

Guidelines on Investigation Procedures for OLAF Staff

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TABLE OF CONTENTS

TABLE OF CONTENTS 2

CHAPTER I SELECTION 3

Article 1. General 3

Article 2. Incoming Information 3

Article 3. Other Information 4

Article 4. Treatment of Information 4

Article 5. Selection Process 4

Article 6. Decision of the Director-General 6

Article 7. Information on dismissed cases 6

CHAPTER II INVESTIGATIONS, COORDINATION AND SUPPORT CASES.. 7

Article 8. General 7

Article 9. Preliminary Actions..... 8

Article 10. Support cases 8

Article 11. Investigations in support to the EPPO 9

Article 12. Complementary investigations 9

Article 13. Coordination cases 9

Article 14. Participation of OLAF staff in a Joint Investigation Team (JIT)10

Article 15. Investigation11

Article 16. Legality check during the investigation.....12

Article 17. Inspections of EU premises13

Article 18. On-the-spot checks14

Article 19. Digital forensic operations15

Article 20. Requesting information concerning bank accounts and records of banking transactions15

Article 21. Interviews16

Article 22. Investigative missions in third countries17

Article 23. Opportunity to provide comments18

Article 24. Complaints18

Article 25. Final Report and proposed Recommendations19

CHAPTER III FINAL REVIEW AND CASE CLOSURE 21

Article 26. General.....21

Article 27. Final review21

Article 28. Case closure Decision and Recommendations.....21

Article 29. Information and Transmission requirements22

CHAPTER IV MONITORING AND ASSISTANCE..... 23

Article 30. General.....23

Article 31. Assistance to competent authorities.....23

Article 32. Access to the Final Report23

Article 33. Monitoring the Implementation of Recommendations24

Article 34. Recording of financial, judicial and disciplinary results.....24

CHAPTER V ENTRY INTO FORCE..... 25

Article 35.....25

GLOSSARY 26

These Guidelines on Investigation Procedures for OLAF Staff constitute the guidelines provided for in Article 17(8) and mentioned in Recital 18 of Regulation (EU, Euratom) No 883/2013. These guidelines are internal rules, which shall be applied by all OLAF staff in order to ensure that OLAF investigations are carried out in a consistent and coherent way.

All investigative activities shall be carried out in full respect of EU Treaties, the Charter of Fundamental Rights of the EU, EU legislation and these Guidelines on Investigation Procedures for OLAF Staff.

All investigative activities shall be carried out in an objective and impartial manner ensuring procedural fairness, in accordance with the highest professional standards and in full respect of the rights of all persons involved.

These guidelines shall apply without prejudice to the exercise by OLAF of powers conferred on the Commission in specific provisions governing mutual assistance between Member States' administrative authorities and cooperation between national authorities and the Commission.

CHAPTER I SELECTION

Article 1. General

1.1 During the selection phase, the Operations and Investigations Selection Unit verifies and analyses information of possible investigative interest and provides an opinion to the Director-General on whether an investigation or coordination case should be opened or whether the case should be dismissed. Where applicable, the opinion shall also refer to whether the information should be reported to the European Public Prosecutor's Office (the EPPO), or transferred to the competent authorities of the Member States or to the EU institutions, bodies, offices or agencies.

1.2 Where OLAF receives a request by the EPPO for support in the course of an EPPO investigation, the Operations and Investigations Selection Unit analyses the request and provides an opinion to the Director-General on the opening of a support case or an investigation or coordination in support to the EPPO.

Article 2. Incoming Information

2.1 Any information of possible investigative interest to OLAF received by a member of staff shall be registered without delay. Where information does not relate to an existing case, it shall be registered no later than 5 working days following its receipt, or where the information is received during a mission, within 5 working days of return to the office, and addressed to the Operations and Investigations Selection Unit.

2.2 Information received by staff orally should be recorded in a written note and registered within these time limits.

Article 3. Other Information

3.1 Where OLAF on its own initiative gathers information of possible investigative interest, it shall be registered.

3.2 Information gathered in the course of an investigation and considered as new information of possible investigative interest should be recorded in a written note and addressed to the Operations and Investigations Selection Unit.

Article 4. Treatment of Information

4.1 Information containing a case number shall be allocated to the relevant OLAF case. In all other instances, information of possible investigative interest is forwarded to the Operations and Investigations Selection Unit.

4.2 The Operations and Investigations Selection Unit identifies whether the information relates to an OLAF case and if so allocates the information to the appropriate OLAF case.

4.3 In respect of new information of possible investigative interest, the Operations and Investigations Selection Unit creates new OLAF case numbers and allocates the information to those cases.

Article 5. Selection Process

5.1 The Operations and Investigations Selection Unit shall, where necessary, contact the source and the EU institution, body, office or agency concerned in order to obtain clarification and further documentation concerning the initial information. It should also consult relevant sources available to OLAF. Where it is necessary to collect additional information to support the selection process, the Operations and Investigations Selection Unit shall *inter alia*:

- a. Collect information in the framework of operational meetings
- b. Take statements from any person able to provide relevant information
- c. Carry out fact-finding missions in Member States
- d. Consult information in databases held by the EU institutions, bodies, offices or agencies

5.2 In order to ensure non-duplication of investigations with the EPPO, the Operations and Investigations Selection Unit shall verify via the EPPO's case management system whether the EPPO is conducting an investigation into the same facts and informs the Operational Coordination and Liaison Office Unit for coordination purposes. Whenever such a match of data is established and further clarifications from the EPPO are needed, the Operations and Investigations Selection Unit shall request additional information from the EPPO, before finalising the selection. The Operational Coordination and Liaison Office Unit shall facilitate this exchange.

5.3 Where the source is a whistle-blower, the Operations and Investigations Selection Unit shall inform her/him within 60 days, of the time needed to take appropriate action as foreseen by Article 22b(1)(b) of the Staff Regulations.

5.4 The Operations and Investigations Selection Unit shall provide an opinion to the Director-General on the opening or dismissal of a case, which includes an evaluation on possible reporting to the EPPO of a criminal conduct in respect of which it could exercise its competence.

5.5 The opinion on the opening of an investigation or coordination case shall be based on whether the information falls within OLAF's competence to act, is sufficient to justify the opening of an investigation or coordination case and OLAF can exercise its competence in compliance with its obligations of non-duplication and of reporting to the EPPO .

5.6 In assessing whether OLAF is competent to act, consideration shall be given to relevant EU Regulations, Decisions, Interinstitutional Agreements and other legal instruments relating to the protection of the financial interests of the EU, and any other interest of the EU the protection of which falls under OLAF's mandate. In evaluating whether the information is sufficient to justify the opening of an investigation or coordination case, consideration shall be given to the reliability of the source and the credibility of the allegations. All information collected during the selection process shall be taken into account in justifying the opening of an investigation or coordination case.

