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From: Mr Johan DENOLF, Chairman of the OLAF Supervisory Committee  
date of receipt: 1 April 2014  
To: Mr Christos STAIKOURAS, President of the Council of the European Union

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Subject: Activity Report of the OLAF Supervisory Committee: February 2013 -  
January 2014  
- ANNEX 10: Working arrangements with OLAF

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Delegations will find attached ANNEX 10 to the Activity Report of the OLAF Supervisory Committee for the period February 2013 - January 2014.

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Encl.: ANNEX 10: Working arrangements with OLAF

## **WORKING ARRANGEMENTS**

**between**

**OLAF and the Supervisory Committee**

*In order to properly carry out its monitoring tasks with regard to the implementation by OLAF of its investigative function, the Supervisory Committee (SC) needs comprehensive, adequate and timely information with regard to OLAF's investigative activity and the necessary general information, while, at the same time, it fully respects OLAF's independence and the confidentiality of its investigations.*

*Therefore, the SC and the Director-General of OLAF (DG) hereby agree to the following practical working arrangements in order to implement the provisions of Regulation No 883/2013<sup>1</sup> and Commission Decision 1999/352<sup>2</sup>.*

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<sup>1</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>2</sup> Commission Decision of 28 April 1999 establishing the European Anti-fraud Office (OLAF), 1999/352/EC, ECSC, Euratom (OJ L 136, 31.5.1999, p. 20) as amended by Commission Decision of 27 September 2013, 2013/478/EU (OJ L 257, 28.9.2013, p. 19).



# **CHAPTER I**

## **Information to be provided by OLAF on its own initiative**

### *Section 1*

#### *General information on OLAF's activity*

#### Article 1

##### **Investigative policy priorities**

(Art. 17(5), first sentence, Regulation 883/2013)

1. The DG will forward to the SC the draft investigative policy priorities, prior to their publication and within a period of time sufficient for the SC to provide its comments.
2. The draft will be accompanied by documents and background information on the basis of which the investigative policy priorities have been formulated.
3. This information will be provided annually.

#### Article 2

##### **Implementation of investigative function and follow-up**

(Art. 17(5), second sentence, Regulation 883/2013)

1. The DG will forward to the SC:
  - (a) the Annual Management Plan,
  - (b) the Annual Activity Report,
  - (c) a mid-term report and an end-of-year report on the implementation of the investigative function, reflecting the objectives set out in the annual management plan.
2. The DG will also provide continuous access for the SC Secretariat to general and specific case-related data held in OLAF's case management database, as set out in Chapter II.

#### Article 3

##### **Budget**

(Art. 6(2), Decision 1999/352)

1. The DG will forward to the SC the preliminary draft budget, prior to its sending to the Director-General for Budgets and within a period of time sufficient for the SC to provide its comments.
2. The draft will be accompanied by explanations of changes introduced to the draft as compared to the previous budget.
3. This information will be provided annually.

Article 4

**Independence**

(Art. 15(1), first paragraph, and Art. 17(3), Regulation 883/2013)

The DG will provide the SC, with timely information on any situation where the investigative independence of OLAF or its DG is or may be jeopardised.

Article 5

**Guidelines on investigation procedures**

(Art. 17(8), Regulation 883/2013)

1. The DG will forward to the SC the draft guidelines on investigation procedures or any modifications thereto, prior to their adoption and within a period of time sufficient for the SC to provide its comments.
2. The draft modifications will be accompanied by explanation of reasons for their introduction.

***Section 2***

***Specific information on OLAF's cases***

Article 6

**Recommendations**

(Art. 17(5)(a), Regulation 883/2013)

1. The DG will provide the SC with a list of cases in which he has issued recommendations, specifying the recipient and the type of recommendation.
2. The DG will report annually to the SC on cases in which recommendations have not been followed.
3. In addition, the DG will send to the SC an annual summary report on the implementation of his recommendations.
4. The SC Secretariat will have continuous access to information referred to in this Article, as set out in Chapter II.

Article 7

**Cases transmitted to national judicial authorities**

(Art. 17(5)(b), recital 45 and Article 15(1), second paragraph, Regulation 883/2013)

The DG will forward to the SC a list of cases in which information has been transmitted to national judicial authorities, together with a copy of the transmission letter.

Article 8  
**Cases lasting more than 12 months**  
(Art. 7(8) and 17(5)(c), Regulation 883/2013)

1. The DG will report to the SC on investigations which have not been closed within 12 months, indicating the reasons for which it was not possible to complete the investigation and the remedial measures, envisaged with a view to speeding up the investigation.
2. The reports will be drawn at the expiry of the 12-month period and every six months thereafter.

Article 9  
**Deferrals**  
(Art. 4(6), Regulation 883/2013)

1. The DO will forward to the SC, after the closure of the investigation, the reasoned decision to defer the information to the institution, body, office or agency to which a person concerned by an internal investigation belongs.
2. The DG will also inform the SC of the date when the institution, body, office or agency was provided with the deferred information.

**CHAPTER II**  
**Information made continuously available by OLAF<sup>3</sup>**

**Article 10**  
**Access to general case-related data**

The staff members of the SC Secretariat shall have access to metadata of cases by means of automated searches in OLAF's case management database, including:

- (a) list of cases in selection or dismissed,
- (b) list of investigation and coordination cases by Unit and Directorate, as well as by sector of activity,
- (c) list of all cases in the monitoring stage by Unit and Directorate,
- (d) list of cases lasting more than 12 months.

