



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 6 June 2014
(OR. en)**

10590/14

**GAF 34
FIN 398
ECOFIN 580**

"I" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Fourteenth Report of the European Anti-Fraud Office covering the period from 1 January to 31 December 2013
- *Outcome of proceedings*

1. On 30 April 2014, the European Anti-Fraud Office (OLAF) submitted to the Council its 2013 Annual Report¹.
2. Pursuant to point (c) of Article 16(2) of Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by OLAF², an inter-institutional exchange of views shall take place every year, allowing for a discussion, at political level, on the activities carried out by the European Anti-Fraud Office, including in relation to such reports.
3. In view of the above and in order to facilitate the preparation of the next inter-institutional exchange of views in 2015, the Working Party on Combating Fraud examined this report on 14 May 2014 and agreed to establish an outcome of proceedings. An agreement on the text of the outcome was reached on 4 June 2014.

¹ Doc. 9308/14.

² OJ L 248, 18.9.2013, p. 1.

4. The Permanent Representatives Committee is invited to endorse the draft outcome of proceedings as set out in the Annex to this document.
-

DRAFT OUTCOME OF PROCEEDINGS

On 14 May 2014, the European Anti-Fraud Office (OLAF) presented its Annual Report for 2013 to the Working Party on Combating Fraud.

Ms HOFMANN, representing OLAF, gave the following key messages:

- 2013 was the first full year of operation after the implementation of OLAF's reorganisation and was marked by the entry into force of Regulation No 883/2013;
- 2013 showed the highest number of incoming information since OLAF's creation;
- OLAF achieved significant efficiency gains, especially as regards the duration of the case selection phase and of its investigations;
- OLAF achieved very good results as regards the outcome of its investigations, significantly increasing the number of recommendations issued, in particular the financial and judicial ones. OLAF's recommendations cover the following categories:
 - o financial recommendations for the recovery of abused funds;
 - o judicial recommendations to take action against the persons or entities involved;
 - o disciplinary recommendations insofar as staff of the EU institutions is involved;
 - o administrative recommendations where procedures can be improved to eliminate the risk of fraud;
- the amounts recommended by OLAF for recovery increased significantly from 2012 to 2013, especially in the fields of external aid and new financial instruments.

In general, Ms HOFMANN expressed her satisfaction with the fact that an agreement has been found with the OLAF Supervisory Committee (SC) resulting in the signature of Working Arrangements.

Delegations were pleased with the report, expressed their general satisfaction with the improvement of the relations between OLAF and the SC, and the reduction of the length of the procedures, and made a number of comments.

Most notably, delegates expressed serious concerns about the presentation of information regarding recommendations for judicial measures by Member State (figure 18b of the report). Delegations pointed out that there was a lack of explanation on the figures presented and the methodology used, and that the figures used were not actually comparable. A few delegations, although supporting concerns raised, considered that figure 18b was useful and should not be eliminated from the report.

Moreover, a number of delegations requested that Member States be consulted before the report is published, so as to have a chance to comment, if necessary.

Several delegations asked for clarifications concerning the "recovery gap" (figures 16 and 17 of the report), namely that only 30 % of the amounts that OLAF has recommended to be recovered was actually recovered.

Furthermore, delegations asked for clarifications, notably on the following points:

- when OLAF's study on Member States' legislation concerning certain investigative methods would be available;
- OLAF's case selection criteria;
- the significant decrease of the number of cases closed without recommendation (figure 14 of the report);
- whether all amounts recommended by OLAF for recovery (figure 16) were the result strictly of OLAF's own initiative;
- the amounts proposed for recovery under "new Financial Instruments" (figures 5 and 16 of the report); and
- OLAF's other sources of information.

Ms HOFMANN took note of delegations' comments. She underlined OLAF's right to draft its report independently and without prior consultation of Member States, unlike in the case of the Article 325 Report established in cooperation with Member States. At the same time, she proposed to have a presentation by OLAF where further explanations could be provided with regard to figure 18b on judicial results, preferable at a future meeting of COCOLAF.

She also pointed out that the recovery procedure is beyond OLAF's competence, but falls mainly within the competence of Member States and involves quite a complex and lengthy process. The year of recovery, therefore, might not correspond to the year of recommendation, which partly explains why the numbers are not comparable from one year to the next. She also expressed her conviction that all amounts recommended for recovery as set out in figure 16 resulted exclusively from OLAF's own work and initiative.

As concerns the case selection criteria, Ms HOFMANN referred to the provisions of Regulation No 883/2013 (Article 5), clarified that there are no financial thresholds, and added that Investigation Policy Priorities (IPPs) are defined on an annual basis as part of OLAF's management plan.

The Presidency invited OLAF to share with the members of the Working Party on Combating Fraud written information on the methodology used for the formulation of figures 16 and 18b, and concluded by inviting OLAF to take note of the points raised by delegations in its future reporting.
