



The **OLAF** report **2017**

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The **OLAF** report **2017**

**Eighteenth report of the
European Anti-Fraud Office,
1 January to 31 December 2017**

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OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents such case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

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http://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

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Executive summary

OLAF: DETECT, INVESTIGATE, PROTECT

In 2017, the European Anti-Fraud Office (OLAF) closed large-scale investigations, showing its capacity to detect and investigate complex fraud schemes across Europe and beyond.

OLAF investigations ranged from major undervaluation fraud cases where fraudsters profited from declaring falsely low values for goods at import in the European Union (EU), to cases where OLAF tackled organised crime groups defrauding funds intended for agriculture, or cases where investigators uncovered fraud in large infrastructure projects.

OLAF'S INVESTIGATIVE PERFORMANCE IN 2017:

- ▶ OLAF concluded 197 investigations, issuing 309 recommendations to the relevant national and EU authorities.
- ▶ OLAF recommended the recovery of over EUR 3 billion to the EU budget. This exceptionally high figure stems from major undervaluation fraud cases concluded by OLAF during the year.
- ▶ OLAF opened 215 new investigations, following 1111 preliminary analyses carried out by OLAF experts.
- ▶ In the absence of any staff increase and despite the complexity of the cases it dealt with, OLAF succeeded in further reducing the duration of its investigations to 17.6 months overall.

TRENDS IN ANTI-FRAUD INVESTIGATIONS:

The transnational dimension of its work allows OLAF to form a unique view of the changing nature of fraud across Europe. For the second consecutive year, OLAF presents in this Report an analysis of some of the most striking trends revealed by OLAF investigations:

- ▶ Corruption, conflict of interest and the manipulation of tender procedures continue to be encountered in fraud cases affecting EU structural funds, with some instances where organised crime groups try to gain profit.
- ▶ Fraudsters have increasingly attempted to defraud funds destined for research or the refugee crisis.
- ▶ The evasion of customs duties is orchestrated through transnational criminal schemes.

OLAF'S UNIQUE ROLE IN FIGHTING REVENUE FRAUD THROUGH GLOBAL INVESTIGATIONS:

OLAF is presenting in this Report a detailed overview of its activities aimed at protecting EU revenue, with the conclusion of a string of investigations in this area in 2017. Any gaps in the legislative setting or operational capacity of customs administrations to function across borders are quickly exploited by organised criminal groups. In this context, due to its ability to operate transnationally and to gather and share information, OLAF plays a crucial role in preventing and tackling revenue fraud, as well as in assisting national customs administrations in their challenging work.

CONTRIBUTION TO THE EU POLICIES TO FIGHT FRAUD:

OLAF is at the forefront of negotiating legislative texts concerning the protection of the EU's financial interests against fraud and corruption. The decision to create a European Public Prosecutor's Office (EPPO) in 2017 marked a milestone in the defence of the financial interests of the European Union. OLAF has worked relentlessly in support of this project for many years, and will continue to work alongside the EPPO to ensure taxpayers' money is effectively protected from fraud and corruption.



Foreword

The positive results for OLAF set out in this Report were very largely achieved under the leadership of Giovanni Kessler. Mr Kessler served as Director-General from February 2011 until October 2017, when shortly before the end of his mandate at OLAF he returned to Italy to become Director-General of the Agency for Customs and Monopolies. He took with him our appreciation for his contribution to our work and all our best wishes for his new appointment.

In October 2017 the Council adopted the Regulation on the establishment of a European Public Prosecutor's Office (the EPPO Regulation). This marked a decisive step in the defence of the financial interests of the European Union, and indeed in the development of the European project, by introducing for the first time, albeit not in all Member States, a structure for criminal prosecution at EU level. Once the EPPO starts operations, at earliest late in 2020, prosecutions in serious cases of fraud against the EU budget will increasingly be brought before national criminal courts by a European body.

The creation of the EPPO marks also a milestone in the history of OLAF and of the project which started with the creation of its predecessor, UCLAF¹, in 1988. UCLAF and OLAF staff, past and present, have been working towards this goal for many years, in some distinguished instances for a quarter of a century. Their professional expertise, insight, creativity and determination to deliver have constituted the driving force without which the EPPO would certainly not have got off the ground and might never have got onto the agenda.

A glance at the academic literature shows the extent to which OLAF staff have contributed to the intellectual foundations of the EPPO project. A future historian might attempt to unravel all the complex interactions from *Corpus Juris* in the early 1990s through the successful incorporation of Article 86 in the Lisbon Treaty in 2007 to the conception and negotiation of the necessary legal texts in more recent years. He or she would surely highlight the consistent pursuit of this strategic objective by successive OLAF senior management, as well as the skilful tactics of individual OLAF colleagues at critical points along the path.

It follows that we, in OLAF, are proud of our collective achievement and are committed to playing our part in making the EPPO a success. We are now moving to the next stage; not only but not least for OLAF, the EPPO is no longer an ambition, but has become a challenge.

The architecture as finally determined by the legislator gives the EPPO and OLAF complementary roles. The original concept under which the operational resources of OLAF would have been integrated in or placed under the direct control of the EPPO did not find favour with the Member States. OLAF will therefore retain all its present responsibilities for investigations in those Member States which do not join the EPPO, and for many investigations in the Institutions and the Member States which fall outside the EPPO's mandate or which the EPPO opts not to pursue.

OLAF will also remain responsible for administrative investigations whose purpose is to enable the recovery of money for the EU taxpayer. It will continue to be necessary, under the new framework for protecting the financial interests of the EU, to find an appropriate balance, often on a case by case basis, between the objectives of recovering money and of obtaining convictions in the criminal courts.

¹ Unité de Coordination de la Lutte Anti-Fraude, unit coordinating the fight against fraud, part of the Secretariat General of the European Commission 1988-1999), https://ec.europa.eu/anti-fraud/about-us/history_en

This means that OLAF will indeed have a key role in support of the EPPO, on request and under OLAF's own powers and responsibility. The Commission's legislative proposal which is needed to adapt the present OLAF Regulation to be consistent with the EPPO Regulation will probably have been adopted by the time this Report is published. It is important that the legislator, in further clarifying the relationship between OLAF and the EPPO, leaves sufficient space for operational flexibility and for the working relationship to develop over time. This is a necessary condition for a successful partnership, but not a sufficient condition. As always, loyal and constructive cooperation between committed public servants, in a spirit of trust and respect, will be essential.

A new Director-General will shortly be appointed to guide OLAF through the next stage of our journey, in the footsteps of Franz-Hermann Brünner and of Giovanni Kessler. As this Report and its predecessors show, the incoming Director-General will find OLAF solidly established, on a stable course, with a well-deserved reputation for effective and independent investigations in defence of the financial interests and reputation of the EU.

Apart from the strategic challenges of adapting OLAF to work with the EPPO, of reacting to changes in the threat and of maintaining the commitment of staff in the face of increasing workload and at best stable resources, the Director-General will face some difficulties which are particular to the environment in which OLAF functions.

These include continuing ambiguities in governance structures; handling the complex and sometimes acute tensions which OLAF's independent investigations can provoke in the Member States and in the Institutions; and occasionally confronting some residual naivety among well-intentioned stakeholders and observers, even after OLAF has been on the scene for nearly two decades, about the seriousness of the threat from fraud and serious misconduct and the need for OLAF to be allowed to hold and to exploit proportionate means to address this threat.

The incoming Director-General will have the privilege of leading the formidable body of women and men who constitute OLAF's staff. Our colleagues come from many different national and professional cultures; former police and customs officers, former public prosecutors, judges and advocates, auditors and financial specialists, former tax inspectors, intelligence analysts and data specialists, forensic IT experts, policy and legal officers, specialists in IT systems and development, economists and statisticians, communication specialists, and even the occasional diplomat.

Some have joined OLAF in mid or late career from national services; increasingly, others have spent most of their working lives in the European public service and have decided to bring their experience and expertise to bear on the fight against fraud for a period of time. Together, they make a unique team, and one which is very much the model for other international organisations in our line of business. It is inspirational to work with them and to see how the whole is greater than the sum of the parts. On behalf of Giovanni Kessler, myself and the other members of the senior management team, I thank OLAF staff for their hard work, their enthusiasm and their support. As my own career in the public service draws to an end, I can think of no better place from which to say goodbye.

Nicholas Ilett
Acting Director-General, May 2018



Content

1. Mission and mandate	9
2. OLAF investigative activity: trends in anti-fraud investigations	12
2.1. Summary of OLAF's investigative performance in 2017	12
2.2. OLAF's added value: central role in complex investigations	14
2.3. OLAF's investigative mandate within the EU Institutions	22
3. Focus chapter: OLAF's unique role in fighting revenue fraud through global investigations	25
3.1. Detecting and investigating revenue fraud: OLAF at the centre of large-scale investigations into the undervaluation of goods imported into the EU	26
3.2. Tackling transit fraud	28
3.3. Putting an end to the evasion of anti-dumping duties on solar panels	28
3.4. OLAF at the helm of trans-European Joint Customs Operations	30
3.5. OLAF's fight against smuggling	31
3.6. New tools to combat customs fraud	35
3.7. Looking towards the future – E-commerce and the potential for customs fraud	35
4. OLAF on the European and international scene	36
4.1. OLAF relations with its partners	36
4.2. The Hercule III Programme: a key tool in supporting the fight against fraud across the EU	37
5. Monitoring the actions taken by the recipients of OLAF recommendations	38
5.1. Financial monitoring	38
5.2. Judicial monitoring	42
5.3. Disciplinary monitoring	44
6. Policies to fight fraud	45
6.1. Evaluation of Regulation (EU, Euratom) No 883/2013	45
6.2. Preparing for the creation of the European Public Prosecutor (EPP)	46
6.3. The adoption of the PIF Directive	46
6.4. Strengthening the EU's policy on fighting the illicit tobacco trade	47
7. Relations with the Supervisory Committee	48
8. Data protection, legality checks and complaints	49
9. Staff and Budget	50
10. Communication	52
11. Statistical annex: additional data on OLAF investigative activity	53



The seat of the European Anti-Fraud Office, in Brussels.



1. Mission and mandate



MISSION

Detect, investigate and work towards stopping fraud involving European Union funds.

MANDATE

OLAF's mandate is:

- to conduct independent investigations into fraud and corruption involving EU funds so as to ensure that EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- to investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- to develop EU policies to counter fraud.

COMPETENCES

OLAF can investigate matters relating to fraud, corruption and other offences affecting EU financial interests concerning:

- all EU expenditure: the main spending categories are Structural Funds, agricultural policy and rural development funds, direct expenditure and external aid;
- some areas of EU revenue, mainly customs duties.

OLAF can also carry out investigations into suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission and, as such, under the responsibility of Commissioner Günther H. Oettinger (Budget and Human Resources).

However, in its investigative mandate, OLAF acts in full independence.

WHAT WE DO

OLAF's investigative work broadly involves:

- assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation;
- conducting administrative anti-fraud investigations, where appropriate, in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- supporting the anti-fraud investigations of national authorities;
- recommending actions that should be taken by the relevant EU or national authorities;
- monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud and better tailor the support OLAF provides to national authorities.

Responsibilities for much of EU spending are shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The detection, investigation and prosecution of fraud against the EU budget can therefore only be conducted in cooperation with a wide range of partners, at national, European and international level.

OLAF cases frequently concern:

- cross-border procurement fraud or corruption in public procurement procedures involving EU financing;
- double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made;
- subsidy fraud in different forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes. Examples include the delivery of the same piece

of research to several funding authorities within or beyond EU borders, plagiarism – the copying of research, which has already been undertaken by others, or the deliberate gross disrespect of the conditions of financial assistance;

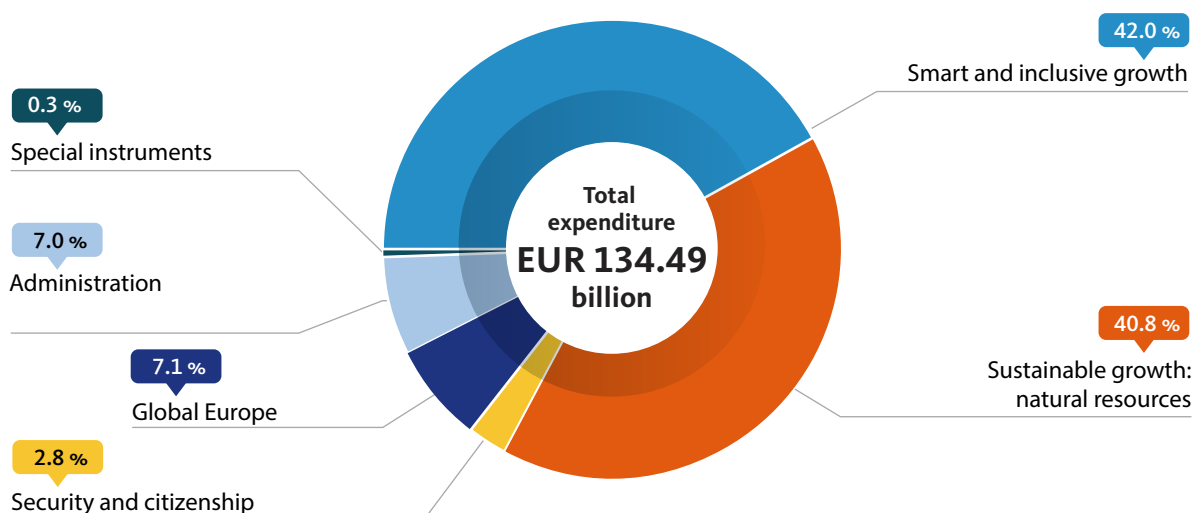
- customs fraud where fraudsters attempt to avoid paying customs duties (EU own resources), for instance by smuggling goods into the EU.

EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, travel and relocation allowances, social security and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures, and of other forms of corruption such as attempts to influence decision-making illicitly and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out so-called “internal” investigations into any allegations of misconduct involving staff and members of the EU institutions.





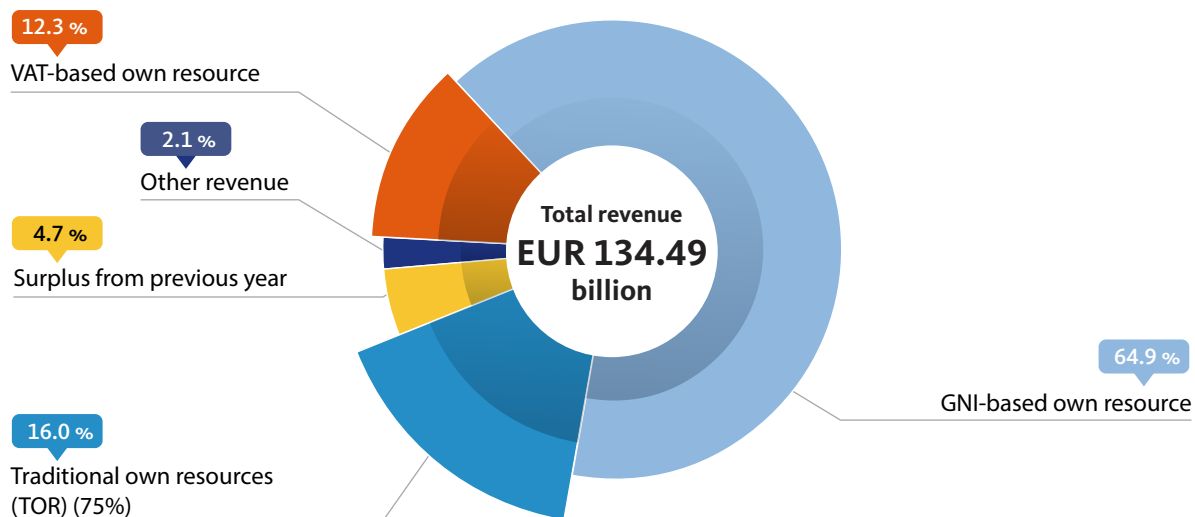
Figure 1: EU expenditure in 2017



(¹) Source: OJ L227, 1.9.2017, p. 3

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

Figure 2: EU revenue in 2017



(¹) Source: OJ L227, 1.9.2017, p. 4

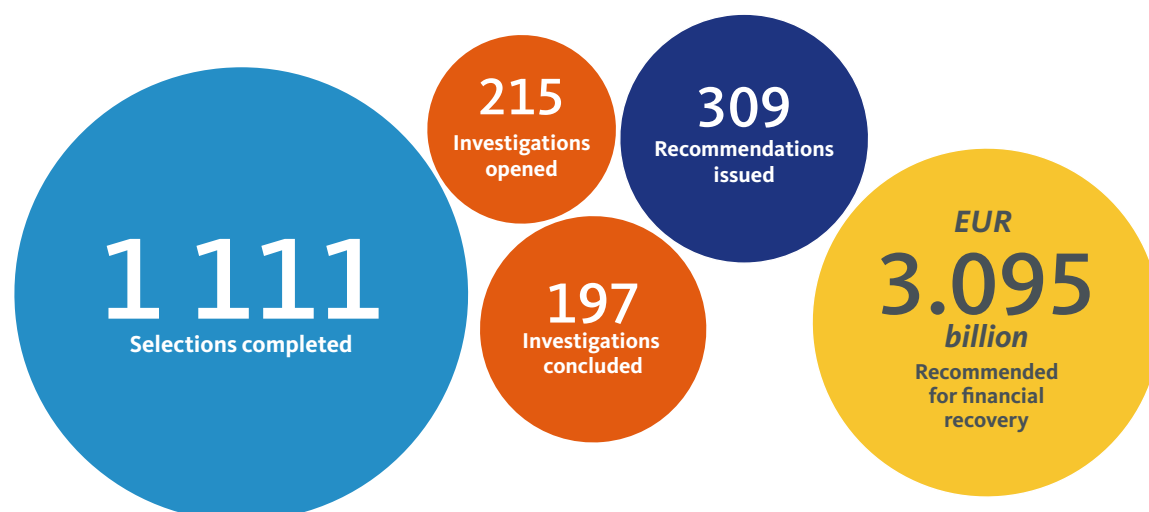
Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

2. OLAF investigative activity: trends in anti-fraud investigations

In recent years, OLAF has focused on tackling complex cases, where its unique investigative capacity can bring real added value in uncovering fraud and delivering tangible results to EU taxpayers. OLAF management has supported this investigative drive by making the necessary infrastructure investments and by ensuring

that a maximum number of staff work on investigations. For the second consecutive year, in this Report, we focus on showcasing the substance of OLAF's investigative work, highlighting the most prominent trends that our investigations have revealed.

Figure 3: OLAF's investigative activity in 2017: maintaining a steady investigative drive



2.1. Summary of OLAF's investigative performance in 2017

In brief, the performance indicators displayed above show that in 2017 OLAF has continued to perform well, in line with the path followed in previous years. OLAF opened 215 investigations after a process of analysing incoming information in 1111 selections. It concluded 197 investigations pursuant to which it issued 309 recommendations to competent authorities at EU and

national level. As a result of investigations concluded during the year, OLAF recommended the recovery of over €3 billion to the EU budget. Recovered funds will gradually return to the budget and be reattributed to projects that can stimulate growth and jobs in Europe. In 2017, OLAF has also continued to reduce the duration of its investigations, to 17.6 months overall, with the selection duration corresponding to these cases remaining at around 1.8 months.

For a detailed presentation of these and other performance indicators, please refer to the Annex to this Report.



As in previous years, we present below a breakdown of the investigations concluded by OLAF in 2017, concerning the use of EU funds managed or spent in whole or in part at national or regional level. This overview presents the geographical focus of OLAF's investigative activity in 2017. It is worth noting that OLAF's investigative work

depends largely on the amount, type and quality of information the Office receives.

Figure 5 shows that, as was the case in previous years, the structural funds sector remains at the core of OLAF's investigative activity.

Figure 4: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2017

Country	Cases concluded	
	Total number per country	from which closed with recommendations
Romania	11	8
Hungary	10	7
Poland	10	7
Greece	9	5
Bulgaria	7	4
Germany	5	3
Italy	5	4
Czech Republic	4	2
Slovakia	4	2
France	3	2
Portugal	3	2
Serbia	3	3
Croatia	2	2
Haiti	2	0
Argentina, Austria, Belarus, Burkina Faso, Burundi, Congo, Egypt, Iraq, Israel, Japan, Kenya, Kosovo, Latvia, Mali, Moldova, Morocco, Niger, Palestine, Syria, Turkey, Ukraine, United Kingdom, Uruguay, Zambia	24 (1 per country)	7
Total	102	58

Figure 5: Ongoing investigations at the end of 2017, divided by sector

Reporting sector	2014	2015	2016	2017
Structural Funds	111	104	69	73
External Aid	79	66	52	58
Centralised Expenditure	49	58	59	71
Customs and Trade	56	50	60	44
EU Staff	43	37	48	64
Agricultural Funds	60	36	21	22
Social Fund	42	21	19	5
Tobacco and Counterfeit goods	21	18	8	7
New Financial Instruments	13	8	8	18
Total	474	398	344	362

2.2. OLAF's added value: central role in complex investigations

OLAF has a unique mandate to fight fraud affecting European Union finances. It also benefits from a unique position since the transnational dimension of its work allows it to form a full picture of the changing nature of fraud across Europe. In recent years, OLAF has strived to focus on those fraud cases with the largest impact and on complex investigations, where its trans-European view brings a clear added-value to curbing fraud. We present below an analysis of some of the most striking trends revealed by OLAF investigations in 2017. This analysis is based on empirical evidence, without amounting to a complete list of investigations concluded by OLAF. However, these trends give an indication of the areas most prone to fraud with EU funds, as well as of the new ways in which fraudsters try to pocket EU money.

CORRUPTION, CONFLICT OF INTEREST AND MANIPULATION OF TENDER PROCEDURES:

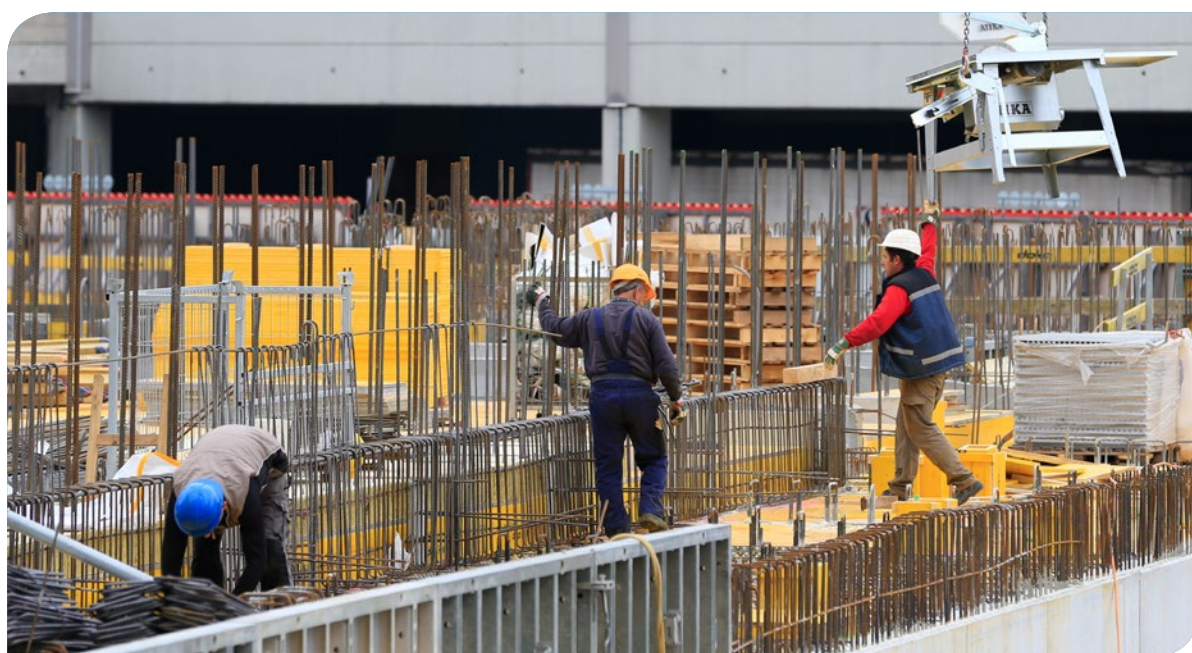
Fraud involving EU structural funds remained at the core of OLAF's investigative work in 2017. While the scope of fraud itself has not changed, investigators noticed new ways in which fraudsters try to cheat

the system, circumventing EU rules. One of the main common features of the OLAF cases concluded in 2017 was the **collusion** between the winner of a tender and either a consultant or the beneficiary of the funding. **Conflict of interest** also featured prominently in many of OLAF's cases, sometimes involving political figures and large public procurement projects.



Two investigations OLAF conducted into projects financed by the European Regional Development Fund (ERDF) for road constructions in Romania illustrate this trend. OLAF's investigations uncovered that the representatives of a county municipality, the beneficiary, had colluded with representatives of the company who designed the technical specifications for the road, in order to establish restrictive criteria in the tender documentation that would benefit one particular economic operator. This company won the contract, while the rest of the tenderers were disqualified during the initial evaluation phase.

The two colluding organisations falsified a large number of documents, including the technical project and memorandum for the road construction, as well as the structure checks. These falsified documents were not only used by the municipality in the tender procedure related to the works, but were also later submitted to support a claim for reimbursement from the Managing Authority, resulting in the undue allocation of EU funds.