5.7 Where the Operations and Investigations Selection Unit identifies potential criminal conduct in respect of which the EPPO could exercise its competence, it prepares a proposal to dismiss the selection case and report the information to the EPPO, within two months from receipt of the information. After the Director-General has decided to dismiss the selection case, the Operations and Investigations Selection Unit prepares the relevant report to the EPPO (EPPO Crime Report) and presents it to the Operational Coordination and Liaison Office Unit for a quality check. The report shall contain, at least, a description of the facts, including an assessment of the damage caused or likely to be caused, the possible legal qualification and any information available about potential victims, suspects and any other involved persons.

5.8 The report to the EPPO may include case documents, where they are essential for the EPPO to take informed decisions. The transfer of additional documents including supporting evidence may be decided at a later stage in close cooperation with the EPPO.

5.9 Where the Operations and Investigations Selection Unit envisages the opening of a complementary investigation to facilitate the adoption of precautionary measures or of financial, disciplinary or administrative action, it prepares a proposal to the EPPO to conduct a complementary investigation in coordination with the relevant investigation unit and presents it to the Operational Coordination and Liaison Office Unit for a quality check. The proposal shall contain the subject matter of the investigation, the justification for the complementary investigation, the envisaged investigation activities and a possible timeframe for the investigation.

5.10 Where information of possible investigative interest does not include all elements that are required for the report to the EPPO, or where other EU institutions, bodies, offices or agencies request OLAF to carry out a preliminary evaluation of allegations reported to them, the report to the EPPO may be prepared after the evaluation, by means available during the selection process.

5.11 Where the EPPO requests OLAF's support in the course of an EPPO investigation, the opinion on the opening of a support case or an investigation or coordination in support to the EPPO shall be prepared in consultation with the relevant investigation unit

and will take into account whether the request falls within OLAF's competence to act, the complexity of the requested activity, the availability of resources and the envisaged timeframe for its completion.

Article 6. Decision of the Director-General

6.1 After consideration of all relevant information and the opinion provided by the Operations and Investigations Selection Unit, the Director-General decides whether to open an investigation, a coordination or a support case, or dismiss the case. The Director-General also decides on the reporting of information to the EPPO, as well as the proposal to conduct a complementary investigation.

6.2 The Director-General assigns investigation, coordination or support cases to the responsible unit.

6.3 The Director-General may, where necessary, assign a case to an investigation unit other than the responsible unit or to a special investigation team established for that purpose. Such measures should be taken where the nature of the case so requires or where resource needs exist.

Article 7. Information on dismissed cases

7.1 The Operations and Investigations Selection Unit may inform the source of the Director-General's decision to dismiss a case.

7.2 The Operations and Investigations Selection Unit shall inform the EU institution, body, office, agency or national authority of the Director-General's decision to dismiss a case and transmit relevant information, where necessary.

7.3 Where the Director-General decides to dismiss a case on the grounds that the EPPO is conducting an investigation into the same facts and its reporting to the EPPO is not required, the Operations and Investigations Selection Unit shall inform the EPPO accordingly.

7.4 Where OLAF is requested to carry out a preliminary evaluation of allegations reported by the EU institutions, bodies, offices or agencies in accordance with Article 12c(6) of Regulation (EU, Euratom) No 883/2013, the Operations and Investigations Selection Unit shall inform that EU institution, body, office or agency of the outcome of that preliminary evaluation, unless providing such information could jeopardise an investigation conducted by the EPPO.

CHAPTER II INVESTIGATIONS, COORDINATION AND SUPPORT CASES

Article 8. General

8.1 The purpose of an investigation is to establish whether fraud, corruption or other illegal activity affecting the financial interests of the EU has occurred or whether there have been serious matters relating to the discharge of professional duties that constitute a dereliction of obligations, liable to result in disciplinary or, by applying the requirements of non-duplication of investigations with the EPPO, criminal proceedings, by Members, officials or other servants of the EU institutions, bodies, offices and agencies.

8.2 Where necessary, an investigation may concern both suspicions of fraud, corruption or other illegal activity affecting the financial interests of the EU as well as serious matters relating to the discharge of professional duties of Members, officials or other servants of the EU institutions, bodies, offices and agencies.

8.3 The purpose of a coordination case is to provide the Member States authorities, the EU institutions, bodies, offices or agencies, as well as third country authorities and international organisations with assistance in and coordination of their investigations and other related activities for the protection of the EU financial interests.

8.4 For the purposes of OLAF's support in the course of an EPPO criminal investigation, OLAF will provide the EPPO with the requested support measures in the course of a support case, or in the framework of an investigation or coordination in support to the EPPO, where the requested support activities can only be performed in the framework of an investigation or coordination case.

8.5 Investigations shall be conducted continuously and without undue delay in order to enhance their efficiency and the effectiveness of Recommendations.

8.6 All information or evidence, whether inculpatory or exculpatory, gathered in the course of investigation or coordination and support cases, shall be collected and recorded in due and proper form. All evidence gathered should be relevant to the matter under investigation and collected for the purpose of the investigation.

8.7 All investigative actions must be conducted with full respect for the rights of persons involved including the procedural guarantees and rights applicable to OLAF investigations, as well as data protection requirements, as referred to in OLAF Guidelines on Data Protection for Investigative Activities.

8.8 Investigations shall not be conducted where the EPPO is considering or conducting an investigation into the same facts, except where the EPPO decides not to conduct an investigation, dismisses a case, does not object to an OLAF investigation or requests OLAF's support in the course of an EPPO investigation.

8.9 The confidentiality of the information collected shall be respected in the interests of those concerned and the integrity of the investigations, coordination and support cases. In particular, during the investigation the confidentiality of the identity of informants and whistle-blowers shall be respected in so far as it would not be contrary to the interests of the investigation.

8.10 In the event that a potential conflict of interest arises at any time during a case the Director-General shall be informed immediately.

Article 9. Preliminary Actions

9.1 The investigation unit shall conduct a preliminary examination of the information collected or obtained during the selection process in order to establish which investigative or coordination activities are required and outline an initial work plan.

9.2 The investigation unit shall inform Members, officials or other servants of the EU institutions, bodies, offices and agencies at the earliest opportunity of their possible implication in an open investigation. This notification shall be deferred where it would be harmful to the investigation to provide such information.

9.3 The investigation unit shall inform the EU institution, body, office or agency concerned as soon as it becomes apparent that Members, officials or other servants may be involved in an investigation. Where an investigation concerns a Member, President or high ranking office holder of an EU institution, body, office or agency, the notification of the EU institution, body, office or agency concerned should be made at the appropriate level or, where necessary to ensure confidentiality, by alternative channels. In exceptional cases the Director-General may decide to defer the notification to the EU institution, body, office or agency concerned.

9.4 The investigation unit shall, where necessary, inform the responsible EU institution, body, office or agency concerned of the Director-General's decision to open an investigation or coordination case.

9.5 The investigation unit should, where necessary, inform the source of the Director-General's decision to open an investigation or a coordination case.

9.6 The investigation unit shall, where necessary, involve the EPPO, Eurojust, Europol or relevant investigative or judicial authorities concerned in the investigation.

9.7 Where the evidence available does not indicate the existence of a fraud, corruption or other illegal activity affecting the financial or other interests of the EU and/or serious matters relating to the discharge of professional duties and no further investigation action is required, a Final Report shall be prepared to enable the Director-General to decide on the closure of the investigation.

