

The Director-General

Brussels

**NOTE FOR THE ATTENTION OF MR TUOMAS PÖYSTI,  
CHAIRMAN OF THE OLAF SUPERVISORY COMMITTEE**

Via the Secretariat of the Supervisory Committee

**Subject: Follow-up to the Supervisory Committee Recommendations  
issued between 2014 and 2015**

Dear Mr Pöysti,

Please find enclosed to this note OLAF's report on the follow-up to the 15 SC recommendations transmitted to OLAF between May 2014 and December 2015. The recommendations were included in four SC Opinions (SC Opinion 3/2014 *OLAF's preliminary draft budget for 2015*, SC Opinion 4/2014 *Control of the duration of investigations conducted by OLAF*, SC Opinion 5/2014 *Statistics on investigative performance of OLAF (part I) - OLAF external reporting on the duration of investigations*, and SC Opinion 1/2015 *OLAF's preliminary draft budget for 2016*).

OLAF considers 11 out of the 15 recommendations as implemented and one as not applicable. The implementation of three recommendations, which are linked with the discussion on the Working Arrangements between OLAF and the SC, is ongoing.

OLAF remains available for any questions you might have.

Yours sincerely,

  
Giovanni KESSLER

Encl: Table on OLAF report on 15 SC recommendations issued between 2014 and 2015

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## SC Recommendations 2014 - 2015 follow-up<sup>1</sup> OLAF report for 2015

**Summary:**

In the period May 2014 to December 2015<sup>2</sup>, the SC has transmitted to OLAF 15 recommendations, included in four SC Opinions (SC Opinion 3/2014 *OLAF's preliminary draft budget for 2015*, SC Opinion 4/2014 *Control of the duration of investigations conducted by OLAF*, SC Opinion 5/2014 *Statistics on investigative performance of OLAF (part I) - OLAF external reporting on the duration of investigations*, and SC Opinion 1/2015 *OLAF's preliminary draft budget for 2016*).

The table below includes OLAF's follow-up on the 15 recommendations. It considers 11 as implemented, one as not applicable and 3 as ongoing.

	<i>SC Document Reference</i>	<i>Original SC recommendations to OLAF</i>	<i>OLAF Current state of play</i>	<i>OLAF assessment of the implementation</i>
1.	SC Opinion 3/2014  OLAF's preliminary draft budget for 2015	[1] OLAF should present more detailed information on the allocation of resources to priority areas.  Extract from SC Opinion 3/2014: "The SC reiterates that OLAF should develop its reporting and present information on the allocation of resources to various activity and priority areas in its management plan and the documents underlying preliminary draft budget. The budget documentation could in the future be clearer on the impact of the preliminary draft budget	OLAF has taken into consideration the suggestion to link targets and indicators in the management plan and the budget documentation. It should be noted that the budget documentation follows fixed templates, as predefined in the budgetary circular and integrated in the budget application Budgebud, which are used in a uniform way by all services of the European Commission.  Since 2012 several reorganisations, the most recent taking	<b>Implemented</b>

<sup>1</sup> This is the second follow-up exercise of recommendations issued by the current SC. The first exercise concerned 50 recommendations issued between June 2012 and March 2014. As reported on 4 September 2015, out of the 50 recommendations, OLAF considered implemented 45 recommendations, on four there was disagreement and one recommendation was still pending, awaiting an Opinion from the SC. OLAF therefore considered that the follow-up of the recommendations issued by the SC between 2012 and 2014 could be closed with this one exception.

<sup>2</sup> The SC adopted its Opinion 2/2015 *Legality Check and Review in OLAF* on 15 December 2015. It was transmitted to OLAF on 12 January 2016, and therefore, the recommendations from Opinion 2/2015 are not included in the current report which was prepared before that date.

