decision 2013/478 /EU of 27 September 2013): the DG "shall exercise, with regard to the staff of the Office, the powers of the appointing authority and of the authority empowered to conclude contracts of employment delegated to him. <b>He shall be permitted to sub-delegate those powers</b>". (emphasis added)</p>                                                                                                                                                                                 | <p>As far as evaluation is concerned, the Head of the SC Secretariat is designated as a Reporting Officer for all colleagues assigned to the Secretariat. OLAF Director-General does not play any role in the assessment procedure, except in case of an appeal against an appraisal report drawn up by the Head of the SC Secretariat.</p> <p>OLAF Director-General acts as a Reporting Officer only for the Head of the SC Secretariat: in that respect, as mentioned in the reply to SC Opinion 1/2013 on OLAF's Preliminary Draft Budget for 2014 of 3 October 2013, OLAF Director-General takes into account the evaluation of the Members of the Committee to form his opinion on the performance of the work undertaken by the Head of SC Secretariat.</p>                                                                                                                                                                                                                                                                                     |                                                                         |
| <i>Opinion 1/2012</i><br><br><i>Budget</i> | <b>PH [nr 43]</b> Appointment, appraisal and promotion of the SC Secretary and the Secretariat staff should be made following the SC input. | <p><b>[nr 43] Partially implemented (substantive action taken, but additional measures required)</b></p> <p>The OLAF DG still has not sub-delegated powers with regard to the Secretariat staff to the Head of the Secretariat.</p> <p>Article 6(1) of the Commission Decision 1999/352/EC establishing OLAF (as amended by Commission Decision 2013/478 /EU of 27 September 2013): the DG "shall exercise, with regard to the staff of the Office, the powers of the appointing authority and of the authority empowered to conclude contracts of employment delegated to him. <b>He shall be permitted to sub-delegate</b></p> | <p>At the beginning of every annual promotion exercise, as foreseen by the Commission Decision of 16 December 2013 laying down general provisions for implementing Article 45 of the Staff Regulations, all Heads of Unit, including the Head of the SC Secretariat, and Directors are invited to communicate their proposals concerning the list of officials to be promoted. OLAF Director-General must ensure that a consistent approach and a fair comparison of individual merits are implemented across the Office.</p> <p>On 17 March 2015, in agreement with OLAF, DG HR tabled a draft decision to amend Decision C(2013)3288 of 4 June 2013 on the exercise of powers of appointing authority and of authority empowered to conclude contracts of employment delegated as regards staff of the Secretariat of the OLAF Supervisory Committee. The Legal Service of the Commission objected to the draft decision on the grounds that it would have been incompatible with Regulation 883/2013, notably the provisions of Article 15(8).</p> | <b>[nr 43] Implemented</b>                                              |

| <i>SC Reference</i>                      | <i>Original SC recommendations to OLAF</i>                                                                                                            | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i> | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                          |                                                                                                                                                       | those powers". (emphasis added)                                           | <p>OLAF notes that in its most recent Opinion 1/2015, on OLAF's Preliminary Draft Budget for 2016, the SC recognises that the current arrangements with OLAF "come close" to sufficient financial autonomy. It should be noted that OLAF would not be against further independence of the SC and its Secretariat, but that this is not within OLAF's competences and would require a change in the Regulation 883/2013.</p> <p>Article 6(1) of the Commission Decision 1999/352/EC establishing OLAF (as amended by Commission Decision 2013/478 /EU of 27 September 2013) indeed foresees the possibility for the OLAF Director-General to sub-delegate his powers as Appointing Authority. However, OLAF would like to point out that such sub-delegation of powers cannot be done along the modalities suggested by the SC. The OLAF Director-General can sub-delegate to a senior or middle manager the role of appointing authority and of authority empowered to conclude contracts of employment for the Office as a whole, but not partially to one Director/Head of Unit only for their respective Directorate/Unit. The delegation can be given in block and cannot be split. Since the SC is part of the OLAF establishment plan, a partial sub-delegation to the Head of the SC Secretariat on matters concerning only the SC Secretariat is therefore not possible.</p> <p>OLAF therefore considers the two recommendations, nr 42 and nr 43, to be implemented to the extent possible by OLAF.</p> |                                                                   |