Article 10. Support cases

10.1 The investigation unit and/or other relevant unit may provide OLAF support in the course of an EPPO investigation.

10.2 Within the framework of a support case, the relevant unit shall not conduct OLAF's investigative activities which require the Director-General's written act referred to in Article 15.2, however, on request, OLAF staff may participate or accompany the EPPO carrying out investigative activities in accordance with the applicable legal framework.

10.3 OLAF staff shall provide the necessary assistance to the investigation carried out by the EPPO, including by:

- a. Providing documents, information and expertise
- b. Conducting operational analysis of documents or data in any format, acquired by the EPPO or OLAF in the course of their investigations
- c. Providing technical assistance to the digital forensic operations in the framework of an EPPO investigation
- d. Operational support, including participation in the EPPO investigation as expert, expert witness, adviser or in any other capacity provided for by the applicable legal provisions

10.4 The investigation unit or other relevant unit shall perform only those support or assistance measures, which are requested by the EPPO. The measures shall be carried out in close cooperation with the EPPO and by ensuring the applicable procedural guarantees of Chapter VI of the EPPO Regulation.

Article 11. Investigations in support to the EPPO

11.1 OLAF conducts an investigation in support to the EPPO criminal investigation, when the EPPO requests OLAF to provide support activities that can only be performed in the framework of an investigation.

11.2 The investigation unit shall perform only those support activities, which are requested by the EPPO in compliance with the procedures applicable to the conduct of investigations. The activities shall be carried out in close cooperation with the EPPO and by ensuring the applicable procedural guarantees of Chapter VI of the EPPO Regulation.

Article 12. Complementary investigations

12.1 OLAF conducts a complementary investigation into the same facts as the EPPO criminal investigation, where the EPPO does not object to such investigation. Such investigations are opened either on OLAF's initiative or on the EPPO's request, to facilitate the adoption of precautionary administrative measures or of financial, disciplinary or administrative action.

12.2 Complementary investigations shall be conducted within OLAF's mandate and in accordance with the procedures applicable to the conduct of OLAF investigations, established by these Guidelines. The investigation unit should consult with the EPPO regularly during the ongoing complementary investigation and coordinate its activities with the EPPO, where necessary. The EPPO may indicate specific arrangements for the conduct of the complementary investigation, which may be necessary to preserve the integrity of the ongoing criminal investigation.

Article 13. Coordination cases

13.1 The investigation unit and/or other relevant unit shall provide all necessary assistance to the administrative, law enforcement and judicial authorities of the Member States, to the EU institutions, bodies, offices or agencies, as well as to third country authorities and international organisations, and cooperate in the coordination of the investigations of relevant authorities and other related activities.

13.2 Within the framework of a coordination case, OLAF provides assistance and contributes to investigations carried out by competent national authorities and the institutions, bodies, offices or agencies. It facilitates the collection and exchange of evidence and ensures investigation synergy among the relevant competent authorities.

13.3 When providing assistance in coordination cases, the relevant unit shall not conduct OLAF's investigative activities, which require the Director-General's written act referred to in Article 15.2, however, OLAF staff may accompany the competent authorities carrying out investigative or investigation support activities upon request of those authorities and in accordance with the applicable legal framework.

13.4 The investigation unit or other relevant unit shall provide all necessary assistance to the competent authorities in the conduct of their investigations by facilitating the:

- a. Collection, analysis and exchange of documents and information in any format which can be used as evidence
- b. Consulting information in databases held by the EU institutions, bodies, offices or agencies
- c. Gathering of evidence in the framework of operational meetings
- d. Taking of statements from any person able to provide relevant information
- e. Taking of samples for scientific examination

13.5 Where the investigation unit and the relevant competent authorities consider that precautionary administrative measures to protect the financial interests of the Union are needed, the EU institution, body, office or agency concerned or the competent national authorities shall be informed.

13.6 Where a coordination case is opened in support of the EPPO investigation, the investigation unit shall perform only those coordination activities, which are requested by the EPPO. The coordination activities shall be carried out in close cooperation with the EPPO and, where applicable, by ensuring the applicable procedural guarantees of Chapter VI of the EPPO Regulation.

13.7 Where it becomes necessary in the course of a coordination case for OLAF to convert the case into an investigation, the investigation unit shall submit a request for a decision on the reclassification of the case to the Review Team. The Review Team shall verify the proposed reclassification and provide an opinion to the Director-General, on the basis of which he makes a decision.

Article 14. Participation of OLAF staff in a Joint Investigation Team (JIT)

14.1 OLAF staff can participate in a JIT by invitation from the judicial authority of an EU Member State or on the basis of an initiative from Eurojust, Europol or the EPPO in the framework of an on-going investigation, coordination case and, where necessary, during the monitoring phase in a closed investigation.

14.2 Within the framework of a JIT, the participating OLAF staff provide OLAF assistance, services and expertise, in particular, by providing administrative, documentary and logistical support, strategic, analytical, technical and digital forensic support as well as tactical and operational expertise and advice to the members of the JIT, as required by the leader(s) of the JIT.

14.3 Participating OLAF staff may also, under the guidance of the leader(s) of the team, be present during the operational activities of the JIT to offer on-the-spot advice and assistance to the members of the team, as long as the laws of the EU Member States concerned permit this.

14.4 The investigation unit may conduct investigative activities in the framework of an OLAF administrative investigation related to the subject of the JIT in close consultation with the leader(s) of the JIT.

Article 15. Investigation

15.1 The investigation unit gathers evidence using *inter alia* the following means:

- a. Collecting documents and information in any format which can be used as evidence
- b. Gathering evidence in the framework of operational meetings
- c. Taking statements from any person able to provide relevant information
- d. Carrying out fact-finding missions in Member States
- e. Taking samples for scientific examination
- f. Conducting interviews with persons concerned or witnesses
- g. Carrying out inspections of premises
- h. Carrying out on-the-spot checks (Council Regulation (Euratom, EC) n° 2185/96)
- i. Carrying out digital forensic operations
- j. Carrying out investigative missions in third countries
- k. Requesting information concerning bank accounts
- l. Requesting records of banking transactions

15.2 Members of the investigation unit carry out the following investigative activities upon production of the Director-General's written act showing their identity and capacity, and the investigative activity they are authorised to carry out:

- a. Interviews with persons concerned and witnesses
- b. Inspections of premises
- c. On-the-spot checks
- d. Digital forensic operations
- e. Investigative missions in third countries
- f. Requesting records of banking transactions

15.3 Where the investigation unit considers that precautionary administrative measures to protect the financial interests, including flagging and other preliminary measures in the framework of the Early Detection and Exclusion System (EDES), are needed, the EU institution, body, office or agency concerned or, where necessary, the competent national authorities shall be informed.

15.4 The investigation unit shall prepare the necessary documentation to inform the Supervisory Committee on the duration of investigations, in accordance with Article 7(8) of Regulation (EU, Euratom) No 883/2013¹.

¹ Article 7(8) of Regulation (EU, Euratom) No 883/2013

Investigations procedure

8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and the remedial measures envisaged with a view to speeding up the investigation.