OLAF calculated that the financial damage to the European Union budget stemming from these cases is approximately EUR 21 million, representing the total value of EU funding paid by the Managing Authority. As a result, OLAF recommended that the Directorate-General for Regional and Urban Policy of the European Commission recovers the full amount, and issued judicial recommendations to the Romanian National Anticorruption Directorate (DNA) to initiate judicial actions.

The DNA responded to OLAF's recommendations by opening a criminal investigation. In November 2017, the DNA brought charges against high-level officials in Romania for fraud with EU funds, for creating an organised criminal group and misusing an official position for personal gain. In order to secure the recovery of funds to the EU budget, the DNA prosecutors seized assets and froze the bank accounts of the persons concerned. The European Commission asked Romania to carry out the necessary corrections so that the EU budget would not be affected. Romania agreed to the Commission's request to apply these corrections.



A similar scenario was uncovered in Hungary during an investigation into 35 lighting projects implemented under the Hungarian Environment and Energy Operational Program and co-financed by the European Structural and Investment Funds. The projects were aimed at updating the public lighting infrastructure in various Hungarian municipalities using environmentally friendly and power-saving LED technology products.

OLAF verified the grant applications and found that the initial cost estimations calculated by the applicants were irregular, with **artificial supporting documents** used to justify a cost benefit analysis. Moreover, a consulting company linked with the main contractor had signed a contract with several beneficiaries to draft the technical annex to their project application, and could thus influence the content of the technical specifications used by the beneficiary during the tender procedure. OLAF also uncovered numerous serious irregularities that had occurred during the public procurement procedures. It also identified **conflict of interest** between some consultants and the works company.

Upon concluding its investigation at the end of 2017, OLAF sent its final report with financial recommendations to the European Commission Directorate-General for Regional and Urban Policy to recover EUR 43.7 million, and judicial recommendations to the General Prosecutor of Hungary.



In a case concluded in 2017, OLAF investigated allegations of misuse of funds by a cooperative in the Czech Republic, which had received funding from the European Agricultural Guarantee Fund. Among the criteria for recognition of a producer organisation and of a supranational producer organisation for fruit and vegetables, there was a requirement for the applicants to secure independent management and operation of the organisation.

The OLAF investigation revealed that most members of the cooperative were in fact owned by the same family. OLAF concluded that the family links among the persons involved in the ownership of the cooperative could influence the decisions of the cooperative, making it ineligible for EU subsidies as a producer organisation and as a supranational producer organisation. OLAF recommended that EUR 5.5 million in EU funds be excluded. OLAF also issued a judicial recommendation to the Supreme Public Prosecutor's Office of the Czech Republic to initiate judicial proceedings.



In another investigation concluded in 2017, OLAF identified serious irregularities affecting a EUR 2 million project related to promotional services for improving the image of fisheries and aquaculture products in Italy, which was co-financed under the European Fisheries Fund.

On-the-spot-checks at the premises of several economic operators, interviews with witnesses and persons concerned, as well as coordination meetings with the Managing Authority allowed OLAF to confirm the existence of serious irregularities and fraud affecting the project. In particular, OLAF acquired evidence proving that both the awarding procedure and the implementation phase of the project were not in compliance with public procurement law provisions. For example, the starting price of the procurement was not fixed by carrying out a required analysis, the Managing Authority did not execute appropriate controls, and several sub-contracting activities were granted in the absence of the necessary authorisation of the Managing Authority. Moreover, the implemented project was different from what had been agreed with the Managing Authority in the initial timetable and some deliverables were not operational in the agreed timeframe.

OLAF also identified possible **kick-back payments** among the different subcontractors, which indicated the likelihood of criminal offences under the Italian criminal code. As a result, OLAF addressed judicial recommendations to the Public Prosecutor's Office

of Rome, as well as a financial recommendation to the European Commission's Directorate-General for Maritime Affairs and Fisheries to recover the full amount of the project.

The Public Prosecutor's Office of Rome followed up on OLAF's recommendations by opening a criminal investigation which has, so far, led to a person being placed under house arrest, as well as to seizures amounting to EUR 2.1 million.

Niche markets can be attractive to fraudsters, as they are often highly technical and only a limited number of companies have the required expertise to make viable offers. If the tender procedure is opened to international consortia, it can be very difficult for national authorities to detect and investigate any irregularity or fraud warning signs. In such cases, OLAF can demonstrate its added value, as it combines technical expertise with the capacity to conduct transnational investigations.



For example, the expertise of OLAF investigators in international tender procedures allowed them to unravel a complex fraud scheme designed to divert EU funds by a group of international businessmen. This occurred in the context of OLAF investigations into EU-funded projects on the development of inland waterways in Croatia.

In close cooperation with the national authorities, OLAF conducted investigative activities in different EU Member States. Using forensic technology, investigators pieced together a clear picture of cross-border procurement fraud. OLAF found evidence that the conspirators gained access to **confidential tender information**, shared that information and rewrote the tender specifications in order to favour the winning consortium. As a result of its investigations, OLAF recommended that the economic operators behind the fraud be excluded from participation in future projects funded by the EU. Moreover, judicial recommendations were addressed to prosecutors in The Netherlands, Austria and Croatia. In addition, administrative recommendations were sent to the European Commission Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR).

While one cannot speak of a trend per se, OLAF has, in recent years, conducted a number of investigations related to **new financial instruments**, for example, in the use of EU Structural Funds to finance risk capital funds. Risk capital funds may, in turn, invest in innovative small and medium-sized enterprises that are less likely to receive capital from private investors. Any investigation into such matters involves assessing the eligibility of a large number of enterprises, some operating cross-border, which makes OLAF particularly able to take on such cases.



During one such investigation, OLAF received allegations about several companies which were co-financed from the European Regional Development Fund through a risk capital fund in Germany. The allegations suggested that the investment team of the risk capital fund had favoured companies which were not eligible for an investment under the rules of the European Structural Funds. OLAF examined a third of the total fund portfolio and concluded that the risk capital fund, run by the same management before and after it was privatised, made irregular investments in 44 companies, disregarding the investment criteria. For example, companies which were not small or medium-sized received funding, as well as enterprises in financial difficulties or companies threatened with insolvency. This contravened the eligibility criteria set for EU funding.

OLAF's investigation uncovered irregularities and suspected fraud as well as significant deficiencies in the control obligations of the national authorities, and confirmed serious flaws in the privatisation process of the risk capital fund. OLAF issued a financial recommendation to the European Commission Directorate-General for Regional and Urban Policy (DG REGIO), to recover EUR 162.3 million.



The possible misuse of new financial instruments was also the subject of another investigation OLAF concluded in 2017. In this particular case, OLAF looked into the alleged misuse of EU funds and of European Investment Bank loans by an automobile manufacturer. OLAF established that the manufacturer obtained a loan from the EIB to develop new engines using a so-called defeat device. This device allowed the manufacturer to respect emission rules in a testing environment, whilst no reduction of emissions took place during normal use of the car. OLAF concluded its investigation with a judicial recommendation to the German authorities, as well as an administrative recommendation to the European Investment Bank.



EMBEZZLEMENT OF RESEARCH FUNDING

The academic and research fields are also prone to fraud, as attested by the significant number of fraud cases uncovered by OLAF in the past years. In particular, the **secondment of researchers** has become a lucrative business for fraudsters, with individuals, research institutes or companies pocketing EU money for academic or professional exchanges which never actually take place, or projects that never come to fruition.



For example, in 2017, OLAF concluded an investigation concerning allegations of fraud in the secondment of researchers involving two Member States. OLAF identified a number of scientists who were supposed to be seconded from a research institute of one Member State to a company based in another Member State and had not carried out their secondments as claimed to the competent European Commission services. The project beneficiaries had falsified CVs and time sheets, and made false declarations in order to secure EU funding

to which they were not entitled. The total damage to the EU financial interests exceeded EUR 800 000. The investigation was concluded with both judicial and financial recommendations.



A cross-border investigation OLAF concluded in 2017 involved allegations related to the potential misuse of EU funds in 31 Research and Development projects. The investigation, which took place in Hungary, Latvia and Serbia, uncovered a subcontracting scheme used to artificially increase project costs and hide the fact that the final suppliers were linked companies. Moreover, OLAF's investigation established that two research centres had artificially set up regional offices in order to be eligible for regional EU-funded projects. Declarations in work contracts were found to be false. OLAF therefore concluded the investigation with a financial recommendation to the European Commission to recover EUR 28.3 million and a judicial recommendation to the Hungarian judicial authorities.





Another investigation led to OLAF putting an end to an intricate fraud scheme through which more than EUR 1.4 million worth of European Union funds, meant for emergency response hovercraft prototypes, had been misappropriated.

OLAF uncovered the fraud pattern as part of its investigation into alleged irregularities in a Research and Innovation project granted to a European consortium. The Italian-led consortium, with partners in France, Romania and the United Kingdom, was tasked with creating two hovercraft prototypes to be used as emergency nautical vehicles able to reach remote areas in case of environmental accidents. During on-the-spot checks performed in Italy by OLAF and the Italian Guardia di Finanza, OLAF discovered various disassembled components of one hovercraft, as well as another hovercraft which was completed after the deadline of the project. It became evident that, in order to obtain the EU funds, the Italian partners had falsely attested to the existence of the required structural and economic conditions to carry out the project.

Investigative activities carried out by OLAF in the UK revealed that the British partner only existed on paper and that the company was in fact created and owned by the same Italian partners. To simulate the actual development of the project and to divert funds, fictitious costs had also been recorded. In practice, once the EU funds were obtained, the Italian grantees used accounting artifices to syphon off money, forging documents attesting false expenses.

A thorough analysis of more than 12 000 financial transactions and payments made in the project showed that part of the EU funds received by the Italian and UK partners had been used to pay off a mortgage on a castle facing foreclosure. OLAF concluded its investigation in 2017 with two judicial recommendations - to the Public Prosecutor's Office of Genoa and to the City of London Police in the UK - and a financial recommendation to the Directorate-General for Research and Innovation of the European Commission to recover the defrauded funds. The Italian authorities are already following up on OLAF's recommendations and investigating the persons concerned for embezzlement and fraud against the EU, false accounting, fraudulent bankruptcy and fraudulent statements. (See Figure 6)



Figure 6: Operation Paper Castle

OLAF and Guardia di Finanza unravel complex scam with EU funds: Operation Paper Castle



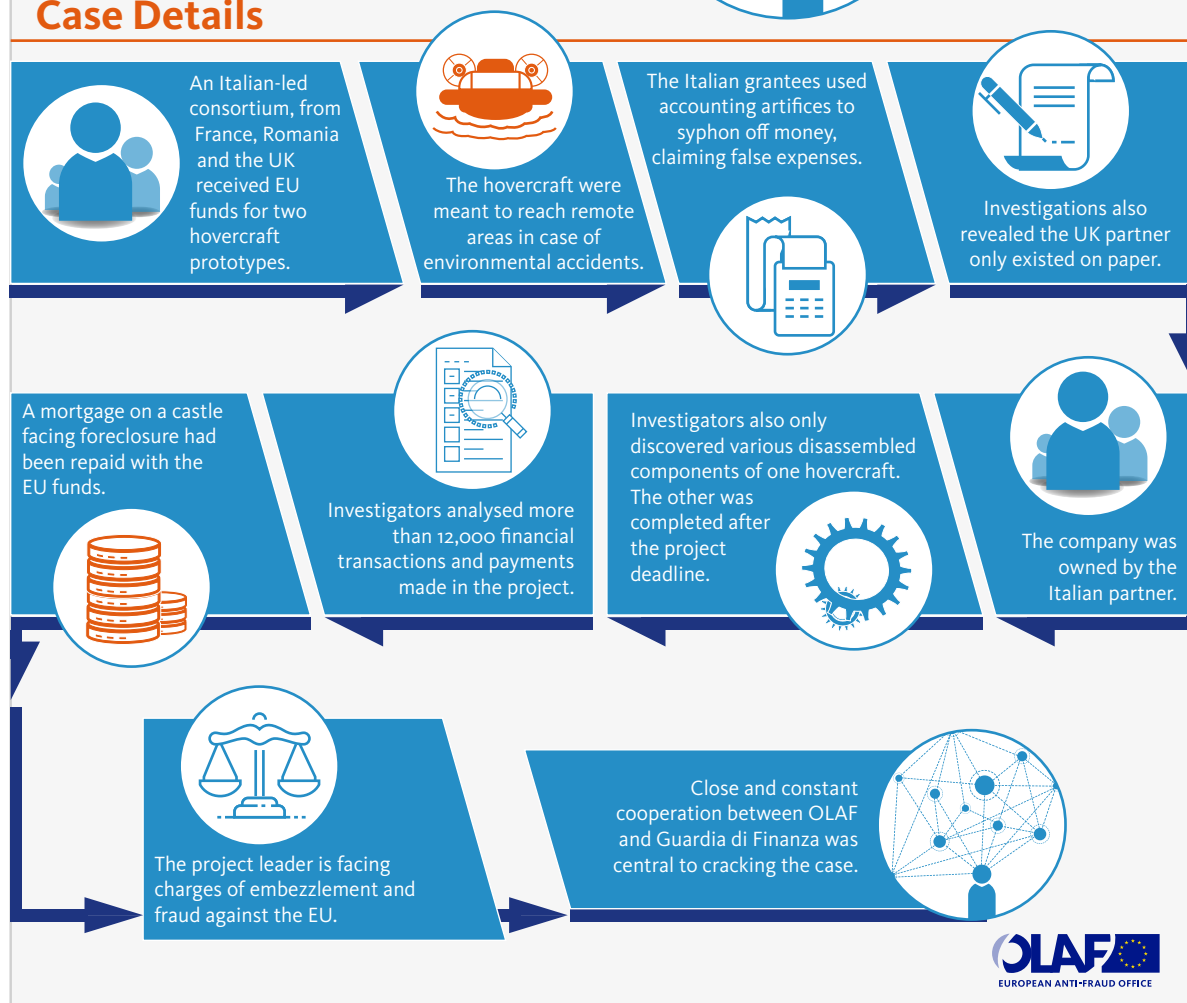
OLAF put an end to an intricate fraud scheme through which more than € 1.4 million had been misappropriated.

