



Brussels, 18 September 2015  
(OR. en)

11967/15

GAF 34  
FIN 605

## "I" ITEM NOTE

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

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Subject: Fifteenth Report of the European Anti-Fraud Office covering the period from 1 January to 31 December 2014  
- *Outcome of proceedings*

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1. On 3 June 2015, the European Anti-Fraud Office (OLAF) submitted to the Council its 2014 Annual Report<sup>1</sup>.
2. Pursuant to point (c) of Article 16(2) of Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by OLAF<sup>2</sup>, an interinstitutional exchange of views shall take place every year, allowing for a discussion, at political level, on the activities carried out by OLAF, including in relation to such reports.
3. In view of the above and in order to facilitate the preparation of the next interinstitutional exchange of views in 2015, the Working Party on Combating Fraud examined this report on 16 June 2015 and agreed to establish an outcome of proceedings. An agreement on the text of the outcome was reached on 17 September 2015.
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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<sup>1</sup> Doc. 9570/15.

<sup>2</sup> OJ L 248, 18.9.2013, p. 1.

**DRAFT OUTCOME OF PROCEEDINGS**

On 16 June 2015, the European Anti-Fraud Office (OLAF) presented its annual report, the "Fifteenth report of the European Anti-Fraud Office, 1 January to 31 December 2014"<sup>3</sup>, to the Working Party on Combating Fraud.

Mr KESSLER, Director-General of OLAF, gave the following key messages:

- 2014 showed a clear trend of an increasing awareness of EU citizens about fraud and corruption, which triggered an increasing number of allegations and requests for investigations, not only from public authorities but also from citizens;
- there is an increasing transnational dimension of fraud and corruption cases, which translates into a greater need for transnational responses and coordinated EU action;
- OLAF achieved significant efficiency gains: despite a higher number of investigations in 2013 and 2014 than in previous years, the average duration of investigations decreased to 21 months;
- OLAF achieved very satisfying results as regards the outcome of its investigations, with a record number of 397 recommendations issued in 2014;
- the amounts recommended by OLAF for financial recovery reached the highest amount since 2010: EUR 901 million.

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<sup>3</sup> Doc 9570/15.

In general, Mr KESSLER also expressed his satisfaction about the cooperation with national authorities and the fact that Administrative Cooperation Arrangements had already been concluded with the European Commission, the EEAS and several international organisations, such as the World Bank, the UN Development Programme, the UN Office of Internal Oversight Services and the Global Fund to Fight AIDS, Tuberculosis and Malaria.

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

Most notably, several delegations asked for clarifications concerning the "recovery gap" (figures 24 and 25 of the report), namely that only 23 % of the amounts that OLAF has recommended to be recovered was actually recovered. Delegations requested that in the future the report includes a link between these two figures.

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

- the high number of dismissed cases (75 % of allegations received, figure 4 of the report);
- discrepancy on the number of allegations reported (figure 4 and figure 11 of the report);
- the significant increase on amounts recommended for recovery compared to 2013 (especially for structural funds);
- OLAF's guidelines for case selection criteria and application of Investigative Policy Priorities (IPPs);
- the relations between OLAF and national authorities, in particular as regards administrative cooperation arrangements;
- more information on tobacco smuggling; and
- OLAF's administrative budget allocation for 2014.

Mr KESSLER provided feedback to delegations' comments, namely he pointed out that the recovery procedure falls within the competence of Member States and involves quite a complex and lengthy process. On average 5-7 years pass between recommendation and recovery; in the case of a judicial proceeding even 7-10 years. 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. Mr KESSLER also indicated that OLAF is working on ways to better show the link between the amount recommended and the amount finally recovered, as well as on analysing the deviation between the two in order to better understand the discrepancies and to take stock of the lessons learned. For example, the amount to be recovered is based on an estimation, but actual recovery depends on the way the national authorities calculate the amount to be repaid, e.g. the level of participation. Furthermore, an increase in the amounts recovered is normal at the end of the period with the closure of projects.

Mr KESSLER also highlighted that the increase in allegations does not imply an increase in fraud, which is proved by the high number of dismissals.

As concerns the case selection criteria, Mr KESSLER clarified that the IPPs do not play a major role in this process. Firstly, OLAF assesses if it has competence in the matter, then if there is reasonable suspicion, thirdly whether the principles of proportionality and subsidiarity are complied with and then, fourthly and finally, the prioritisation based on the IPPs.

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