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'I' ITEM NOTE

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

Subject: Nineteenth Report of the European Anti-Fraud Office covering the period
from 1 January to 31 December 2018
– *Outcome of proceedings*

1. On 4 September 2019, the European Anti-Fraud Office (OLAF) submitted to the Council its 2018 Annual Report¹.
2. Pursuant to point (c) of Article 16(2) of Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by OLAF², 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.

¹ WK 9426/2019 + REV 1 (issued on 24 September).

² 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.).

3. In view of the above and in order to facilitate the preparation of the next interinstitutional exchange of views on 11 December 2019, the Working Party on Combating Fraud examined this report on 24 September 2019 and agreed to establish an outcome of proceedings. An agreement on the text of the outcome was reached on 20 November 2019.
 4. The Permanent Representatives Committee is invited to endorse the outcome of proceedings as set out in the Annex to this document.
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OUTCOME OF PROCEEDINGS

On 24 September 2019, the European Anti-Fraud Office (OLAF) presented its annual report, the "Nineteenth report of the European Anti-Fraud Office, 1 January to 31 December 2018"³, to the Working Party on Combating Fraud.

The following key messages from the report can be highlighted:

- OLAF's investigative performance was indicated as good, with 219 new investigations opened, having analysed information in 1 259 selection procedures, both figures improved compared to the previous year. During the reporting period 167 investigations were concluded, leading to 256 recommendations issued to competent authorities at EU and national level. As a result of its investigations, OLAF recommended the recovery of EUR 371 million to the EU budget;
- the main trends revealed by OLAF investigations in 2018 were:
 - cross-border fraud schemes where shell companies are used to disguise fake business transactions;
 - fraud in the promotion of European agricultural products;
 - organised crime involvement in defrauding EU funds meant to fund refugee camps;
 - the evasion of customs duties by highly-organised criminal groups;
- 27 investigations into EU staff and members of the Institutions were concluded in 2018, 17 of them with recommendations;

³ WK 9426/2019 REV 1.

- financially, the impact of OLAF's recommendations for recovery is significant both on the revenue and on the expenditure side, being comparable to that of all Member States' recoveries combined;
- in judicial terms, 36 % of the recommendations issued by OLAF between 1 January 2012 and 31 December 2018 resulted in indictments;
- disciplinary recommendations of OLAF addressed to the appointing authorities between 2016 and 2018 were followed by action in 64 % of cases;
- OLAF contributed to the creation of the EPPO and now prepares a close partnership regulated by the amended Regulation 883/2013;
- the new anti-fraud strategy of the Commission includes enhanced data analysis, fraud proofing of legislative proposals, cooperation with DGs and reinforced oversight by OLAF and the Commission;
- OLAF also plays an active role in the fight against tobacco smuggling in cooperation with custom authorities and other national law enforcement partners and signed some new agreements with international and European partners;
- looking towards the future, the new OLAF DG takes it as his mission to increase transparency, cooperation and trust, to focus on areas that European citizens are concerned about, like smuggling of counterfeit, illicit and dangerous products, to assert OLAF as a Knowledge Centre on fraud matters at EU level and to extend its capacity to work as a customs data intelligence and analysis centre, in order to enhance the European Customs Union.

Delegations took note of the report, asking some technical questions. One delegation mentioned a potential correction of its indictment rate. Two delegations asked about the reason for the decrease of the indictment rate. One delegation wondered if either the interest of OLAF about health and security of citizens and environment issues was to be intimately linked and ancillary to OLAF investigations on purposes regulated by Article 325 of the Treaty on Functioning of the European Union (Protection of the Financial Interests of the EU - PIF) or OLAF aims at expanding its mandate to matters not necessarily linked to PIF purposes. Other questions focused on the amounts recovered and the staff reduction at OLAF in connection to the transfer towards the EPPO. One delegation highlighted the need of enhancing the collection and data analysis on the expenditure side, in particular by funding projects aimed at better use of IT tools.

OLAF answered that the reasons for the decrease of indictments have to be analysed with Member States and national authorities. In terms of amounts recovered, OLAF recalled that it is not responsible itself for recoveries and pointed out that, in any case, recoveries are larger than its operational costs. On staff transfers towards the EPPO, OLAF explained that they make gradual reductions in order to get to the total transfer of 45 FTEs by 2023, when the EPPO is supposed to be fully operational.

One delegation asked if there are prognoses on the number of investigations for the following years. OLAF answered that they have no forecasts and that in general, they act on the basis of incoming information and trends, not proactively looking for fraud. Another delegation raised the issue of the increase of time for OLAF to react to incoming information. OLAF answered that this is due to the new case management system introduced in 2016 and that this is a backlog that is in the process of gradually being resorbed.