Investigations took place across several EU Member States.

In Italy, OLAF relied on its close cooperation with **Guardia di Finanza**.



Case Details



ORGANISED CRIME GROUPS ATTEMPTING TO DEFRAUD EU FUNDS

The next chapter of this Report will give details of how highly organised criminal gangs attempt to defraud the European Union by underdeclaring the value of products at import. However, customs is not the only field where organised crime groups try to outsmart enforcers. Over the years, OLAF has come across mafia involvement, for example, in several cases involving Agricultural Funds.



OLAF established contacts with national police authorities and Public Prosecutors' Offices and it cooperated with the Italian Anti-Mafia Directorate in order to address the issue of possible involvement of organised crime in the agricultural sector. OLAF closely monitored Italian cases where the involvement of organised crime was likely, including criminal files concerning EU funding awarded to farmers based in the South of Italy with **possible links to mafia organisations**.

At the end of 2017, OLAF concluded an investigation into suspected fraud affecting a number of aid applications in Italy. OLAF uncovered that some Agricultural Assistance Centres had introduced a number of "false farmers" in the database of the competent national paying agency, thus allowing ineligible applicants to receive EU subsidies.

OLAF's investigation, as well as a parallel Italian national inquiry codenamed Bonifica, revealed an articulated fraud pattern. Fraudsters made applications for EU subsidies based on declarations of ownership of public lands which were ineligible, or where supporting documents included false lease contracts, as the tenants had either died or were not aware of the lease. Similarly, applications were presented by individuals subjected to precautionary anti-mafia measures under Italian law, hence ineligible for funding, or were submitted for land which was ineligible because it was under seizure following organised crime offences.

OLAF's investigation was concluded with a financial recommendation to the European Commission Directorate-General for Agriculture and Rural Development to recover approximately EUR 30 million, and with an administrative recommendation to the same Directorate-General to ensure that the Italian Paying Agency (AGEA) addresses weaknesses in its management, control and sanction system with relation to payments made to Agricultural Assistance Centres. (See Figure 7)



Figure 7: Organised crime defrauding agriculture funds



THE REFUGEE CRISIS: AN OPPORTUNITY FOR FRAUD?

The conflicts in Syria, as well as in many other parts of the world, have created an overwhelming and enduring humanitarian crisis¹. Millions of people are in need of emergency assistance such as medical and food aid, water and shelter. The continuous flow of

refugees seeking safety in the neighbouring countries is bringing these states to a saturation point, so it is more important than ever for these countries, and the refugees they host, to receive the help they need.

The EU is a leading donor in the international response to the crisis. Over EUR 10 billion have been mobilised for relief and recovery assistance to Syrians, both in their home country, and to refugees and their host communities in neighbouring Lebanon, Jordan, Iraq, Turkey and Egypt. Very substantial amounts are also dispensed in other parts of the world.

¹ http://ec.europa.eu/echo/files/aid/countries/factsheets/syria_en.pdf

Humanitarian funding from the EU is frequently channelled through international organisations and through Non-Governmental Organisations, whose work saves lives, alleviates suffering and maintains human dignity.

Unfortunately, as attested by several OLAF investigations, those funds have also attracted the interest of persons and groups who are able to exploit humanitarian aid and defraud funds. This is largely due to projects being developed in difficult operating environments, with limited state authority and high corruption risks. Moreover, aid is frequently given through local partners, whose records can be difficult to check, and is provided in conditions of emergency, with less opportunity for thorough ex-ante controls.

In this framework, OLAF's investigations should allow not only for the recovery of any possible funds unduly disbursed, but should also hopefully help the organisations affected by fraud to improve their control systems, better manage risks and prevent new instances of irregularities from taking place.

TRANSNATIONAL CRIMINAL SCHEMES DESIGNED TO EVADE CUSTOMS DUTIES

There was no shortage of transnational criminal schemes in the customs area among the cases OLAF concluded in 2017. The highest-value investigations involved undervaluation fraud – a fraud pattern by which international organised crime groups derive profit from evading customs and VAT duties by declaring falsely low values on imported products. However, this was not the only type of fraud scheme identified by OLAF. Misdeclaring the country of origin to evade anti-dumping duties in high value goods, such as solar panels, was also identified as a prevalent fraud trend, as was transit fraud, and the smuggling of counterfeit fast-moving consumer goods. These trends are explained in detail in the next chapter.



2.3. OLAF's investigative mandate within the EU Institutions

OLAF has a unique mandate to carry out internal investigations into the EU Institutions, Bodies, Offices and Agencies for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office investigates serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of EU officials liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of Members of Institutions and bodies. Indeed any perceived lack of integrity within the Institutions presents a reputational risk not only to the Institutions themselves but also to the European project as a whole.

OLAF's remit for internal investigations is focused on alleged serious wrongdoing. While there is no all-encompassing definition of serious wrongdoing, OLAF's resources are concentrated on cases where the deployment of OLAF's skills and powers is warranted. Such internal investigations are rare in relative terms since there are effective checks and balances in place to avoid fraud and misconduct in the EU Institutions. OLAF also works with the EU Institutions and bodies to help them detect, prevent and address any such possible cases.



The fact that OLAF opens an investigation does not mean that someone is guilty. OLAF is required by law to investigate both incriminatory and exculpatory information. Sometimes a high-quality investigation results in the exoneration of the person concerned, which is a good result in itself.

In 2017, as in the previous year, OLAF has continued to deal with a relatively high number of cases related to the European Parliament. While many of the investigations are currently on-going, in 2017 cases typically related to the misuse of European Parliament funding to support the activities of national parties. Further examples of OLAF's internal investigations are presented below.



OLAF investigated suspicions of false declarations by a probationary official who intended to obtain the expatriation allowance unduly. The allowance, equal to 16% of the basic salary, is paid to officials who are not nationals of the State where they are employed – Belgium in this case, and who during the five years before entering the service did not habitually reside or carry their main occupation within that State. OLAF found that the probationary official had made false declarations. Thanks to the cooperation of the Belgian authorities, OLAF obtained information about the residence registration history of the official, as well about the fact that the official had submitted tax declarations to the Belgian authorities prior to his entry in the EU Institutions. OLAF's findings were transmitted to the Institution for disciplinary and financial follow up, as well as to the Belgian authorities for possible breaches of the Belgian criminal and tax code.



During a similar investigation, OLAF was informed by an EU Institution that some of its members might have abused the rules on reimbursement of travel expenses and claimed higher amounts than the costs actually incurred by them for their business trips by air. Supporting documents attached to reimbursement claims submitted by these members, such as flight itineraries, invoices, or price confirmation letters, raised doubts as to the reality of plane ticket prices declared.

OLAF conducted on-the-spot checks in the travel agencies which had provided the members with the ticket reservations and with supporting documents for their trips. OLAF also verified the relevant plane ticket prices with an airline which operated most of the flights.

The investigation uncovered that the amounts claimed by the members as travel expenses included, apart from the plane ticket prices, the costs of other services purchased by the members, such as

accommodation for themselves and/or for another person and/or transport expenses for another person. The expenses were also sometimes found to include a high travel agency commission. The investigation also established that the travel agencies which provided the members with plane ticket reservations and supporting documents for their trips might have acted to cover the inflated reimbursement claims of the members.

OLAF recommended the recovery of more than EUR 40 000. No disciplinary recommendation was issued due to the lack of relevant rules of conduct for the members of this institution. Therefore, OLAF issued an administrative recommendation to this institution to adopt a code or rules governing the conduct of its members, as well as procedures providing for sanctions in cases of breaches of such rules. In addition, OLAF issued judicial recommendations to the relevant national judicial authorities.

During the course of 2017, OLAF conducted several investigations into European Agencies as well as EU missions to third countries.



In one such case, OLAF uncovered that two staff members of a European Agency had committed serious irregularities concerning undeclared external activities and irregular conduct. One staff member owned and managed several private companies without prior permission from the Agency, during office hours and while on sick leave, dedicating a significant amount of working time to this task. The same staff member did not declare a possible situation of conflict of interest when participating in the Evaluation Committees of two tenders in the Agency. Finally, this person accepted material benefits, including the participation in a three-day trip to a luxury location in another country. This person also provided the account manager of the external company with internal Agency information and amended the Agency's internal documents in the company's interests. OLAF established that a second staff member had also participated in the same undeclared event, without requesting permission.

OLAF sent its final report to the Agency, recommending disciplinary actions against both staff members and a review of certain internal controls at the Agency. OLAF also recommended that judicial proceedings be initiated in relation to one of the persons concerned by the OLAF investigation. Judicial proceedings are under way.

Figure 8: Investigations into EU staff and members of the Institutions concluded in 2017

Institution, Body, Office, Agency	Cases concluded	
	Total number	of which, concluded with recommendations
European Commission	5	3
Agencies	4	3
European Parliament	4	3
Council of the EU	1	1
EULEX	1	1
Committee of the Regions	1	1
European External Action Service	1	0
Total	17	12



3. Focus chapter: OLAF's unique role in **fighting revenue fraud** through global investigations

In a fast-changing world, where trade is becoming increasingly liberalised and markets interconnected, European customs officers are under constant pressure. Once the protectors of borders, they are also tasked with collecting tax and with important security duties. In addition, they now have to safeguard citizens from purchasing counterfeit, low-quality goods. At the same time, there is an increased push for the removal of barriers and the creation of a seamless flow of goods and capital. Customs officers are therefore expected to serve business but also people, to be fast and efficient but also thorough. Moreover, customs are now operating in an environment where fraudsters are organised, methodical and have ample resources. Any gaps in the legislative setting or operational capacity

of customs administrations are quickly exploited by organised criminal groups. In this context, due to its unique ability to operate transnationally and to gather and share information, OLAF has a crucial role to play in preventing and tackling fraud affecting the revenue of the EU, as well as in assisting national customs administrations in their important work.

In this year's Report, OLAF is presenting a Focus Chapter with an in-depth overview of its recent activities in fighting revenue fraud. While most of OLAF's investigative resources are focused on the expenditure side of the budget, in this special chapter, we present a detailed picture of OLAF's activities aimed at protecting EU revenue.



3.1. Detecting and investigating revenue fraud: OLAF at the centre of large-scale investigations into the undervaluation of goods imported into the EU

In order to facilitate trade, there are several EU customs procedures that allow importers to clear their goods at the customs point of their choice, rather than at the point of entry into the customs territory. Unfortunately, fraudsters are good at identifying those administrations where they perceive the controls to be more lax. Organised criminal networks target these weaker links and fraudulently bring goods in the EU through these points. In 2017, OLAF concluded a string of large-scale investigations into the undervaluation of textiles and footwear entering the European Union, generally through Germany, but going through customs clearance in the United Kingdom, Slovakia, the Czech Republic, France and Malta.



The fraudsters' modus operandi was fairly simple. Goods from China would arrive in containers on vessels, which would generally enter Europe through the port of Hamburg, although other European ports were used occasionally. The containers, considered to be in transit, would then be placed on lorries and taken for customs clearance elsewhere in the EU, wherever fraudsters considered they could get away with declaring falsely low values for the products they were importing.

To understand the phenomenon, OLAF carried out an extensive analysis of all customs declarations for all imports of textiles and shoes from China between 2013 and 2016. A "cleaned average price" was calculated for each category of textiles and shoes imported from China, based on the value of all import declarations in the EU between 2013 and 2016. A conservative 50% of that value was taken as the lowest acceptable price for import declarations into the EU, and all declarations below the lowest acceptable price were considered as undervalued, knowing that a legitimate trade in that context would hardly be economically viable.