	<i>SC Document Reference</i>	<i>Original SC recommendations to OLAF</i>	<i>OLAF Current state of play</i>	<i>OLAF assessment of the implementation</i>
		on the core business of OLAF, investigations."	<p>effect on 1 October 2015, have led to a better distribution of responsibilities and competences, the reduction of non-core activities, overheads and administrative burden and have improved the efficiency of investigations.</p> <p>As a result of the above actions, the number of staff members carrying out investigative functions increased since January 2012 by more than 10%, despite the staff cuts.</p> <p>However, DG HOME and DG ECHO's recent joint call for expression of interest triggered the transfer of 5 staff members with their posts to DG HOME, reducing the number of investigators.</p> <p>As regards financial resources, the budget dedicated to investigations was increased from EUR 1,4 million in 2014 to EUR 1,7 million for 2015 and 2016.</p>	
2.	SC Opinion 3/2014 OLAF's preliminary draft budget for 2015	[2] OLAF should continue its work to develop an exemplary human resources strategy and inform the SC regularly on the progress.	<p>OLAF has developed an HR Strategic Plan 2014-2016 in consultation with DG HR and OLAF staff. The HR Strategic Plan was transmitted to the SC on 29 August 2014.</p> <p>Unit 02 regularly informs OLAF staff on the implementation of the actions taken in the framework of the HR Strategic Plan. The Secretariat of the SC is invited to share this information with the SC.</p> <p>An analysis of the implementation of the Strategic Plan is foreseen by the end of 2016 and the SC will be informed thereof.</p>	<b>Implemented</b>
3.	SC Opinion 3/2014 OLAF's preliminary draft budget for 2015	[3] The Director General of OLAF should delegate, as far as possible, the powers of the Appointing Office and Authorising Officer with respect to the staff and budget of the Supervisory Committee's Secretariat to	With respect to the staff and budget of the SC Secretariat, OLAF has delegated as far as possible the powers of Appointing Authority and Authorising Officer to the Head of the SC Secretariat and intends to continue doing so.	<b>Implemented</b>

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		the Head of the Secretariat.	As regards the implementation of the budget related to the mandate of the Members of the SC, the recent Commission Decision (EU) 2015/2418 of 18 December 2015 amended the Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office (OLAF). As a result, as from 1 January 2016 the Director-General of OLAF no longer acts as Authorising Officer by delegation responsible for the implementation of the appropriations relating to the Members of the SC. This role has been transferred to the Director of PMO as from 1 January 2016.	
4.	SC Opinion 3/2014 OLAF's preliminary draft budget for 2015	[4] Changes to the staff and budget of the Supervisory Committee's Secretariat shall be subject to consent of the Supervisory Committee.	OLAF will continue consulting the SC on staff and budget decisions affecting the SC Secretariat, in view of achieving consent with the SC, as has been done in the past.	<b>Implemented</b>
5.	SC Opinion 3/2014 OLAF's preliminary draft budget for 2015	[5] In accordance with Article 7(2) of the Commission Decision of 28 April 1999, this Opinion should be transmitted by OLAF to the Budgetary Authority.	Article 6(2), and not Article 7(2), of Commission Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office as amended by Commission Decision 2013/478/EU of 27 September 2013 <sup>3</sup> , states that " <i>After consulting the Supervisory Committee, the Director-General shall send the Director-General for budgets a preliminary draft budget to be entered in the annex concerning the Office to the Commission section of the general budget of the European Union.</i> ". The Decision does not say that OLAF should transmit any documents related to the budgetary procedure to the Budgetary Authority.  In line with the Decision, OLAF transmits yearly to DG BUDG the preliminary draft budget. In addition, the SC Opinion N°1/2015 on OLAF's Preliminary Draft Budget for 2016 was also transmitted to the Director-General of DG	<b>Not applicable</b>

<sup>3</sup> [http://ec.europa.eu/anti\\_fraud/documents/legal-framework-decisions/478-2013/olaf\\_decision\\_2013\\_478\\_jo\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/legal-framework-decisions/478-2013/olaf_decision_2013_478_jo_en.pdf)

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			BUDG (Note ARES(2015)2843967).	
6.	<p>SC Opinion 4/2014</p> <p>Control of the duration of investigations conducted by OLAF</p>	<p>[6] OLAF should improve the information transmitted to the SC for the purpose of monitoring of the duration of investigations, in order to enable the SC to effectively and efficiently carry out its monitoring role and thereby comply with its obligation to report to the EU institutions. In doing so, OLAF should:</p> <p><b>Enrich the content of the 12-month reports with recurrent factual case-related information, in order to enable the SC to understand the background and progress of investigations.</b></p> <p>To implement this recommendation, the SC suggests that the reports contain information such as the legal basis for the opening of investigations, a short description of the investigation (allegation, category of source of information, type of fraud or irregularity, the area concerned, the EU institution, body, office, agency or the Member State concerned, legislation allegedly breached, estimation of the financial impact, if possible), main investigative activities carried out or to be carried out and their chronology, time barring issues.</p>	<p>It should be noted that Article 7 (8) of Regulation 883/2013 requires OLAF to provide the SC with information related to all investigations lasting more than 12 months on 1) the reasons and 2) the remedial measures envisaged with a view to speeding up the investigation. As recognised by the SC, OLAF already does so. Any additional information on investigations can be requested by the SC in accordance with Article 15 (1) of the Regulation, in duly justified situations. Since the investigations lasting more than 12 months are ongoing investigations, they are subject to strict rules of confidentiality and data protection requirements. OLAF cannot automatically provide the SC with extensive case related information which is not expressly foreseen by the Regulation.</p> <p>During the discussions between OLAF and the SC on the revision of the Working Arrangements, which have been ongoing since late 2014, it was however agreed that under Article 10.1 f) OLAF would provide the SC, in addition to the information on reasons and remedial measures, with a more comprehensive set of background information related to the investigations lasting more than 12 months (OF number, current stage, OF creation date, opening investigation date, responsible unit, major sector, type of source, type of investigation, relevant EU body, relevant country). It was discussed that this information should be transmitted to the SC by means of electronic access.</p> <p>Following a meeting of 17 November 2015 on the revision of the Working Arrangements between Vice-President Georgieva, SC Chairman and OLAF Director-General, it was agreed to consult the legal services of the Institutions on three points, including the reporting by means of electronic access.</p> <p>Since the implementation of Article 10.1 f) is linked to the</p>	<b>Ongoing</b>