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<sup>3</sup> The SC may access case-related information following the "three-step approach" as outlined in the European Data Protection Supervisor's Opinion on a notification for prior checking received from the Data Protection Officer of the European Anti-Fraud Office (OLAF) on Regular monitoring of the implementation of the investigative function, 19 July 2007 (Case 2007-73). Step 1 is covered by Article 10, step 2 — by Article 11 and step 3 — by Articles 12-15. Whenever personal data are transferred to SC, the SC takes adequate measures to ensure confidentiality and proper handling of such data according to the EU law on personal data protection.

Article 11  
**Access to specific case-related data**

1. The Head of the SC Secretariat and the staff members authorised by him will have special access to limited data in the OLAF case management database on the basis of self-validation which confirms that this level of access is justified.
2. These data will include the following:
  - (a) general information (the case number, a general description, the category of source, the relevant EU Institution, office, body or agency in staff cases);
  - (b) sector (responsible Unit and sector of activity);
  - (c) stage (selection, investigation/coordination case, monitoring);
  - (d) case type (investigation or coordination case, legal basis for the opening decision, date of the opening decision, offence category, type of fraud, whether there is an impact on EU financial interests and if so, the estimated amount);
  - (e) recommendations (recipient of recommendations, type of recommended action, status of recommended action (pending, implemented or not implemented)).
3. Insofar as the special access for the SC Secretariat to the OLAF case management database is technically not available, the DG will, whenever requested, provide the information described above to the staff members of the SC Secretariat indicated by the Head of SC Secretariat.

**CHAPTER III**  
**Information to be provided by OLAF at the SC's request**

Article 12  
**Due justification and procedure for requests of additional information**  
(Article 15(1) paragraph five, Regulation 883/2013)

1. Requests for additional information on investigations, pursuant to Article 15 (1) fifth paragraph of the Regulation, including access to a case file, also by sampling, shall be made by the SC to the DG in writing, with due justification. The request shall be signed by the SC Chairman or the SC Member appointed by the SC to act as a *rapporteur* responsible for a given monitoring activity.
2. When the request concerns also access to personal data, the SC shall justify why it is necessary.
3. The SC determines the purpose and scope of its monitoring activities, within the framework set by the relevant legislation. On that basis the SC provides the due justification for individual requests.
4. The DG shall reply to SC requests for additional information within 15 working days.
5. When the reply is negative, it shall be justified.

6. When the DG considers it impossible to provide the requested additional information within the 15 working days, it shall, within this time limit, explain the reasons and propose a new date for transmission of the requested information.

#### Article 13

##### **Additional case-related information**

(Article 15(1) paragraph five, Regulation 883/2013)

When the SC considers it necessary for monitoring of the implementation of OLAF's investigative function, it may request additional information, including, *inter alia*:

- (a) reports and recommendations in the cases where OLAF recommendations were not followed;
- (b) reports, recommendation and opinions of the review unit, including the prior legality check and the final quality and legal review assessing, among others, compliance with the rights and procedural guarantees of persons concerned;
- (c) reports and recommendation in the cases of deferral of the information to the institution, body, office or agency to which a person concerned by an internal investigation belongs;
- (d) other reports, recommendations, work forms, notes and information on countries concerned.

#### Article 14

##### **Access to an OLAF case file**

(Article 15(1) paragraph five, Regulation 883/2013)

1. When the SC considers that it is necessary for monitoring of the implementation of OLAF's investigative function and that the otherwise accessible information is not sufficient in a given case, the SC may request partial or full access to an OLAF case file.
2. Access to the case file will be granted to specified staff members of the SC Secretariat for a specified duration which may be extended upon written request.

#### Article 15

##### **Sampling**

(Article 15(1) paragraph five, Regulation 883/2013)

1. Where the SC decides to monitor a systemic issue on the basis of sampling of cases which requires additional information or access to OLAF case files, the SC will inform the DG of the criteria for the selection and will request the necessary information or access
2. The SC, in close consultation with the DG; will select a representative sample of cases, following statistical or risk-based sampling.

Article 16  
**Additional non case-related information**

The SC can also ask the DG for additional information relating to OLAF's investigation activity which does not constitute a part of a case file. Such a request shall be signed by the Head of the SC Secretariat, the SC Chairman or the relevant SC Member - *rapporteur*.

**CHAPTER IV**  
**Final provisions**

Article 17  
**Timetable for providing information**

Unless otherwise indicated in these Working Arrangements, the information to be provided by the DG on its own initiative will be transmitted to the SC four times a year, by the following dates:  
(i) 31 January, (ii) 30 April, (iii) 31 July, (iv) 31 October.

Article 18 **Delegation**

The DG may delegate in writing the exercise of his functions under these Working Arrangements to one or more members of the staff of the Office.

Article 19  
**Entry into force**

These Working Arrangements will take effect from the date of their signature.

Article 20  
**Review**

After one year from the date of the signature of these arrangements, the SC and the DG will evaluate their implementation and may propose, if appropriate, any necessary amendments.

Done in Brussels, on 14 January 2014

Giovanni Kessler,  
Director-General of OLAF

Johan DENOLF,  
Chairman of the OLAF Supervisory Committee