In the case concerning goods cleared in the UK² – the largest in this string of cases – OLAF calculated a loss to the EU budget of almost EUR 1.9 billion in customs duties. OLAF recommended this sum for recovery to the EU budget. The investigation also revealed a substantial VAT evasion, estimated at

approximately EUR 3.2 billion for the period between 2013 and 2016. This was related to the abuse of customs procedure 42, a mechanism an EU importer can use in order to obtain a VAT exemption when goods imported from outside the EU into one Member State will be transported to another Member State. In such cases, the VAT is due in the latter Member State. However, in this case, traders "disappeared" and VAT was never paid. As the goods were largely destined for the markets of other countries, the revenues of Member States such as Spain, Germany and Italy were mainly affected by the loss.

In addition to the UK case, OLAF estimated that the cumulative loss to the EU budget in customs duties stemming from its investigations regarding undervaluation in the Czech Republic, the Slovak Republic, France and Malta was in excess of EUR 300 million.

The large difference in the amounts recommended for recovery is due to the fact that the UK attracted far more of the fraudulent traffic in textiles and footwear than any other Member State, and increasingly so over time. The share of undervalued imports through the UK, when compared to legitimate trade, steadily rose from 32% in 2013 to 40% in 2014, 44% in 2015 and 50% in 2016.

OLAF's investigation also uncovered a direct correlation between diminishing traffic in the fraud hubs in the other Member States where authorities took action, and the increase of the fraudulent traffic through the hub in the UK. By implementing risk profiles, which prompt customs officers to take action to deal with the risk indicated, such as to physically examine a container or to check the customs declaration and accompanying documents, the cases of undervaluation fraud quickly started to diminish in the Czech Republic, Malta and France. Indeed, the sooner a Member State took action, the lower the revenue losses for the budget.

Since the UK had not implemented risk profiles, fraudsters had, over time, been shifting their operations to the UK. This happened despite OLAF having repeatedly alerted the UK authorities to the need to take action and to investigate the fraud networks active in the UK.

In addition to financial recommendations addressed to the European Commission Directorate-General for Budget, to recover roughly EUR 2.3 billion as a result of this string of OLAF investigations, OLAF also issued administrative recommendations to the Directorate-General for Taxation of the European Commission.

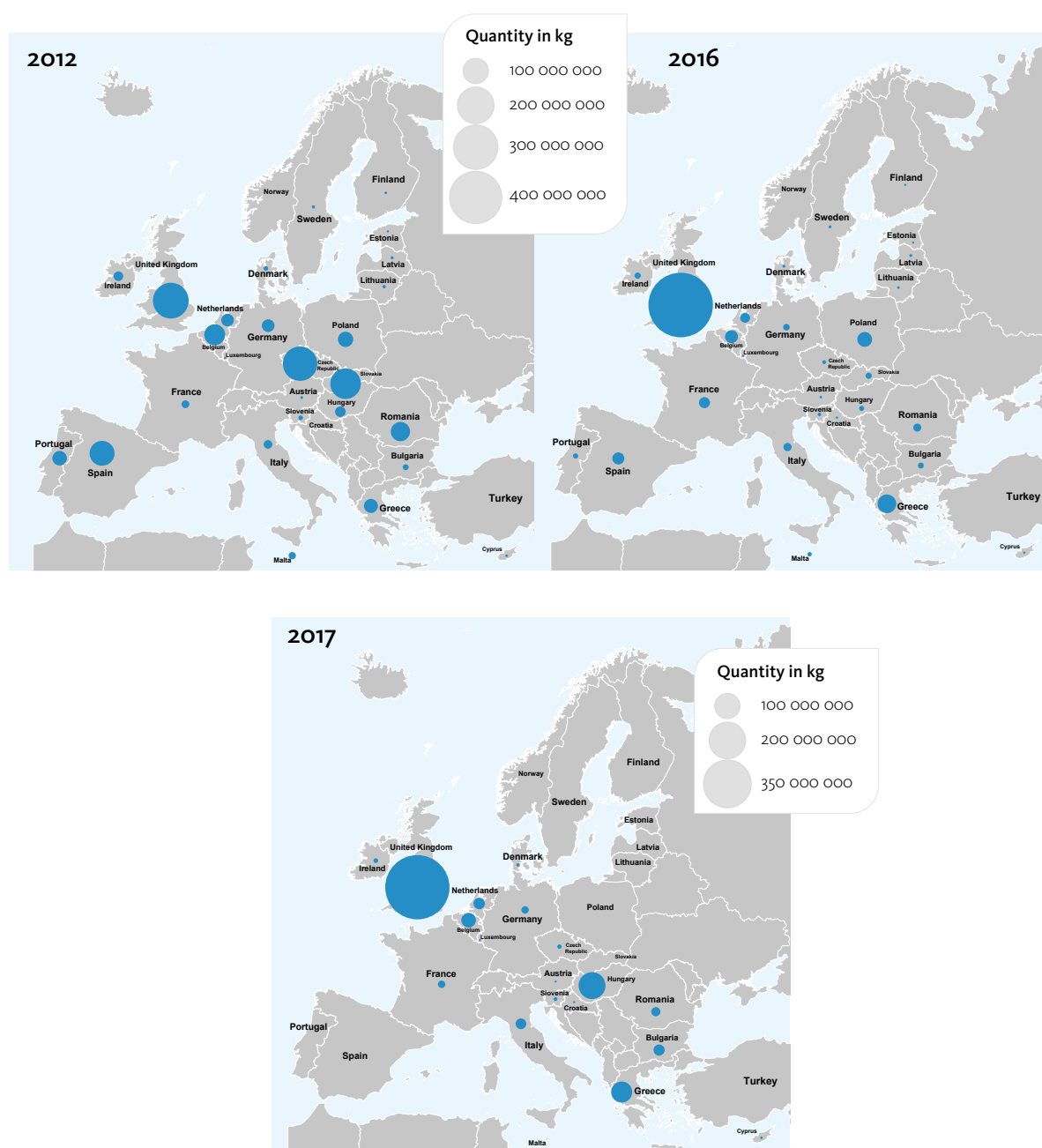
² See also OLAF Report 2016, p.13 and p.19.



OLAF's investigations into undervaluation underlined two important facts. One is that any loopholes, such as the ease with which customs procedures can be misused, will be exploited by fraudsters. The other is that quantity fraud, as opposed to quality fraud, pays

off. Criminals do not need to engage in customs fraud with goods that are very expensive. The evasion of taxes on cheap products, in extremely large quantities, yields the same, if not bigger profits.

Figure 9: Undervaluation fraud trends (textiles and footwear)



3.2. Tackling transit fraud

Transit procedures are abused not only in “missing trader” schemes, like the one presented in the previous section, but also through the remote hacking of national IT transit systems or the bribing of customs officers. As OLAF has witnessed in a number of investigations involving cigarettes, the goods are loaded onto lorries or containers and declared as transiting through the European Union. However, the lorries remain in the EU, while corrupted customs officers illegally discharge the documents accompanying the goods. In another typical fraud scheme often involving tobacco smuggling, the container or the lorry declared as loaded with cigarettes leaves EU territory, but the cigarettes are no longer inside. In this case, the cigarettes are unlawfully discharged before they reach the point of exit from the EU, sometimes also with the help of corrupt officials.



During one particular investigation, OLAF checked 110 transit operations reported by the National Customs Agency in Bulgaria, who established that the operations had been unduly cleared. The transit operations were initiated in various Member States, such as Poland, Hungary, Germany, France, Lithuania and Slovakia. For all of these operations, two Bulgarian customs border offices were mentioned as office of destination with final consignees in Serbia and Turkey.

However, by inspecting these Bulgarian customs offices where the transit operations should have been processed, it was established that neither the vehicles nor the goods had ever been physically presented to customs. Further checks revealed that, in some of the cases, the fraudulent electronic clearance of the operations took place a few hours after the operations had been initiated, which was physically impossible due to the timeframe needed for the actual transport. In addition, the Bulgarian customs were informed by both their Serbian and Turkish colleagues that the transports concerned never physically entered the territory of those two countries. The fraudulent clearance of the operations was carried out by means of malware which made it possible to hack into the Bulgarian transit system remotely.

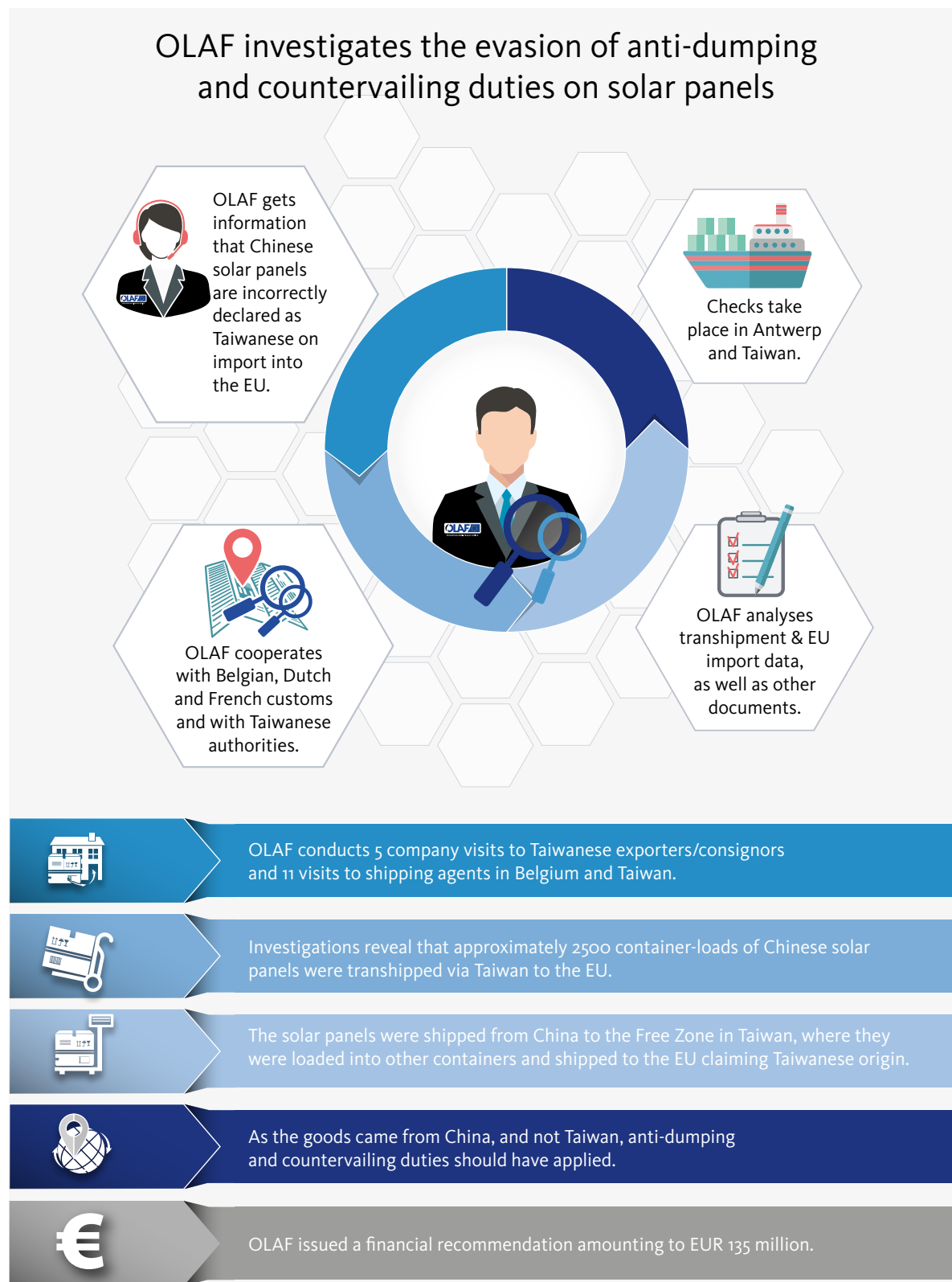
3.3. Putting an end to the evasion of anti-dumping duties on solar panels

Another profitable area of customs fraud is the evasion of anti-dumping duties. In the course of 2017, OLAF concluded nine investigations into the irregular import of solar panels from China into the EU, where most of the products were customs-cleared in the UK, Germany and the Netherlands. Seven of these cases were closed with financial recommendations to the Member States concerned totalling over EUR 228 million.



OLAF investigated a major case involving the evasion of anti-dumping and countervailing duties imposed on solar panels originating in, or consigned from, the People's Republic of China. It was alleged that solar panels were incorrectly declared on importation into the European Union as being of Taiwanese origin. In the framework of this investigation, OLAF, in cooperation with representatives of the Dutch and French customs agencies and the competent Taiwanese authorities, carried out joint enquiries in Taiwan. Further checks took place in Antwerp, in cooperation with Belgian customs.