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			pending decision on reporting by means of electronic access, the implementation of this recommendation should be considered as ongoing.	
7.	SC Opinion 4/2014  Control of the duration of investigations conducted by OLAF	<p>[7] OLAF should improve the information transmitted to the SC for the purpose of monitoring of the duration of investigations, in order to enable the SC to effectively and efficiently carry out its monitoring role and thereby comply with its obligation to report to the EU institutions. In doing so, OLAF should:</p> <p><b>Better substantiate the factual information concerning reasons for investigations lasting more than 12 months.</b></p> <p>To implement this recommendation, the SC suggests that OLAF include in the 12-month reports categories and sub-categories of non-exhaustive pre-defined reasons explaining the non-completion of investigations within 12 months, supplemented by specific case-related information. OLAF could also provide guidelines and/or training to the investigators.</p>	<p>OLAF notes that over the years, more than half of its investigations have lasted more than 12 months - this is the norm rather than the exception. The SC should take this into consideration when requesting more information on the reasons for delay and the remedial measures after only 12 months.</p> <p>As recognised by the SC, OLAF respects the requirements set out in Articles 7(8) and 17(5) (c) of Regulation 883/2013 concerning the provision of information on investigations lasting more than 12 months. In fact in 2014, OLAF informed the SC of reasons and remedial measures in 658 instances where cases lasted more than 12 months, concerning 391 investigations. OLAF's investigative management is continuously working on improving the quality of the information provided on cases lasting more than 12 months.</p> <p>OLAF has, on its own initiative and in the context of the revision of the Working Arrangements, proposed to the SC to improve the information it provides automatically on the reasons and the remedial measures. It was agreed during these discussions on the revision of the Working Arrangements to create a pre-defined list to be completed by the investigators, as well as the possibility to add further information as free text. Such information would be provided to the SC by means of electronic access, which would allow the SC to retrieve information needed at any time.</p> <p>As mentioned in reply to recommendation 6 above, the reporting by means of electronic access is one of the three points which should be consulted with the legal services of the Institutions in the context of the revision of the Working</p>	<b>Ongoing</b>

	<i>SC Document Reference</i>	<i>Original SC recommendations to OLAF</i>	<i>OLAF Current state of play</i>	<i>OLAF assessment of the implementation</i>
			Arrangements. Therefore the implementation of this recommendation should be considered as ongoing.	
8.	SC Opinion 4/2014  Control of the duration of investigations conducted by OLAF	[8] OLAF should improve the information transmitted to the SC for the purpose of monitoring of the duration of investigations, in order to enable the SC to effectively and efficiently carry out its monitoring role and thereby comply with its obligation to report to the EU institutions. In doing so, OLAF should:  <b>Better substantiate the information with regard to remedial measures to speed up investigations.</b>  Taking into account the characteristics of some investigations, for which it is clear already at an early stage that they are likely to last more than 12 months, the SC suggests that OLAF adopt a pragmatic approach and indicate this probability in the first 12-month report.	See reply to recommendation 7.	<b>Ongoing</b>
9.	SC Opinion 4/2014  Control of the duration of investigations conducted by OLAF	[9] OLAF should optimise the use of tools it has put in place for managing the duration of investigations. In doing so, OLAF should:  <b>Give further consideration to the remedial measures to speed up investigations lasting more than 12 months and, in particular, develop tools allowing it to monitor the allocation of investigative resources based on the estimated workload.</b>	OLAF would like to stress that Regulation 883/2013 does not set any target for OLAF concerning the duration of its investigations, but OLAF is continuously striving to keep the overall duration of its investigations under control.  In fact, OLAF has reduced the duration of its investigations in recent years with the help of tools developed to monitor and control the duration of its investigations. OLAF senior and middle investigative management receives regular statistical reports with extensive information on the duration of investigations drawn from OLAF's case management system and on the workload of each unit. The SC has received samples of such statistical reports. Other tools include regular meetings between investigators and managers, and work plans.	<b>Implemented</b>