15.5 In order to avoid duplication of investigations in the course of an ongoing investigation, where suspicion of criminal conduct arises in respect of which the EPPO could exercise its competence, the investigation units shall request the verification via the EPPO's case management system on whether the EPPO is conducting an investigation into the same facts and, where necessary, request further information from the EPPO. The Operational Coordination and Liaison Office Unit shall assist and facilitate the work of the investigation units by verifying via the EPPO's case management system and requesting further information from the EPPO.

15.6 Where the investigation unit establishes that the EPPO is conducting an investigation into the same facts or identifies the potential criminal conduct in respect of which the EPPO could exercise its competence, it should consider splitting an investigation with a view to continue investigating the facts that are not covered by the criminal investigation of the EPPO and to comply with a non-duplication obligation. Where the existing scope of an OLAF investigation is broader than the scope of the ongoing or potential EPPO investigation, the investigation unit should propose to split the case, as foreseen in Article 16.3.

15.7 Where the investigation unit identifies potential criminal conduct in respect of which the EPPO could exercise its competence, it shall prepare without delay the report to the EPPO in accordance with the requirements set out in Article 5.7 and on the basis of information gathered during the investigation and presents it to the Operational Coordination and Liaison Office Unit for a quality check.

15.8. Where the EPPO is conducting an investigation or opens a new one on the same facts and the investigation unit envisages carrying out a complementary investigation to facilitate the adoption of precautionary measures or of financial, disciplinary or administrative action, the investigation unit prepares a proposal to the EPPO to carry out a complementary investigation in accordance with the requirements set out in Article 5.9 and presents it to the Operational Coordination and Liaison Office Unit for a quality check.

15.9. In the event that the EPPO does not object to the conduct of a complementary investigation or requests OLAF to continue an investigation in support of the EPPO investigation, the investigation unit shall submit a request to reclassify the investigation into a complementary investigation or an investigation in support to the EPPO. The Review Team shall verify the proposed reclassification and provide an opinion to the Director-General, on the basis of which he makes a decision.

Article 16. Legality check during the investigation

16.1 Where the investigation unit envisages conducting an investigative activity, which requires the Director-General's authorisation in accordance with Article 15.2, the investigation unit shall submit a request to conduct the proposed investigative activity or the proposed letter requesting records of banking transactions to the Review Team.

16.2 The Review Team shall verify the legality, necessity and proportionality of the proposed investigative activity and shall provide an opinion to the Director-General on the basis of which he makes a decision.

16.3 Where the investigation unit envisages conducting an investigative activity outside the existing scope of the investigation, it shall submit a request to extend the scope of the investigation to the Review Team. The Review Team shall verify the legality and necessity of the proposed extension of the scope and provide an opinion to the Director-General on the basis of which he makes a decision.

16.4 Where the investigation unit proposes to split or merge a case, it shall submit a request to the Review Team. The Review Team shall verify the legality and necessity of the proposed splitting or merging of the case and provide an opinion to the Director-General on the basis of which he makes a decision.

16.5 Before the Director-General signs an Agreement on the establishment of a Joint Investigation Team, the relevant unit in the framework of an ongoing investigation, coordination or during the monitoring phase in a closed investigation should submit to the Review Team a motivated request explaining the background and necessity for the JIT. The Review Team shall verify the legality, necessity and proportionality of the proposed participation in a JIT and provide an opinion to the Director-General, on the basis of which he makes a decision.

Article 17. Inspections of EU premises

17.1 The investigation unit may carry out inspections of the premises of the EU institutions, bodies, offices or agencies at any time during an investigation.

17.2 The investigation unit shall inform the Secretary-General or equivalent authority of the EU institution, body, office or agency concerned whenever it intends to conduct an inspection of its premises. The investigation unit shall submit the proposed notification to the Review Team together with the request for authorisation for the proposed inspection.

17.3 Prior to conducting an inspection of premises the investigation unit shall, where necessary, inform the head of security of the EU institution, body, office or agency concerned and request the necessary assistance.

17.4 The investigation unit shall conduct the inspection in the presence of the Member, official or servant of the EU institution, body, office or agency concerned. Where necessary, the inspection may be made in the absence of the Member, official or other servant concerned; in such cases, another member of staff or a member of the security of the EU institution, body, office or agency concerned shall be present.

17.5 During an inspection of premises, members of the investigation unit may access any information and data, irrespective of the medium on which they are stored, held by the EU institution, body, office or agency concerned, including *inter alia* copies of electronic data, copies of private documents (including medical records) where they may be relevant to the investigation. Original documents should be taken where there is a danger that they might be tampered with or removed.

17.6 When OLAF staff carry out a digital forensic operation during an inspection of the premises, the provisions of Article 19 apply.

17.7 Members of the investigation unit may request information from Members, officials or other servants of the EU institution, body, office or agency concerned in the course of an inspection.

17.8 Members of the investigation unit who are engaged in carrying out the inspection shall draw up a report of the activities undertaken during the inspection and shall ask the participants to countersign the report. Where necessary, copies of the report shall be provided to the participants. However, where it is in the interests of the investigation, copies of the inspection report should be provided at a later stage.

Article 18. On-the-spot checks

18.1 The national authority concerned shall be notified in good time of the on-the-spot check to be carried out and of the object, purpose and legal basis of the check. The economic operator shall be notified of the on-the-spot check to be carried out at the latest, at the start of the on-the-spot check.

18.2 The on-the-spot check should be conducted with the cooperation of the competent national authority. Officials of the national authorities may participate in the on-the-spot check or it may be carried out jointly between OLAF and the competent national authority.

18.3 Where necessary, experts who are not OLAF staff may assist the members of the investigation unit carrying out on-the-spot checks. Such experts shall provide certification of expertise and be included in the written act referred to in Article 15.2 authorising them to assist in the on-the-spot check.

18.4 Members of the investigation unit carrying out the on-the-spot check shall ensure that they access the economic operator's premises and relevant evidence. In particular, the investigators may take a copy of, and obtain extracts from, any relevant document and data, irrespective of the medium on which they are stored and assume custody of documents or data to ensure that there is no danger of their disappearance. They also may request oral information, including through interviews, and take statements from economic operators.

18.5 When OLAF staff carry out an interview or digital forensic operation during an on-the-spot check, the respective provisions of Article 21 and Article 19 apply.

18.6 The economic operators shall cooperate with OLAF in the framework of its investigation. When an economic operator resists, the members of the investigation unit are entitled to request the competent national authorities to provide the necessary assistance to carry out the on-the-spot checks effectively and without undue delay. The competent national authorities shall provide such assistance in conformity with national procedural rules, applicable to the competent authority concerned.

18.7 The conduct of the on-the-spot checks shall comply with the procedural guarantees provided for in Regulation (EU, Euratom) No 883/2013 and in Council Regulation (Euratom, EC) No 2185/96.

18.8 OLAF staff conduct on-the-spot-checks upon production of the written act referred to in Article 15.2 together with the information on the applicable procedures and procedural guarantees. In particular, OLAF staff shall inform the economic operator concerned of the right not to make self-incriminating statements and to be assisted by a person of choice; however, this right shall not prevent access to the premises of that economic operator and shall not unduly delay the start of the check. The economic operator shall also be informed of the possibility to use any of the official languages of the Member State where it is located and the duty to cooperate.

