



**COUNCIL OF
THE EUROPEAN UNION**

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"I" ITEM NOTE

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

Subject: Activity Report of the OLAF Supervisory Committee: February 2013 - January 2014
- *Outcome of proceedings*

1. On 1 April 2014, the OLAF Supervisory Committee submitted to the Council its 2013 Activity 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. 8610/14 + ADD 1 to 10.

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.
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DRAFT OUTCOME OF PROCEEDINGS

At its meeting on 14 May 2014, the Working Party on Combating Fraud held an exchange of views with the representatives of the OLAF Supervisory Committee (SC) and with the Commission on the above-mentioned report.

Ms PIGNON, member of the SC, presented the main areas of SC's activities: (1) monitoring of the implementation by OLAF of its investigative functions, (2) cooperation with OLAF, EU institutions, stakeholders and (3) SC's actions aimed at improving its own governance. She highlighted in particular the following points and SC's recommendations made to OLAF:

- establishment of a formalised OLAF internal complaints procedure in order to deal with individual complaints concerning OLAF investigations (SC Opinion No 2/2013);
- improvement of the development and assessment of the implementation of OLAF Investigation Policy Priorities (IPPs) (SC Opinion No 1/2014);
- improvement of the procedure for the case selection, its transparency and reporting to the SC on matters falling within the SC's remit (SC Opinion No 2/2014).

Furthermore, Ms PIGNON informed the Working Party that working arrangements with OLAF were signed in January 2014 allowing for a more transparent and clear framework of cooperation with OLAF, including the SC's access to case-related information. She pointed out, however, that it still had to be seen whether these arrangements would allow the SC to carry out its tasks efficiently. Finally, she did not express herself in favour of creating additional bodies in the framework of the upcoming Commission proposal for the reinforcement of the procedural guarantees.

Mr ZIMIANITIS, member of the SC, informed the Working Party about the SC's cooperation with the EU institutions and about the adoption by the SC of its internal code of conduct on the procedure to follow in case of potential conflicts of interest. Mr ZIMIANITIS also recalled the importance of the SC's position on their budgetary autonomy. Finally, he underlined that the SC has, under the Regulation, an advisory and supporting role to play for OLAF, not being only a body monitoring of OLAF's investigative function.

Ms HOFMANN, representing OLAF, expressed her satisfaction with the establishment of the working arrangements between OLAF and the SC, and noted the improvement in the relations between the two since then. She expressed her assurance that the recommendations issued by the SC will be followed closely and welcomed the last comment from Mr ZIMIANITIS.

Delegations, in the first place, welcomed the agreement on the working arrangements between OLAF and the SC, and the improvement in the relations and the communication between the two. However, a few delegations still expressed some concerns about the access to OLAF case-related information by the SC and asked OLAF to put in place the appropriate means enabling the SC to function efficiently. They also welcomed the introduction of the SC's code of conduct.

Furthermore delegations asked for clarifications on the following issues:

- validity of the complaints procedure published on OLAF's website;
- implementation by OLAF of the recommendations issued by the SC and the availability of the SC's report on a follow up of the recommendations;
- existence of the procedure for the protection of whistle-blowers within OLAF;
- the SC's collaboration with external bodies;
- any difficulties encountered by the SC in executing its mandate of supervising OLAF's independence.

Ms PIGNON informed delegations that, in the reporting period, the SC did not encounter - in the information to which it was given access - any situation where OLAF's independence would be compromised. However, she stressed again that access to OLAF case-related information is crucial for the SC to fulfil its supervisory role.

She indicated that the special SC report on the follow-up of recommendations should be available after the summer. She also confirmed that the SC might call on the European Court of Auditors for providing certain audit data, but no private stakeholders were consulted.

Mr KADUCZAK, head of the SC's secretariat, informed the Working Party that OLAF's staff has the possibility to report to the SC's Chairman in the framework of a whistle-blowing procedure. However, in his view, this possibility was hampered by the fact that the SC did not have any tools to follow up such complaints, including the protection of the whistle-blower. He underlined that the SC did not consider the complaints procedure to be properly established by OLAF due to the lack of a formal decision specifying the procedure and complaints' rights.

Ms HOFMANN confirmed that OLAF was striving to fully implement the working arrangements, including giving the SC access to case-related information through an appropriate IT system. She indicated that the issues linked to the complaints procedure have been remedied. She also stressed the fact that within the Commission there were different possibilities to lodge a complaint and that the protection of the whistle-blowers within the Commission was sufficient.