OLAF collected and analysed transshipment data, EU import data, as well as other documents, while also conducting five company visits of Taiwanese exporters/consignors and visits to eleven shipping agents in Belgium and Taiwan. It was revealed that approximately 2500 container loads of Chinese solar panels had been transhipped via Taiwan to the EU. OLAF discovered that these consignments of solar panels imported into the European Union were not actually of Taiwanese origin, as declared. The solar panels were shipped from solar panel producers in the People's Republic of China to the Free Zone in Taiwan, where the solar panels were loaded into other containers and shipped to the EU with new documents claiming Taiwanese origin. It was established that, in reality, the goods came from the People's Republic of China and therefore anti-dumping and countervailing duties were applicable. As a result, OLAF issued a financial recommendation amounting to EUR 135 million.

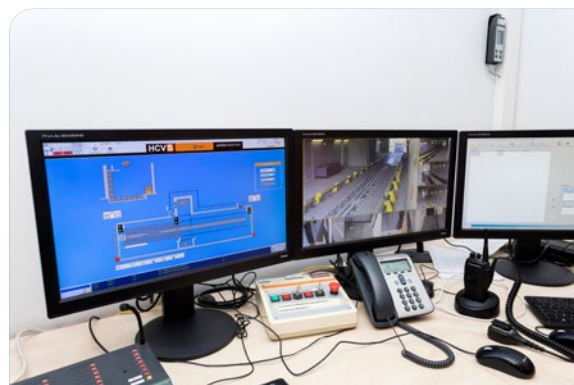
Figure 10: **Solar panel fraud**

3.4. OLAF at the helm of trans-European Joint Customs Operations

In addition to its investigations concerning cases of revenue fraud, OLAF coordinates large-scale Joint Customs Operations (JCOs) involving EU and international operational partners. JCOs are targeted actions of limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or on identified trade routes. In 2017, OLAF co-organised or provided support in 11 Joint Customs Operations. The Virtual Operations Coordination Unit (VOCU) module of the Anti-Fraud Information System (AFIS) was used for the secure exchange of information in all of these JCOs.

JCO Renegade was organised within the Asia-Europe Meeting (ASEM) framework, as part of its joint efforts in the fight against **counterfeit goods**. Coordinated by OLAF, the operation targeted the international trade of counterfeit auto spare parts arriving by sea container. All EU Member States, Norway, 12 Asian countries³, Interpol, Europol and the Regional Intelligence Liaison Office for Western Europe of the World Customs Organization participated in the operation. A number of vehicle manufacturers also provided a valuable contribution in targeting the goods covered by the operation, which led to several successful seizures. The exchange of information in real time allowed the experts involved to identify suspicious consignments of counterfeit goods within ordinary commercial transactions. Under the coordination of OLAF, EU and Asian customs authorities carried out targeted physical checks on more than 400 containers. Major European ports were involved in the operation, which, over the course of two weeks, uncovered a wide array of counterfeit goods.

The JCO resulted in the seizure of over 70 000 counterfeit auto spare parts, including grills, oil and air filters, and fuel pumps, along with 590 cylinders of CFC refrigerant commonly used in air-conditioning. These fake items could not only be harmful to the environment, but also be dangerous to the safety and health of citizens. An additional 400 000 counterfeit



goods, including chewing gum, toys, perfumes, headphones, garden appliances and sunglasses were also halted at the EU's doorstep. Such products can be found in many homes and are often staple products in the daily lives of citizens.

Moreover, 56 million cigarettes were confiscated, as well as 668 kilograms of cocaine. The cigarette seizures alone prevented the loss of EUR 12 million in customs duties and taxes.

JCO Magnum II targeted the **smuggling of tobacco products transported by road** into the EU territory from third countries such as Belarus, Ukraine and Russia. This operation, which was coordinated by the Estonian Customs Administration and OLAF with the involvement of fourteen Member States, Europol and FRONTEX, led to the seizure of roughly 20 million cigarettes.

JCO Cerberus focused on controlling failures to declare cash used for **money laundering** and possible terrorism offences. This operation was coordinated by the French Customs Administration and OLAF with the involvement of 27 Member States and the support of Europol, and resulted in the seizure of EUR 6.4 million in cash.

JCO Octopus II was organised by French Customs in cooperation with OLAF and targeted **revenue fraud**. The evaluation of the results is still ongoing at the time of reporting.

³ Cambodia, China, India, Japan, Lao, Malaysia, Pakistan, the Philippines, the Russian Federation, Singapore, Thailand and Vietnam.



3.5. OLAF's fight against smuggling

FAST-MOVING CONSUMER GOODS:

Infringements related to the trade in counterfeit products increased in recent years, generating vast illicit profits for fraudsters while causing huge losses of tax revenues for Member States and the EU as a whole. The black market for fake products harms the European economy, damages legitimate business and stifles innovation, putting many jobs at risk.

The European Intellectual Property Office (EUIPO) and the Organisation for Economic Co-operation and Development (OECD) have conducted a study⁴ on this matter, which yielded worrying results. For example, in 2013, the imports of counterfeit and pirated products into the EU amounted to up to 5% of all EU imports and were worth up to EUR 85 billion. The study revealed that brands suffering the most from counterfeiting were primarily registered in OECD and in EU Member States, with the total effect of lost sales due to counterfeiting estimated at EUR 9.5 billion. The analysis of the two organisations also revealed that China was the top producer of counterfeit goods, with India, Thailand, Malaysia, Pakistan, Vietnam and Turkey identified as important producers in distinct sectors. In terms of modus operandi, fake goods were found to arrive in large quantities in containers, which would be then sent further in small parcels by post or courier services. Albania, Egypt, Morocco and Ukraine were the four transit points employed for redistributing counterfeit products into the EU.

The fight against the traffic in counterfeit Fast-Moving Consumer Goods (FMCG)⁵ has also become an enforcement priority for OLAF. Investigators have focussed in particular on stopping fraud involving counterfeit household and personal care products that may affect the health and safety of consumers or the environment. The growing incidents of counterfeit FMCG have also led to a demand for strengthening the effectiveness of customs actions, the exchange



of information between customs authorities, as well as the cooperation between the latter, the European Agencies and the rights-holders.

In this context, in 2017, OLAF carried out investigative activities together with the EU Member States concerned, which led to the seizure of 65 tonnes of counterfeit washing powder and over 50000 litres of counterfeit washing gel.

OLAF also organised a conference dedicated to the fight against the import of FMCG in the EU, where the right-holders, EU customs authorities as well as Europol, Eurojust and EUIPO shared information and agreed on further steps to curtail the flow of fake products into Europe.

⁴ <http://www.oecd.org/gov/risk/mapping-the-real-routes-of-trade-in-fake-goods-9789264278349-en.htm>

⁵ Fast-moving consumer goods (FMCG) are products that are sold quickly and at relatively low cost. Examples include non-durable goods such as packaged foods, beverages, toiletries, over-the-counter drugs and many other consumables. In contrast, durable goods or major appliances such as kitchen appliances are generally replaced over a period of several years. (Source: Wikipedia)

CIGARETTE SMUGGLING THROUGH THIRD COUNTRIES:

OLAF has a unique investigative mandate to fight tobacco smuggling into the EU which causes huge revenue losses to the budgets of the EU and of the Member States. In complex cross-border cases in particular, OLAF can bring significant added value by helping coordinate anti-smuggling operations carried out by law-enforcement agencies across Europe. OLAF works to ensure that evaded duties are recovered, criminal smuggling networks are dismantled and perpetrators brought to justice. For the past years, OLAF has been paying particular attention to vessels loaded with significant quantities of cigarettes in the port of Bar in Montenegro, which were destined mainly for Libya, Egypt, Lebanon and Cyprus. Many times, these vessels were found to arrive at their destination empty, with the cigarettes most likely diverted into the EU contraband market. The cigarettes were either illegally directly unloaded on the EU territory or, were transferred onto other vessels on the high seas, unknown to the customs or coastguard services and then smuggled back into the EU.



For example, during one particular investigation, OLAF tracked two vessels loaded with five containers of cigarettes in Bar and destined for a Lebanese company in Beirut. OLAF found that one of the two vessels never arrived in Beirut. The Lebanese company, which was declared as consignee of the 3950 master cases of cigarettes, did exist but had not ordered the cigarettes. OLAF discovered that this vessel, during the trip from Montenegro to Lebanon, kept sailing close to the Maltese south coast for four days, making frequent stops without any commercial reason. According to investigators' experience, this is the typical behaviour of a vessel ready to transfer fraudulently the cigarettes onto other vessels. The second vessel, loaded with 5391 master cases of cigarettes, did arrive in Beirut, but only two containers were still loaded with cigarettes, while the other three were empty. This means that only 2070 master cases arrived in Beirut while the other 3321 master cases had disappeared. If these cigarettes had been smuggled into the EU, the damage to the EU and national budgets would amount to EUR 14.5 million in customs, excise and VAT duties lost.





Overall, since the beginning of 2015, eight vessels and their relevant cargo of cigarettes loaded in the port of Bar have been seized for smuggling in Greece and Spain. The cigarettes loaded onto six of these vessels were destined for Libya, one for Cyprus and one for Lebanon. In total, almost 350 million cigarettes were seized on these vessels, corresponding to nearly EUR 70 million in customs, excise and VAT duties. OLAF is constantly tracking the movements of suspicious containers, in cooperation with the competent services of the Member States and third countries, as well as with international organisations, to avoid the diversion of cigarettes onto the EU contraband market.

OLAF has also noticed an **increase in cigarette smuggling by air**, either as cargo or transported by passengers.

In July 2017, for example, OLAF provided the Spanish Customs with information on a suspicious airfreight cigarette shipment from the United Arab Emirates (UAE), destined for Barcelona El Prat Airport. As a result, 1.8 million cigarettes were seized. OLAF also helped halt smuggled cigarettes carried by passengers arriving into the EU. Investigators worked closely with individual Member States and conducted several checks at major airports, which resulted in the combined seizure of more than 1 million cigarettes.

SMUGGLING OF ILLICIT PESTICIDES:

A particularly worrying trend is the smuggling of illegal pesticides on the European market. Illicit pesticides, usually smuggled with the involvement of organised crime, have a negative impact on economies and on the environment and can cause serious health problems for consumers.



To help curb this trend, OLAF participated in **Operation Silver Axe II**, a joint campaign coordinated by Europol together with the Netherlands. The operation targeted counterfeit and illicit pesticides in the major seaports, airports and at land borders of Belgium, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Poland, Romania, Sweden, the Slovak Republic, Slovenia, Spain and the United Kingdom.

The authorities of these EU Member States inspected over 940 shipments of plant protection products and discovered almost 122 tons of illegal or counterfeit pesticides. This result confirmed previous estimates, namely that illegal pesticides represent around 10% of the entire EU pesticide market, although evidence suggests that there are considerable differences between Member States.

Figure 11: Cigarettes seized with the support of OLAF (rounded to million sticks)

Year	2013	2014	2015	2016	2017
Coordination and investigation cases	281	168	602	458	470
JCOs	68	132	17	11	75
Total	349	300	619	469	545



OLAF particularly focused on the selection of suspicious shipments of pesticides coming from third countries which were declared in transit in the EU, or which were subject to transshipment operations and/or storage in free zones. While the use of such free zones combined with the transshipment of containers is usually a standard commercial and logistical operation, minimum or no customs oversight in the free zones can encourage the development of illegal activities. This can take the form of concealment of the true origin of products in order to avoid higher customs duties, or concealment of the transport route for illicit products, such as counterfeit products or the traffic in dangerous substances.