18.9 Members of the investigation unit carrying out the on-the-spot check shall draw up a report of the activities undertaken during the on-the-spot check. The participating national inspectors and economic operator concerned shall be asked to countersign the report. Copies of the on-the-spot check report shall be provided to the national authority and, where necessary, to the economic operator concerned.

18.10 On-the-spot checks may be conducted on economic operators other than those directly concerned where it is strictly necessary to have access to relevant evidence held by them.

18.11 On-the-spot checks may be conducted on economic operators in third countries and on the premises of international organisations on the basis of legal provisions in force.

18.12 In investigations concerning Members, officials or other servants of the EU institutions, bodies, offices or agencies, on-the-spot checks may be conducted on economic operators where it is necessary to have access to relevant evidence held by them.

Article 19. Digital forensic operations

19.1 Digital forensic operations may be carried out for the purposes of identification, acquisition, imaging, collection, analysis and preservation of digital evidence contained in digital devices.

19.2 OLAF digital forensic specialists shall conduct the digital forensic operation on the basis of the request of the investigation unit, in particular, within the framework of inspections or on-the-spot checks in accordance with the principles of necessity and proportionality and with the focus on the devices, which have a clear indication of business use. Where deemed necessary by the digital forensic specialists, experts who are not OLAF staff may work under the supervision of the digital forensic specialists to assist them in conducting digital forensic operations.

19.3 Digital forensic operations should be preceded by the preliminary identification of the digital devices concerned and carried out in a manner that ensures the integrity and the chain of evidence to be admissible in administrative, disciplinary and judicial procedures.

19.4 In accordance with the applicable legal framework, digital forensic operations may also include access to privately owned devices, used for work purposes.

19.5 The digital forensic specialists carrying out the digital forensic operation shall draw up a report of the activities undertaken during the digital forensic operation that shall be annexed to the report of the inspection or on-the-spot check, if applicable. The participants in the digital forensic operation shall be asked to countersign the digital forensic operation report.

19.6 The digital forensic examination and analysis of the data collected during the digital forensic operation shall be limited to extracting data necessary and relevant to the investigation concerned.

Article 20. Requesting information concerning bank accounts and records of banking transactions

20.1 The investigation unit may request from the competent national authorities information concerning bank accounts, which includes the details of any natural or legal persons holding or controlling payment accounts, bank accounts and safe-deposit boxes, as referred to in Article 32a(3) of Directive (EU) 2015/849.

20.2 Where strictly necessary for the purposes of the investigation, the investigation unit may request records of banking transactions from the competent national authorities.

20.2 The investigation unit should ensure that the requests include the information set out in Article 7(3a) of Regulation (EU, Euratom) No 883/2013.

20.3 The proposed request letter for records of banking transactions should be submitted to the Review Team for the legality check. When signed, it constitutes a written act referred to in Article 15.2.

Article 21. Interviews

21.1 The investigation unit may interview a person concerned or a witness at any time during an investigation.

21.2 When a witness is interviewed, an invitation to the interview shall be sent in accordance with the notice periods set out in Article 9(2) of Regulation (EU, Euratom) No 883/2013². The investigation unit shall inform the witness of the right not to incriminate oneself. The witness shall also be informed that she/he may use an official EU language of her/his choice. If the witness is an official or other servant of the EU, the investigation unit may conduct the interview in an official EU language of which the witness has a thorough knowledge. Officials or other servants should also be informed that they have a duty to cooperate with the OLAF investigation.

21.3 The investigation unit shall allow the witness to approve the record of the interview or make observations.

21.4 If during the course of an interview it becomes apparent that a witness is in fact a person concerned, the interview shall be ended. The interviewee shall be informed that she/he will be treated as a person concerned, informed of her/his rights and upon request shall be provided with a copy of the past statements.

21.5 Where the investigation unit intends to interview a person concerned, an invitation to the interview shall be sent in accordance with the notice periods set out in Article 9(2) of Regulation (EU, Euratom) No 883/2013³. The investigation unit shall inform the person concerned of her/his right not to incriminate oneself and of the right to be assisted by a person of her/his choice. The person concerned shall also be informed that she/he may use an official EU language of his choice. If the person concerned is an official or other servant of the EU, the investigation unit may conduct the interview in an official EU language of which the person concerned has a thorough knowledge. Officials or other servants should also be informed that they have a duty to cooperate with the OLAF investigation.

² Article 9(2) second paragraph of Regulation (EU, Euratom) No 883/2013

Procedural guarantees

The invitation to an interview shall be sent to a person concerned with at least 10 working days' notice. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the investigation. In the latter case, the notice period shall not be less than 24 hours. The invitation shall include a list of the rights of the person concerned, in particular the right to be assisted by a person of his choice.

³ Article 9(2) third paragraphs of Regulation (EU, Euratom) No 883/2013

Procedural guarantees

The invitation to an interview shall be sent to a witness with at least 24 hours' notice. That notice period may be shortened with the express consent of the witness or on duly reasoned grounds of urgency of the investigation.

21.6 Where a person concerned was previously interviewed as a witness, the investigation unit shall not use her/his past statements against her/him in any way.

21.7 The investigation unit shall allow the person concerned to approve the record of the interview or make observations, and shall give her/him a copy of the interview record. However, where it is in the interests of the investigation, the copy of the interview record may be provided at a later stage.

21.8 The investigation unit may decide in the interests of efficiency and proportionality, to conduct an interview by video conference.

Article 22. Investigative missions in third countries

22.1 The investigation unit may conduct investigative missions in third countries when the evidence necessary to establish the existence of fraud, corruption or other illegal activity is not available in the Member States. Such investigative missions shall be conducted in accordance with all relevant legal provisions.

22.2 A mission in a third country may relate to fraud, corruption or other illegal activity in the following areas:

- a. Customs
- b. Traditional own resources
- c. Expenditure of EU funds
- d. Expenditure of EU funds through international organisations or financial institutions, or funds managed by an EU institution, body, office or agency

22.3 The investigative mission should be conducted with the agreement and cooperation of the competent authorities of the third country concerned.

22.4 Members of the investigation unit should, where necessary, take statements or conduct interviews with persons holding relevant information in the course of an investigative mission in a third country.

22.5 Members of the investigation unit who are engaged in carrying out the investigative mission shall draw up a report of the activities undertaken during the mission, a copy of which shall be provided to the participants.

22.6 Prior to investigative missions concerning customs or traditional own resources, the investigative unit should send an official communication to the Member States concerned informing them of the proposed investigative mission. Where necessary the Member States should be requested to provide information or data relating to the matter under investigation.

22.7 Investigative missions concerning customs or traditional own resources should include members of the investigative unit and officials of the Member States concerned. The needs of those Member States not participating in the investigative mission but have an interest in the matter under investigation, should also be addressed during the investigative mission.

Article 23. Opportunity to provide comments

23.1 Once the investigation has been completed and prior to drawing conclusions referring by name to a person concerned, the investigation unit shall inform that person

of facts concerning her/him and invite her/him to comment on those facts. These comments may be provided within the framework of an interview or in writing.