| <i>Opinion 1/2012 and Opinion 1/2013</i> | <b>PH [nr 45]</b> The OLAF DG should consult the SC on the preliminary draft budget before it is sent to the Director-General for Budget in any form. | <b>[nr 45] Implemented</b>                                                | The SC already categorised the recommendation as implemented in its Report 3/2014 of 17 November 2014                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>[nr 45] Implemented</b>                                        |

| <i>SC Reference</i>                            | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                 | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                          | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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| <i>Budget</i>                                  |                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                   |
| <i>Opinion 2/2013<br/>Complaints Procedure</i> | <b>[nr 46]</b> The OLAF DG should consult with the SC on the details of the procedure before its adoption.                                                                                                                                                                 | <b>[nr 46] Not implemented</b><br><br>The SC's concerns and expectations were discussed with the OLAF DG during technical meetings with the SC Chairman on 18 December 2013. Moreover, the formal establishment of the procedure has not been completed yet.                                                                                                                                       | OLAF received the SC recommendation on 30 January 2014, after the decision taken in the Directors meeting of 9 January 2014 and after the publication of the section on <i>Complaints on OLAF investigation</i> on its website on 20 January 2014. No prior consultation was hence possible. See also reply to recommendation 21.<br><br>As mentioned in the reply to the SC Opinion 2/2013 (Ares(2014)390432 - 17/02/2014), OLAF is ready to consult the SC on any future changes and therefore considers the recommendation implemented to the extent possible. | <b>[nr 46]</b> Implemented                                        |
| <i>Opinion 1/2014<br/>OLAF IPPs</i>            | <b>[nr 47]</b> The OLAF DG should provide the SC, by 6/03/2014, with an assessment of the implementation of 2012 and 2013 IPPs, with a summary of stakeholders' feedback; in future the documents should be attached to the new draft IPPs transmitted annually to the SC. | <b>[nr 47] Not implemented</b><br><br>The SC does not agree with OLAF's position and believes that an assessment of IPPs implementation is crucial.<br><br>Nevertheless, the SC notes OLAF's willingness to provide the SC, in future, with statistics on the impact of the IPPs application has on the selection of cases, and to describe the IPPs implementation in the annual activity report. | OLAF has made an assessment of the implementation of the IPPs for 2014 and sent it to the SC on 20 March 2015.<br><br>An assessment of the implementation of the IPPs for 2012 and 2013 could only be obtained with a disproportionate effort by OLAF in relation to the result achieved. OLAF therefore considers the recommendation implemented to the extent possible.<br><br>Documentation attached: OLAF reply to SC comments on IPPs 2015 (Ares(2015)1246405 - 20/03/2015).                                                                                 | <b>[nr 47]</b> Implemented                                        |
| <i>Opinion 2/2013<br/>Complaints Procedure</i> | <b>[nr 48]</b> The OLAF DG should report regularly to the SC on complaints received by OLAF and on the way they have been handled.                                                                                                                                         | <b>[nr 48] Not implemented</b><br><br>To date, the SC has no substantive information on complaints received and treated by OLAF, but only statistical information on the number of complaints concerning OLAF's                                                                                                                                                                                    | By note of 4 June 2015, OLAF has sent to the SC an overview of the complaints OLAF received in the year 2014 regarding procedural guarantees (five complaints in total), specifying their subject matter, OLAF's response and the Office's time of processing.<br><br>Documentation attached: Transmission note to SC complaints                                                                                                                                                                                                                                  | <b>[nr 48]</b> Implemented                                        |



| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                                                                                                                                  | <i>SC assessment of the implementation<br/>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                    | <i>OLAF<br/>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <i>OLAF assessment of the implementation<br/>3 September 2015</i> |