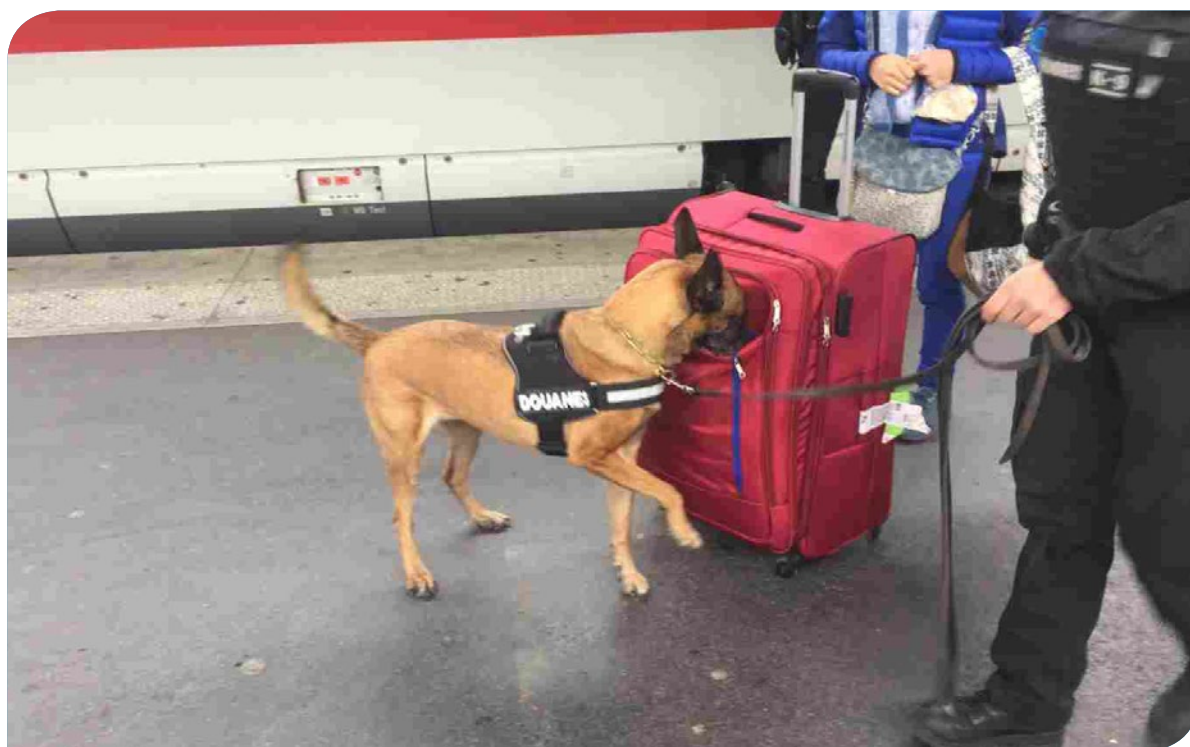
DRUG PRECURSORS:

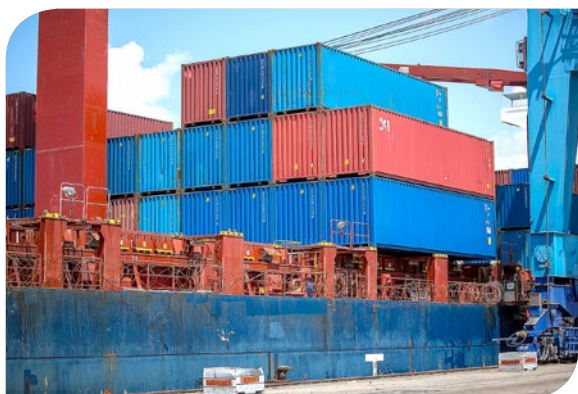
Drug precursors are chemical products necessary for the illegal manufacture of drugs, e.g. ephedrine for methamphetamine, 3,4-Methylenedioxyphenylpropan-2-one (PMK) for ecstasy, Phenyl-2-propanone (BMK) for amphetamine, acetic anhydride for heroin and potassium permanganate for cocaine. However, these chemicals also have large and varied legitimate uses in the production of plastics, medicinal products, cosmetics, detergents, fragrances and flavours. Due to their wide legitimate uses, trade in drug precursors cannot be prohibited. Drug

precursors are therefore controlled through monitoring their licit trade in order to ensure that they are not diverted to illicit uses.

Drug precursors are a global problem which requires international cooperation. Having the sole responsibility within the European Commission for operational matters in the drug precursors area at EU level, OLAF is a member of the UN-INCB international Task Force for Projects Prism and Cohesion, which focuses on the prevention of the diversion from legal trade in Amphetamine-Type Stimulant drug precursors, as well as on key drug precursors for cocaine and heroin. In the framework of these projects, OLAF and national authorities are able to react to changing patterns of diversion and trafficking, including of non-scheduled substances such as alpha-phenylacetoacetamide (APAA, 3-oxo-2-phenylbutanamide) which can be used as a pre-precursor for amphetamines.

OLAF's key role is to ensure a coordinated approach within the EU, assisting Member States in their investigations, and coordinating their efforts by exchanging information about suspicious transactions, stopped shipments or seizures and by facilitating investigations. OLAF also organises operational meetings between the investigative services, both within the EU and between EU investigators and their third-country counterparts.





3.6. New tools to combat customs fraud

In 2016, an update of Regulation 515/97 empowered OLAF to create new IT systems that allow the EU and its Member States to track and trace suspicious shipments better and thus detect customs fraud. As a result, a Container Status Messages (CSM) database was set up to gather messages recording the movements of containers transported on maritime vessels. Similarly, an Import, Export and Transit (IET) directory has also been developed, containing data on goods entering, transiting and leaving the EU. Data relating to exports is limited to sensitive products, such as tobacco, alcohol and fuels.

The databases are already being widely used. By the end of 2017, the CSM database had received 820 million messages, and facilitated the work of 1595 users. The five most represented Member States were Germany, France, the UK, Belgium and Romania. Since it was launched, and up to the end of 2017, more than 28000 searches have been performed in CSM, with the most searches coming from Germany, the UK, the European Commission, France and the Netherlands.

In the same period, the IET directory received 7.5 million export and 45.8 million transit messages and was employed by 716 users. The five most represented Member States were Germany, France, Italy, the UK and Denmark. Almost 3000 searches were executed in the system until the end of December 2017, mostly by the European Commission, Germany, Italy, Portugal and Slovenia.

These new tools, which will hopefully be employed by an increasing number of users, will strengthen the analytical capabilities of national customs authorities and OLAF in detecting fraudulent operations. They will thus contribute to a better detection of revenue fraud across Europe.

3.7. Looking towards the future – E-commerce and the potential for customs fraud

With e-commerce as a booming and largely less regulated market, the potential for customs and VAT fraud is a growing concern for anti-fraud investigators. A study⁶ by the European Intellectual Property Office (EUIPO) and the Organization for Economic Co-operation and Development (OECD) revealed that, in 2013, small shipments, linked to e-commerce and usually sent through the post or through courier services, accounted for 43% of all shipments. This number is very likely to continue increasing. Small shipments may seem innocuous at first sight. However, they pose a number of problems for law enforcement authorities. It is very difficult to control the flow of goods arriving in small consignments, as customs officers do not generally have the capacity to go through a large number of micro-shipments. This means, for example, that counterfeit products or undervalued goods arriving in small consignments can be much harder to detect and can escape the enforcement net.

In addition, there is evidence that suggests that small consignments arriving in Europe are regrouped in larger warehouses. Once e-orders are placed from Europe, the goods are shipped, from such warehouses, hiding the initial origin of the goods. This may contribute to evading the applicable import taxes and duties. As described in the study mentioned above, this may also offer consumers a false sense of security.

OLAF is attentive to this trend and will continue to explore avenues for cooperation with Member States and third countries, as well as with the European Commission in order to tackle enforcement problems related to the e-commerce sphere.

⁶ See footnote 4

4. OLAF on the European and international scene



B. ADVISORY COMMITTEE FOR COORDINATION OF FRAUD PREVENTION (COCOLAF)

OLAF steers and chairs the Advisory Committee for Coordination of Fraud Prevention (COCOLAF), composed of representatives of Member States' authorities. The 2017 annual COCOLAF meeting provided an opportunity to exchange views on the main developments in the fight against fraud and the preparation of the Article 325 TFEU Report on the 'Protection of the European Union's financial interests — Fight against fraud 2016'.

In 2017, the specific COCOLAF subgroups worked on:

- exchanging experience and best practice between Anti-Fraud Coordination Services of the Member States (AFCOS);
- sharing the results of analyses about main fraud and irregularity trends and patterns;
- drafting fraud prevention documents such as "Fraud in Public Procurement – Collection of Red flags and best practices" and the Handbook on the 'Irregularity Reporting';
- sharing media strategies and organising communication activities on fraud prevention and deterrence.

4.1. OLAF relations with its partners

Both from an investigative and policy-making perspective, the work carried out by OLAF can only lead to tangible results on the ground if the Office joins forces with other European and international institutions to engage in the global fight against fraud and corruption. This is why in 2017 OLAF has continued to develop existing partnerships and to enter into agreements with new partners worldwide.

A. ADMINISTRATIVE COOPERATION ARRANGEMENTS WITH INTERNATIONAL PARTNERS

Administrative Cooperation Arrangements (ACAs) are a key tool in helping OLAF foster close relationships with investigative bodies and other non-investigative partners engaged in the fight against fraud. In 2017, OLAF signed two ACAs with Member States' authorities⁷, as well as two ACAs with partner authorities in non-EU countries and territories⁸. OLAF also concluded two new ACAs with EU institutions and bodies: one with the Council of the European Union and one with the Committee of the Regions.

⁷ With the Italian Carabinieri and Italian Direzione Nazionale Antimafia (DNA).

⁸ With the Tunisian General Inspection for Finance and with the Kosovo Police (*This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence*).





C. MUTUAL ASSISTANCE AND ANTI-FRAUD CLAUSES

Cooperation with third countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance in customs matters. Such agreements provide the required legal basis in the context of Article 19 of Regulation 515/97 for the exchange of information with third countries on fraud or irregularity. More than 70 agreements are currently in place, including with major EU trade partners, like the United States, China or Japan. In addition, negotiations to update the previous agreements with Armenia and Azerbaijan have been finalised, as well as those on a new agreement with Mercosur (Argentina, Brazil, Paraguay and Uruguay).

Free trade agreements usually contain an anti-fraud clause which allows for a temporary withdrawal of tariff preference for a product in cases of serious customs fraud and persistent lack of adequate cooperation to combat it. OLAF actively contributes to the negotiations of such clauses. In 2017, a clause was agreed at technical level with Japan and good progress was made in on-going negotiations with Mercosur.

An important development in 2017 was the entry into force of the WTO Trade Facilitation Agreement (Bali Agreement), to which the EU is a party. Article 12 on customs cooperation provides for additional possibilities to exchange information with third countries with the purpose of verifying an import or export declaration where there are reasonable grounds to doubt the truth or accuracy of the declaration.

4.2. The Hercule III Programme: a key tool in supporting the fight against fraud across the EU

OLAF is responsible for the management of the Hercule III Programme⁹ which supports actions and projects that aim to protect the financial interests of the EU. The Programme has a budget of over EUR 100 million for the period 2014-2020. It is implemented on

the basis of annual work programmes setting out the budget and the funding priorities for a given calendar year. The annual work programme¹⁰ for 2017 made available a budget of EUR 14.95 million for the purchase of, for example, specialised technical equipment by law enforcement agencies in the Member States, such as customs or police forces. The financial support was used for the purchase of a wide range of equipment, like scanners used in harbours or airports, digital forensic soft- and hardware, or the purchase and training of sniffer dogs. The Programme also supported conferences, seminars and training events attended by staff of national administrations, law enforcement agencies and NGOs in order to strengthen mutual cooperation or the exchange of best practice. The Programme funded digital forensic training aimed at improving the skills of anti-fraud professionals in securing evidence from digital devices in a rapidly evolving technological environment.

The Programme was the subject of a mid-term evaluation as required under Article 13 of Regulation 250/2014¹¹, which showed the Programme is successful. The evaluation also gathered ideas for possible new directions for the Programme going forward, for instance in the areas of cross-border cooperation between Member States, cooperation with non-EU partners, as well as on new technological developments.



Airplane scanner, Belgium

⁹ Regulation (EU) No. 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No. 804/2004/EC, OJ L 84 of 20 March 2014, p. 6-13.

¹⁰ Adopted by Commission Decision C(2017)1120 final of 22 February 2017.

¹¹ Regulation (EU) No. 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No. 804/2004/EC, OJ L 84 of 20 March 2014, p. 6-13.

5. Monitoring the actions taken by the recipients of OLAF recommendations

5.1. Financial monitoring

OLAF INVESTIGATIONS LEAD TO HIGH AMOUNTS RECOMMENDED FOR RECOVERY TO THE EU BUDGET

Financial recommendations are addressed by OLAF to the EU Institutions or national authorities providing or managing EU funds. The aim of such financial recommendations is to seek the recovery of the defrauded EU funds to the EU budget. The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that given year. The amount of recommended recoveries is therefore not an indication of the overall fraud level in Europe, but relates to specific investigations OLAF has finalised in a particular year.

Pursuant to the investigations it concluded in 2017, OLAF recommended the recovery of over EUR 3 billion to the EU budget. This sum is significantly higher than in preceding years because of the conclusion of large-scale investigations in the customs field (see the Focus Chapter of this Report for more detail).

It is important to note that OLAF is not itself responsible for the recovery of these funds. This money will progressively be recovered by the relevant authorities at EU and Member State level. Money can be retrieved from the beneficiaries of the funds, national managing authorities or paying agencies in a number of ways, including direct recovery, offsetting, deduction, de-commitment, programme closure, or clearance of accounts.