23.2 The invitation to the person concerned to comment shall be drawn up and sent in accordance with the conditions and notice periods set out in Article 9(4) of Regulation (EU, Euratom) No 883/2013⁴.

23.3 Where it is necessary to preserve the confidentiality of the investigation or an ongoing or future criminal investigation of the EPPO or of a national judicial authority, the right of the person concerned to comment on facts concerning her/him may be deferred. Where necessary, the investigation unit consults the EPPO or the national judicial authority. Where the person concerned is a Member, official or other servant of an EU institution, body, office or agency, the right to comment may be deferred in agreement with the Secretary-General or equivalent authority.

23.4 The right of the person concerned to comment on facts concerning her/him is not applicable where OLAF has to discontinue an investigation: following the report to the EPPO concerning the criminal conduct within its competence, or when OLAF establishes that the EPPO is conducting an investigation into the same facts.

Article 24. Complaints

24.1 Where the Controller of procedural guarantees (the Controller) receives a complaint submitted by a person concerned in accordance with the relevant provisions of the Complaints mechanism foreseen by Article 9b of Regulation 883/2013, and informs the Director-General accordingly, the Legal Advice Unit shall, in close cooperation with the relevant investigation unit or directorate as appropriate, assist the Director-General in relation to any action to be taken by OLAF in that regard.

24.2 All complaints addressed to OLAF or any correspondence received by OLAF staff that could qualify as a complaint, within the meaning of the Complaints mechanism, shall be forwarded to the Legal Advice Unit without delay.

24.3 After a preliminary verification, the Legal Advice Unit shall forward to the Controller the complaints falling within her/his competence, without delay. Complaints addressed to OLAF by persons concerned after the deadlines established by Article 9b(2) of Regulation 883/2013 have expired shall be forwarded to the Controller with a remark in this regard.

⁴ Article 9(4) second paragraph of Regulation (EU, Euratom) No 883/2013

Procedural guarantees

4. Without prejudice to Articles 4(6) and 7(6), once the investigation has been completed and before conclusions referring by name to a person concerned are drawn up, that person shall be given the opportunity to comment on facts concerning him.

To that end, the Office shall send the person concerned an invitation to comment either in writing or at an interview with staff designated by the Office. That invitation shall include a summary of the facts concerning the person concerned and the information required by Articles 11 and 12 of Regulation (EC) No 45/2001, and shall indicate the time-limit for submitting comments, which shall not be less than 10 working days from receipt of the invitation to comment. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the investigation. The final investigation report shall make reference to any such comments.

When the Legal Advice Unit forwards a complaint to the Controller, it will inform the complainant accordingly unless this affects an on-going investigation.

24.4 Where the Controller invites OLAF to take action to resolve the complaint, the Legal Advice Unit shall prepare the reply to inform the Controller accordingly within 15 working days following the Controller's invitation.

24.5 Where the Controller issues a recommendation on how to resolve a complaint, the Director-General may take appropriate action to implement the recommendation, including by repealing or amending OLAF's Recommendation or Final Report, or may decide not to follow the recommendation.

24.6 The Legal Advice Unit shall assist the Director-General in relation to any action to implement the recommendation, in close cooperation with the relevant investigation unit. Where the Director-General decides not to follow the Controller's recommendation, the Legal Advice Unit prepares a note with the reasons for that decision. The note shall be attached to the Final Report and shall be transmitted to the recipients of the Final Report. The Director-General shall inform the complainant and the Controller of the main reasons for that decision, unless providing this information would affect an on-going investigation.

24.7 The Legal Advice Unit deals with complaints addressed to the Office, which do not fall within the competence of the Controller. Where necessary, the Legal Advice Unit will consult the relevant investigation unit or directorate as appropriate.

Article 25. Final Report and proposed Recommendations

25.1 The Final Report shall be drawn up when all activities have been completed and should include all findings and conclusions established in the course of an investigation, coordination or support case.

25.2 Final Reports shall set out the investigative activities carried out and the evidence gathered in the course of the investigation. A legal analysis of the facts established and, where possible, a determination of the amounts to be recovered or prevented from being unduly spent shall be included. Final Reports shall also analyse the evidence collected and provide conclusions in relation to the existence or otherwise of the fraud, corruption or other illegal activity affecting the financial or other interests of the EU, and/or serious matters relating to the discharge of professional duties. Conclusions shall be based on an impartial and objective assessment of the entirety of the evidence collected.

25.3 Final Reports shall also set out the actions taken to ensure the respect of procedural guarantees (including data protection) and the rights of persons concerned, and shall detail any comments made by the person concerned in relation to facts concerning her/him.

25.4 Where, without prejudice to the provisions of Article 15.5 – 15.9, OLAF has to discontinue an investigation following the report to the EPPO concerning the criminal conduct within its competence or an investigation unit establishes that the EPPO is conducting an investigation into the same facts, no Final Report is necessary for the closure of that investigation.

25.5 Within the framework of coordination or support cases, Final Reports shall set out the information collected, details of the coordination, support and assistance activities carried out and, where applicable, the outcome of those activities.

25.6 Final Reports shall be approved and signed by the investigator in charge, the Head of Unit and the Director of the relevant investigation directorate.

25.7 The investigation directorate proposes that the Director-General make Recommendations on the basis of the findings and conclusions of the investigation.

25.8 Without prejudice to OLAF's reporting obligations to the EPPO, where the investigation establishes that a criminal offence may have occurred in a Member State, the investigation directorate shall propose that the Director-General make Recommendations for action to be taken by the judicial authorities of the Member States.

25.9 Where the investigation establishes that a disciplinary offence may have occurred, the investigation directorate shall propose that the Director-General make Recommendations for disciplinary measures to be taken by the relevant EU institution, body, office or agency.

25.10 Where the investigation establishes an amount to be recovered or prevented from being unduly spent, the investigation directorate shall propose that the Director-General make Recommendations for action to be taken by the relevant EU institution, body, office, agency or competent authority of the Member State.

25.11 Where the investigation establishes the need for an investigation related administrative action to be taken, the investigation directorate shall propose that the Director-General make Recommendations for administrative measures to be taken by the relevant EU institution, body, office or agency or competent authority of the Member State.

25.12 Where the investigation unit identifies weaknesses in management and/or control systems or within the legal framework and where the implementation of the recommendation would have an impact beyond specific investigations, the investigation directorate shall inform the relevant OLAF unit dealing with anti-fraud strategy, which should, where necessary, draft a recommendation for administrative action to be taken by the relevant EU institution, body, office or agency. Such administrative recommendations should address the systemic issues and may also be relevant in situations where OLAF did not establish fraudulent or irregular activities.

CHAPTER III FINAL REVIEW AND CASE CLOSURE

Article 26. General

26.1 The Review Team shall examine the Final Report together with the proposed Recommendations and case closure Decision in order to provide an opinion to the Director-General.

26.2 The purpose of the review is to ensure the legality, necessity and proportionality of the activities undertaken during investigation, coordination or support case and the respect of the rights of the persons concerned throughout the investigative procedure.