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			OLAF considers this recommendation as implemented with the use and development of the tools mentioned above.	
10.	<p>SC Opinion 4/2014</p> <p>Control of the duration of investigations conducted by OLAF</p>	<p>[10] OLAF should optimise the use of tools it has put in place for managing the duration of investigations. In doing so, OLAF should:</p> <p><b>Review and reinforce the process of verification of continuity of investigations carried out by the ISRU.</b></p>	<p>OLAF would like to stress that the day to day control and monitoring of the continuity of an investigation is the responsibility of the manager of the investigative unit.</p> <p>The role of the ISRU is to review an investigation as a whole ex-post and this is done by systematically checking in OLAF's case management system if there are significant delays or time gaps in the conduct of the investigation. If gaps are found in the conduct of the investigations, or elements which might indicate that the duration was disproportionate to the complexity and circumstances of the case, the reviewers rigorously assess the elements of the file and get in contact with the investigators in charge. Finally, they record their findings in the review opinion.</p> <p>OLAF investigative management, as well as the management of the Investigations Selection and Review Unit, is continuously working on improving the tools put in place for managing the duration of investigations.</p> <p>OLAF therefore considers the recommendation implemented.</p>	<b>Implemented</b>
11.	<p>SC Opinion 5/2014</p> <p>Statistics on investigative performance of OLAF (part I)</p> <p>OLAF external reporting on the duration of</p>	<p>[11] For the sake of transparency and comparability of the information in the statistics on average duration of investigations, OLAF should report on the average duration of investigations closed within the reporting period.</p>	<p>Starting with its 2014 Report, OLAF reports on three indicators on the duration of its investigations:</p> <ul style="list-style-type: none"> <li>- the average duration of investigations closed and investigations still open at the end of the reporting period,</li> <li>- the average duration of investigations closed in the reporting period only (as requested by the SC) and</li> <li>- the percentage of investigations lasting more than 20</li> </ul>	<b>Implemented</b>



	<i>SC Document Reference</i>	<i>Original SC recommendations to OLAF</i>	<i>OLAF Current state of play</i>	<i>OLAF assessment of the implementation</i>
	investigations		months.	
12.	<p>SC Opinion 5/2014</p> <p>Statistics on investigative performance of OLAF (part I)</p> <p>OLAF external reporting on the duration of investigations</p>	<p>[12] Any one-off administrative operations having an impact on the calculation of the average duration of investigations should be highlighted, as a matter of transparency, in OLAF's reporting.</p>	<p>OLAF will continue to report transparently whenever a one-off administrative operation having an impact on the calculation of the average duration of investigations takes place, as it has done in the past.</p> <p>However, OLAF does not intend to exclude from its statistics exceptionally short or long investigations recorded in its case management system.</p>	<b>Implemented</b>
13.	<p>SC Opinion 5/2014</p> <p>Statistics on investigative performance of OLAF (part I)</p> <p>OLAF external reporting on the duration of investigations</p>	<p>[13] In the light of fundamental rights and/or principles of sound administration, OLAF should, in its Annual Report, report more transparently on the duration of the longest lasting investigations.</p>	<p>Since 2014, OLAF reports on the duration of the longest lasting investigations by adding as an indicator in its Annual Report the percentage of investigations lasting more than 20 months. Furthermore, OLAF would like to underline that there is no link between statistical reporting and the respect of fundamental rights.</p> <p>See also reply to recommendation 11 above.</p>	<b>Implemented</b>
14.	<p>SC Opinion 1/2015</p> <p>OLAF's preliminary draft budget for 2016</p>	<p>[14] Director General of OLAF shall contribute to that in the establishment plan for 2016 the total resources for the Supervisory Committee Secretariat is presented as was the case in 2015 and that the Director General of OLAF continues to delegate, as far as possible, the powers of the Appointing Office and Authorising Officer with respect to the staff and budget of the Supervisory Committee's Secretariat to the Head of the Secretariat. The Supervisory Committee welcomes the intention to continue this</p>	<p>The 2016 Budget contains clear references to the human resources made available by OLAF for the SC Secretariat. Also, as recognised by the SC, following the OLAF proposal of 28 May 2014, OLAF has already delegated as far as possible the powers of Appointing Authority and Authorising Officer to the Head of the SC Secretariat and intends to continue doing so.</p>	<b>Implemented</b>

	<i>SC Document Reference</i>	<i>Original SC recommendations to OLAF</i>	<i>OLAF Current state of play</i>	<i>OLAF assessment of the implementation</i>
		arrangement.		
15.	SC Opinion 1/2015 OLAF's preliminary draft budget for 2016	[15] Changes to the staff and budget of the Supervisory Committee's Secretariat shall be subject to consent of the Supervisory Committee.	See reply to recommendation 4.	<b>Implemented</b>