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|                                                                   |                                                                                                                                                                                                                                                                                                             | <p>investigative activity.</p> <p>The SC disagrees with OLAF's position and would underline that it wishes to receive information on how OLAF dealt with the complaints, and not specific case-related information in individual cases.</p> <p>The SC would also point out that the protection of procedural guarantees of persons involved in OLAF investigations is one of the SC's core tasks.</p> <p>Therefore, the SC maintains its recommendation.</p> | <p>received by OLAF and annex (Ares(2015)2344053 - 04/06/2015).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                   |
| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p>OLAF should improve its reporting to the SC. In particular:</p> <p><b>PH[nr 49]</b> Inform the SC whenever actions or omissions of EU or national authorities are likely to jeopardize OLAF's investigative independence and of the measures foreseen to improve cooperation with these authorities;</p> | <p><b>[nr 49] Not implemented</b></p> <p>To date, the SC has not received any relevant information from the OLAF DG, though the SC is aware of the existence of relevant situations.</p> <p>The SC maintains its recommendation.</p>                                                                                                                                                                                                                         | <p>In August 2014, OLAF Director-General and two other staff members requested the SC to protect their independence and the independence of OLAF against threats and statements of one Member of the European Parliament. These instances were mentioned in the 2014 SC Activity Report.</p> <p>OLAF will continue to inform the SC of any actions likely to jeopardize OLAF's investigative independence.</p> <p>If the SC is aware of the existence of other relevant situations, OLAF would like to be informed.</p> <p>Documentation sent on 10 July 2015 (Ares(2015)2915936 - 10/07/2015); OLAF DG note of 18 July 2014 (Ares(2014)2407407), addressed to the SC.</p> | <p><b>[nr 49] Implemented</b></p>                                 |

| <i>SC Reference</i>                                               | <i>Original SC recommendations to OLAF</i>                                                                                                                                                            | <i>SC assessment of the implementation</i><br><i>SC Report 17 November 2014</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <i>OLAF</i><br><i>Current state of play 3 September 2015</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <i>OLAF assessment of the implementation</i><br><i>3 September 2015</i> |
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| <p><i>Opinion 2/2014</i></p> <p><i>Case selection in OLAF</i></p> | <p><b>PH [nr 50]</b> Inform the SC of all dismissed cases in which information has been transmitted to national judicial authorities, in accordance with Article 17(5) of Regulation No 883/2013.</p> | <p><b>[nr 50] Not implemented</b></p> <p>The SC does not agree with OLAF's restrictive interpretation.</p> <p>The purpose of this reporting obligation by OLAF to the SC is, <i>inter alia</i>, protection of procedural guarantees. Obviously, it was not the intention of the legislators to exclude from that protection the persons who are not properly investigated by OLAF, nevertheless, the information on suspicions against them is transmitted to national judicial authorities.</p> <p>The SC maintains its recommendation.</p> | <p>OLAF does not share the SC's interpretation of Regulation 883/2013 on this point. The information to the SC provided by the Director-General under Article 17(5)(b) of Regulation 883/2013 on "cases in which the information has been transmitted to judicial authorities of the Member States" takes into account the clarification offered by recital (45) of the Regulation, making reference to "cases in which information has been transmitted to the judicial authorities of the Member States [...] <b>by way of follow-up to an investigation conducted by the Office</b>".<u>[emphasis added]</u></p> <p>In accordance with Article 17(5)(b), recital 45 and second paragraph of Article (1) Regulation 883/2013, implemented through Article 7 of the Working Arrangements between OLAF and the SC, OLAF informs the SC on a quarterly basis on situations when information has been transmitted to national judicial authorities and forwards the SC the transmission letters.</p> <p>Please refer to the information provided on a quarterly basis to the SC in agreement with the Working Arrangements: (Ares(2014)225489 - 31/01/2014, Ares(2014)1385799 - 30/04/2014, Ares(2014)2529506 - 30/07/2014, Ares(2014)3569641 - 28/10/2014, Ares(2015)374325 - 30/01/2015, Ares(2015)1824659 - 29/04/2015)</p> | <p><b>[nr 50]</b> Disagreement</p>                                      |