Article 27. Final review

27.1 The investigation directorate shall submit the Final Report, proposed Recommendations and closure decision to the Review Team for review, together with all necessary documentation including transmission and information notes and letters.

27.2 The Review Team checks whether the investigation unit has complied with the legal requirements including the rights and procedural guarantees of the persons concerned, data protection requirements and reviews the legality, necessity and proportionality of the investigative activities undertaken. The Review Team shall also check whether the Final Report corresponds to the scope of the investigation and the proposed Recommendations and case closure decision are justified in line with the findings of the investigation or coordination case.

27.3 The Review Team shall provide an opinion on the Final Report, proposed Recommendations and case closure decision, on the basis of which the Director-General makes a decision.

27.4 Prior to issuing a negative opinion on the Final Report, proposed Recommendations and/or case closure decision, the Review Team shall provide the investigation directorate with an opportunity to reconsider the documents submitted.

27.5 An opinion of the Review Team should be annexed together with the Final Report where the Final Report is transmitted to the EU institutions, bodies, offices or agencies, competent national authorities or international organisations in accordance with Article 29.

Article 28. Case closure Decision and Recommendations

28.1 An investigation, coordination or support cases shall only be closed by decision of the Director-General.

28.2 On the basis of the findings of an investigation the Director-General may make Recommendations for action to be taken by EU institutions, bodies, offices, agencies or by Member States.

28.3 The Director-General shall request that the responsible EU institution, body, office, agency or competent authority report within a given timeframe on the actions taken to implement the Recommendations, the final outcome of any judicial, administrative, disciplinary or financial action and, where appropriate, the reasons for non-implementation of the Recommendations.

28.4 Where necessary, the Director-General may provide information on the outcome of the OLAF investigation to international organisations or a third country authority.

Article 29. Information and Transmission requirements

29.1 The investigation unit shall inform the person concerned within 10 working days of the Director-General's decision to close a case in which no evidence has been found against the person concerned. In all other cases, the investigation unit should inform the person concerned of the Director-General's decision to close the case, unless such information is detrimental to the effectiveness of the investigation and the implementation of recommendations, or confidentiality requirements.

29.2 The investigation unit shall inform the source of the Director-General's decision to close the case, unless such information is detrimental to the legitimate interests of the person concerned, the effectiveness of the investigation and the implementation of recommendations, or confidentiality requirements.

29.3 Where the Director-General has closed an investigation, the investigation unit shall transmit the Final Report together with Recommendations if any, to the responsible EU institution, body, office or agency concerned.

29.4 Where the Director-General has closed an investigation with Recommendations, the investigation unit shall transmit the Final Report and Recommendations, to the relevant competent authority of the Member State, or competent international organisation.

29.5 Where the Director-General has closed an investigation without Recommendations or a coordination case, the investigation unit may, where necessary, transmit the Final Report to the responsible EU institution, body, office or agency, competent authority, or competent international organisation.

29.6 Where the Director-General has closed a complementary investigation, the investigation unit shall transmit the Final Report to the EPPO.

29.7 Where the Director-General has closed a support case, the investigation unit shall, where necessary, transmit the Final Report to the EPPO.

29.8 Where the Director-General has closed an investigation or coordination case in order to ensure non-duplication of investigations with the EPPO, the investigation unit shall inform the EPPO accordingly.

29.9 The investigation unit shall prepare the necessary documents to inform the Supervisory Committee of transmissions of case-related information to the national judicial authorities of the Member States.

CHAPTER IV MONITORING AND ASSISTANCE

Article 30. General

30.1 During the monitoring phase the investigation unit shall provide all necessary assistance to the competent authorities.

30.2 During the monitoring phase, the investigation unit and, where appropriate, the unit dealing with anti-fraud strategy shall follow the progress of the implementation of Recommendations and record the outcome of actions taken by the competent authorities resulting from Recommendations.

30.3 The Monitoring and Reporting Unit coordinates and, where appropriate, takes part in OLAF's monitoring activities and analyses the implementation of OLAF's recommendations to optimise the effectiveness of OLAF's investigations.

Article 31. Assistance to competent authorities

31.1 The investigation unit shall, on request, give all necessary assistance to the EU institutions, bodies, offices, agencies or competent authorities of the Member States in relation to actions taken following Recommendations, including by providing:

- a. specific documents mentioned in the Final Report but not included in the transmission of the report
- b. any further information requested for implementation of Recommendations, where necessary
- c. assistance in obtaining the authorisation for OLAF staff to appear as witnesses in legal proceedings or assist in obtaining the authorisation for officials of other EU institutions, bodies, offices or agencies to appear as witnesses
- d. assistance in obtaining the waiver of the immunities under the Protocol on privileges and immunities in instances where competent national authorities have initiated criminal proceedings concerning acts of officials of EU institutions, bodies, offices or agencies, performed in their official capacity
- e. expert advice where requested by the Member States

31.2 Where a request for assistance concerns recovery of EU funds or actions preventing such funds from being unduly spent, the investigation unit represents OLAF in administrative procedures with the European Commission services (including contradictory procedures, clearance of accounts procedures, REM/REC applications and write-off requests).

31.3 Where a request for assistance concerns judicial or disciplinary actions resulting from Recommendations, the investigation unit assists in the waiving of immunities, provision of legal advice and translations.

Article 32. Access to the Final Report

Where the person concerned requests access to the Final Report in accordance with Article 10(3b) of Regulation 883/2013, the relevant investigation unit shall contact the recipients of the Final Report and reply to the requestor after consultation with the Legal Advice Unit.

Article 33. Monitoring the Implementation of Recommendations

33.1 The investigation unit or, where appropriate, the unit dealing with anti-fraud strategy shall monitor the implementation of Recommendations of a judicial, disciplinary, financial and administrative nature made to EU institutions, bodies, offices, agencies and to Member States at least on an annual basis.

33.2 The competent unit may request information from the EU institution, body, office, agency or Member State concerning actions taken in respect of Recommendations made.

33.3 The competent unit may consult the information systems in which EU institutions, bodies, offices, agencies and Member States record actions taken in respect of Recommendations made.

33.4 The competent unit shall monitor the need to maintain the deferral of information to data subjects, including in the framework of the EDES, and where necessary, provide the required notifications.

Article 34. Recording of financial, judicial and disciplinary results

34.1 The investigation unit shall record actions taken in respect of Recommendations made, their progress and any outcome thereof in OLAF's Content Management(OCM).

34.2 The investigation unit shall, where necessary, inform the EU institutions, bodies, offices or agencies of the final outcome of national judicial proceedings and inform the responsible OLAF unit dealing with anti-fraud strategy for the purposes of the EDES.

CHAPTER V ENTRY INTO FORCE

Article 35.

35.1 These Guidelines replace the OLAF Guidelines on Investigation Procedures for OLAF Staff which entered into force on 1 October 2013.

35.2 These Guidelines on Investigation Procedures for OLAF Staff enter into force on 11 October 2021.

GLOSSARY

- **Authorisation [Art 16]**

The authorisation is the permission granted by the Director-General to members of the investigation unit or other member of OLAF staff or expert to allow them to carry out or assist in the investigative activities listed in Article 15.2.

- **Authority [Work form]**

The authority is the written act by which the Director-General empowers the members of the investigation unit or other member of OLAF staff or expert to carry out or assist in the investigative activities listed in Article 15.2. The members of the investigation unit or other member of OLAF staff or expert shall produce the authority when carrying out or assisting in such investigative activities.

- **Amounts to be recovered [Art 25]**

The amount to be recovered is any EU expenditure identified during an investigation or coordination case as having been unduly spent which is to be retrieved from beneficiaries, national managing authorities or paying agencies (by direct recovery, offsetting, deduction, decommitment, programme closure, clearance of accounts, etc.).

The amount to be recovered is also the amount of traditional own resources identified during an investigation or coordination case as having been evaded and which is to be recovered from economic operators or charged to the Member States resulting from their negligence or lack of due diligence.

- **Amounts prevented from being unduly spent [Art 25]**

These amounts include any EU expenditure identified during investigations or coordination cases which were prevented from being unduly spent.

- **Case [Art 1]**

A case is the framework within which information of possible investigative interest is treated by OLAF; including the selection and investigation of such information, and the monitoring of implementation of Recommendations concerning such information. All cases treated by OLAF are allocated an OLAF case number.

- **Complementary investigation [Art 5/12/15/16/29]**

OLAF's administrative investigation on the same facts where the EPPO conducts a criminal investigation with a view to facilitating the adoption of precautionary measures or of financial, disciplinary or administrative action, as foreseen by Article 12f of Regulation 883/2013.

- **Conflict of interest [Art 8]**

Article 11a Staff Regulations of officials of the European Union and, where relevant, Article 61 of Regulation (EU, Euratom) 2018/1046 (Financial Regulation).

- **Dismissed case [Art 5/7]**

A dismissed case is a case in which the Director-General has made a decision that the information of possible investigative interest does not meet the criteria for the opening of an investigation or coordination case.

- **Evidence [Art 8/9/13/15/18/19/22/29]**

Evidence is anything that is relevant to the facts under investigation. Evidence is collected during an investigation in order to establish facts and can be inculpatory or exculpatory. Evidence includes *inter alia* documents, information, irrespective of the

type of medium on which it is stored, reports, records, statements, images, digital forensic and scientific analysis.

- **Extension of the scope of a case [Art 16]**

An extension of the scope of a case is a decision by the Director-General authorising investigation activities to be undertaken which fall outside the opening decision of the investigation or coordination case.

- **Fact-finding mission [Art 5/15]**

Fact-finding missions are missions conducted by OLAF in the Member States, in order to collect information or evidence, which do not require the involvement of the competent authorities of the Member States or the investigative powers of OLAF.

- **Flagging [Art 15]**

A mechanism that allows authorising officers to flag ('early detection') persons/entities which pose a risk to the financial interests of the Union in the framework of the Early Detection and Exclusion System (EDES) and in accordance with Art. 135 - 145 of the Financial Regulation.

- **Informant [Art 8]**

An informant is a natural person who provides information of possible investigative interest to OLAF.

- **Information of possible investigative interest [Art 1]**

Information of possible investigative interest is all information received by OLAF or information gathered on OLAF's own initiative, that could be considered for the opening of an investigation or coordination case and which shall be submitted to the selection procedure for analysis.

- **Interviews [Art 21]**

An interview is a formal dialogue with a person concerned or a witness in order to obtain evidence relevant to an investigation and which is always duly recorded.

- **Investigation in support to the EPPO [Art 1/5/8/11/15]**

An administrative investigation, where OLAF conducts the support activities to the EPPO that can only be performed in the framework of an investigation and where the applicable procedural guarantees of Chapter VI of the EPPO Regulation shall be observed, as foreseen by Article 12e of Regulation 883/2013.

- **Legal provisions [Art 22]**

Legal provisions refer to the applicable legal rules or arrangements under which OLAF carries out its investigative activities. Legal provisions cover all relevant EU Treaties and legislation including Regulations, Decisions, Interinstitutional Agreements and Agreements entered into with third countries including those containing provisions on cooperation and mutual administrative assistance. Legal provisions also include relevant administrative arrangements entered into with competent authorities in third countries, international organisations or contracting parties; as well as those with the competent authorities of the Member States, EU institutions, bodies, offices or agencies.

- **Opinion of Operations and Investigations Selection Unit [Art 1/5/6]**

An opinion is an advice to the Director-General on the opening of an investigation, a coordination or a support case, or dismissal of the case provided by the Operations and Investigations Selection Unit.

- **Opinion of the Review Team [Art 13/15/16/26/27]**

An opinion is an advice to the Director-General on the requested investigation activities, the requests to extend of the scope of the investigation, reclassify, split or merge cases or participation in a Joint Investigation Team (JIT) and final review of the case, provided by the Review Team under the responsibility of the Deputy Director-General.

- **On-the-spot check [Art 15/18/19]**

On-the-spot checks and inspections, which are conducted in accordance with Article 3 of Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96.

- **Quality check [Art 5/15]**

Operational Coordination and Liaison Office Unit conducts the quality check of the EPPO Crime Reports and proposals for complementary investigations to ensure the consistency, quality and efficiency of the reporting obligations within the EPPO's competence, to maintain a centralised approach in contacting the EPPO and coordinating the links with the EPPO.

- **Recommendation [Art 25-34]**

Recommendations are proposals made by the Director-General for action to be taken by relevant EU institutions, bodies, offices, agencies or competent authority of Member States, on the basis of the findings of the OLAF investigation or coordination case.

- **Recommendation of the Controller [Art 20]**

Recommendations of the Controller of the procedural guarantees are the proposals how to resolve the issues raised in the complaints by the persons concerned, as referred to in Article 9b of Regulation 883/2013.

- **Source of the information [Art 5/7/9/29]**

A source provides information of possible investigative interest to OLAF. A source may be an EU institution, body, office, agency, Member State or third country authority, or international organisation. A source may also be a whistle-blower or an informant. A source may provide information anonymously.

- **Statement [Art 5/12/15/18/22]**

A statement is a written record of evidence relevant to an investigation provided by a person within the framework of an OLAF case.

- **Support case [Art 1/5/6/8/10/25/26/28/29]**

OLAF's case opened to perform the EPPO requested measures, as foreseen by Article 12e of Regulation 883/2013, which can be implemented without opening an administrative investigation or a coordination case. The applicable procedural guarantees of Chapter VI of the EPPO Regulation shall be observed.

- **Whistle-blower [Art 5/8]**

A whistle-blower is an EU official who provides information to OLAF on any facts which give rise to a presumption of the existence of possible illegal activity or serious misconduct relating to the discharge of professional duties as provided for in Article 22a of the Staff Regulations of officials of the European Union.

- **Witness [Art 15/21]**

A witness is a natural person who provides evidence relevant to an investigation.

- **Written act [Art 10/13/15/18/20]**

A written act is an official instrument of the Director-General authorising and mandating the carrying out of investigative activities set out in Article 15.2 of the Guidelines on Investigation Procedures for OLAF Staff.