FINANCIAL IMPACT OF OLAF'S INVESTIGATIONS IN THE OVERALL DETECTION OF IRREGULARITIES ACROSS EUROPE

Member States are responsible for most EU spending and also manage the collection of the EU's customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and supports them through an active exchange of information and via targeted trainings.

Under sectoral regulations, Member States have to report to the European Commission any irregularity or suspicion of fraud¹² they detect exceeding EUR 10000. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU financial interests (the so-called "PIF Report").

In parallel with data concerning Member States' detections, OLAF also gathers data on the number of investigations it has concluded and that led to financial recommendations.

In recent annual Reports, OLAF has presented a comparative analysis in the areas of Traditional Own Resources (TOR) and shared management, providing an overview of the number of fraudulent and non-fraudulent irregularities detected by national authorities, compared to the financial recommendations issued by OLAF in the same areas. In this year's Report, the analysis covers a period of five years, including 2017. The impact of investigations is shown as a percentage of the

Figure 12: Amount recommended by OLAF for financial recovery in 2017 (in millions)

	2012	2013	2014	2015	2016	2017
Amounts recommended	284	403	901	888	631	3095

¹² A case can be defined as fraud only after a definitive sentence is issued by a competent judicial authority. This can take a few years following the detection and reporting of the case to the Commission.



total TOR that authorities have collected for the years 2013-2017 and as a percentage of the total payments made under the two main areas of shared management by each Member State. The results obtained by OLAF during the same period are presented next to those of national authorities¹³.

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States.

Figure 13 shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources between 2013 and 2017 and the percentage that their financial impact represents in terms of the gross TOR collected by Member States and made available to the EU budget. OLAF results are shown alongside those of national authorities.

Figure 14 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management, European Structural and Investment Funds and Agriculture, between 2013-2017 and their financial impact expressed as a percentage of the total payments for the years 2012-2016, divided by Member State. OLAF results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations are making in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent. In terms of Traditional Own Resources, OLAF financial recommendations would represent 2.58% of the gross TOR collected, compared to 2.01% for all Member States together. This means that, for this period, OLAF financial recommendations exceed the entire financial impact of the investigative and control activities of the Member States. The OLAF results are significantly influenced by the conclusion of investigations linked to the undervaluation of imported goods in 2017¹⁴. These results also highlight OLAF's commitment to utilising resources effectively and concentrating on cases where its input would bring most added value.

OLAF results are significant also in the shared management areas, where the financial impact of the activities of all Member States together accounts for 1.8% of payments, while OLAF alone recommended the recovery of 0.43% of payments. In this area, OLAF financial recommendations would represent 19% to 23%¹⁵ of the entire impact of investigative and control activities. There are countries where the financial impact of OLAF cases is particularly significant and, at times, even higher than that of national investigations.

¹³ Results by the Member States and OLAF may partially overlap. OLAF results are extracted from the Case Management System, and represent the total sum of financial recommendations issued at the end of the investigations. Data concerning Member States is extracted from the Irregularity Management System (IMS) for the two expenditure areas and from the OWNRES system for TOR. Data used in this report needs to be considered as provisional. Final data is published in the 'Report from the Commission to the European Parliament and the Council on the Protection of the European Union's financial interests — Fight against fraud' which will be published around July 2018.

¹⁴ For more details, see chapter 3.

¹⁵ The range has been calculated assuming, for the lower limit, that OLAF results are not included in those reported by the Member States, while for the highest limit, the assumption is the opposite - that OLAF results are fully included in those reported by the Member States.

Figure 13: Member State/ OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2013-2017

Traditional Own Resources (TOR) 2013-2017				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % TOR collected
	N	%	N	%
Austria	335	2.81%	11	0.25%
Belgium	1 011	1.07%	27	0.87%
Bulgaria	119	0.96%	16	1.21%
Croatia	64	1.75%	2	0.07%
Cyprus	42	1.49%	9	0.18%
Czech Republic	383	2.34%	18	1.61%
Denmark	339	1.43%	16	0.56%
Estonia	35	2.17%	7	0.29%
Finland	187	1.19%	8	0.15%
France	1 822	1.82%	24	0.34%
Germany	9 250	2.23%	35	0.23%
Greece	226	7.10%	13	0.75%
Hungary	199	1.80%	12	0.29%
Ireland	146	1.06%	10	0.06%
Italy	832	1.34%	31	0.24%
Latvia	117	4.88%	10	2.10%
Lithuania	225	2.26%	14	1.02%
Luxembourg	0	0.00%	0	0.00%
Malta	17	4.52%	3	1.32%
Netherlands	2 257	2.99%	48	1.86%
Poland	713	1.07%	25	0.85%
Portugal	162	2.55%	16	1.22%
Romania	337	3.37%	27	1.56%
Slovakia	82	0.98%	11	50.30%
Slovenia	57	0.63%	14	0.55%
Spain	1 683	2.77%	34	1.06%
Sweden	478	1.08%	14	0.30%
United Kingdom	4 990	1.90%	41	11.07%
Total	26 108	2.01%	496	2.58%



Figure 14: Member State/ OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and Agriculture for the period 2013-2017

Shared Management: Cohesion and Natural Resources 2013-2017				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	371	0.30%	2	0.02%
Belgium	387	0.48%	1	0.02%
Bulgaria	904	1.67%	43	0.54%
Croatia	86	0.56%	1	0.00%
Cyprus	104	0.89%	0	0.00%
Czech Republic	3 480	3.40%	7	0.08%
Denmark	205	0.30%	0	0.00%
Estonia	414	1.54%	0	0.00%
Finland	139	0.08%	0	0.00%
France	1 240	0.28%	8	0.01%
Germany	1 771	0.33%	7	0.40%
Greece	2 251	2.76%	14	0.30%
Hungary	2 808	1.20%	49	3.92%
Ireland	1 432	2.41%	0	0.00%
Italy	4 101	1.27%	20	0.31%
Latvia	611	2.89%	1	0.00%
Lithuania	1 109	2.21%	3	0.06%
Luxembourg	2	0.09%	0	0.00%
Malta	117	2.42%	1	0.43%
Netherlands	813	1.74%	4	0.04%
Poland	5 461	1.74%	21	0.09%
Portugal	2 422	1.49%	9	0.36%
Romania	5 759	3.21%	107	0.52%
Slovakia	1 672	11.39%	16	2.09%
Slovenia	297	1.92%	1	0.12%
Spain	11 161	3.13%	5	0.40%
Sweden	224	0.21%	0	0.00%
United Kingdom	3 062	0.75%	5	0.04%
Total	52 403	1.83%	325	0.43%

5.2. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcome of its cases on the ground, be it indictments, dismissals, or other judicial measures, if any.

According to Article 11 of Regulation 883/2013¹⁶, at the request of the Office, the national judicial authorities concerned must send OLAF information on the action taken on the basis of its judicial recommendations.

Based on judicial monitoring carried out in 2017, OLAF noted that around 42% of the cases it submitted to national judicial authorities have led to indictments.

While judicial authorities are of course independent and while the legal architecture may vary at Member State level, OLAF has worked on understanding the reasons why national judiciaries dismissed some of the cases OLAF had submitted.

It is not for OLAF to question the validity of national prosecutors' decisions to dismiss individual cases on particular grounds. However, OLAF's analysis confirms the argument in support of the setting-up of a European Public Prosecutor's Office. It appears that Article 11§2 of Regulation 883/2013^[1], and prior to that, Article 9§2

of Regulation 1073/1999 which was identical, is not a sufficient legal basis to allow all Member States' judicial authorities to use OLAF reports as evidence in trial. Therefore, in numerous Member States, after receiving the OLAF final report, prosecutors carry out all the investigation activities once again in order to acquire admissible evidence.

Sometimes, despite considerable investigative efforts deployed by the Office, its limited investigation powers and practical possibilities do not allow to collect conclusive evidence of a criminal offence.

As regards internal investigations, whereas for OLAF any infringement committed by EU staff is regarded as a serious matter, irrespective of the prejudice to the EU budget, the priorities of the national judiciaries may be different.

Finally, there are sometimes differences of interpretation of EU and national law between OLAF and national authorities. OLAF started in 2016 to address these differences, through bilateral meetings with the relevant judicial authorities. This work continues to date. OLAF liaises with Member States on an on-going basis in order to try and improve follow-up at national level.



16 OJ L 166, 30.4.2004, p.1



Figure 15: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2010 and December 2017

Member state	No decision taken by JA	Decision taken by JA			Indictment rate
		Total	Dismissed	Indictment	
Austria	1	7	5	2	29%
Belgium	12	32	17	15	47%
Bulgaria	13	22	13	9	41%
Croatia	4	0	0	0	NA
Cyprus	4	3	2	1	33%
Czech Republic	3	8	6	2	25%
Denmark	1	3	1	2	67%
Estonia	0	2	1	1	50%
Finland	0	3	3	0	0%
France	9	8	3	5	63%
Germany	14	19	15	4	21%
Greece	16	11	3	8	73%
Hungary	20	17	9	8	47%
Ireland	1	2	2	0	0%
Italy	20	33	14	19	58%
Latvia	1	4	3	1	25%
Lithuania	0	9	3	6	67%
Luxembourg	5	5	3	2	40%
Malta	1	6	0	6	100%
Netherlands	10	7	3	4	57%
Poland	13	11	2	9	82%
Portugal	9	7	5	2	29%
Romania	26	87	58	29	33%
Slovakia	5	11	9	2	18%
Slovenia	4	1	0	1	100%
Spain	11	19	15	4	21%
Sweden	1	2	1	1	50%
United Kingdom	21	14	9	5	36%
Grand Total	225	353	205	148	42%

* In the category of no decision taken, we include also those cases that are still in the so-called "reporting period". When OLAF sends a judicial recommendation to a Member State, the competent authority has to report on the actions taken following the recommendation within 12 months.

5.3. Disciplinary monitoring

EU Institutions take action to follow up on OLAF's internal investigations

The disciplinary recommendations issued by OLAF concern serious misconduct of EU staff or Members of the EU institutions and are directed to the authority having disciplinary powers in the institution concerned.

When making such recommendations, OLAF does not specify the type of action that should be taken. The appointing authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the appointing authority may join several recommendations resulting from different investigations and, subsequently, impose one single sanction.

Figure 16: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2015 and 31 December 2017

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Agencies	8	3	4	1
Court of Justice	2	0	2	0
European Commission	22	4	6	12
European Economic and Social Committee	1	0	1	0
European External Action Service	6	1	2	3
European Investment Bank	1	1	0	0
European Parliament	16	4	1	11
Council of the EU	1	0	0	1
EULEX	1	1	0	0
Total	58	14	16	28



6. Policies to fight fraud

In addition to its investigative work, OLAF plays an active role in the development of the anti-fraud policies of the European Union. The Office drafts and negotiates legislative texts concerning the protection of the EU's financial interests against fraud and corruption. It is also thanks to its solid investigative expertise that OLAF can support the EU institutions in furthering a sound legal framework to protect the EU budget and taxpayers' money. The main policy projects on which OLAF has made significant progress in 2017 are summarised in this chapter.

6.1. Evaluation of Regulation (EU, Euratom) No 883/2013

Regulation 883/2013 is the main legal instrument governing OLAF's investigative activities. As required by the applicable regulatory framework, on 2 October 2017, the Commission adopted its Report on the Evaluation of the application of Regulation 883/2013¹⁷. The Commission Report was supported by an independent external study¹⁸ and was based on a wide-ranging stakeholder consultation. The Report was also accompanied by OLAF's Supervisory Committee's Opinion 2/2017¹⁹.

A dedicated conference was organised by OLAF in March 2017. The conference brought together stakeholders from a wide range of anti-fraud backgrounds, such as the Anti-Fraud Coordination Services of Member States, Member State administrative authorities, law enforcement, prosecutorial and judicial authorities, EU Institutions, bodies, offices and agencies, international organisations and academics. The outcome of discussions was taken on board for the external evaluation report.

The evaluation concluded that the Regulation has allowed OLAF to deliver concrete results. Regulation 883/2013 brought clear improvements in OLAF's functioning, as regards the conduct of investigations, cooperation with partners and the rights of persons concerned by investigations. At the same time, the evaluation highlighted some shortcomings which have an impact on the effectiveness and efficiency of investigations. In particular, the extent to which the Regulation makes national law applicable is not completely clear. Today, different interpretations of the relevant provisions and differences in national law lead to a fragmentation in the exercise of OLAF's powers in the Member States. In some cases, this hinders OLAF's ability to conduct investigations successfully and to contribute to an effective protection of the financial interests across the EU.

Moreover, the evaluation also emphasised that the creation of the European Public Prosecutor's Office (EPPO) will be a game-changer and will require swift adaptations in the operation of OLAF, to ensure synergies and the efficient use of resources at EU level.

In view of the establishment of the EPPO and in light of the results of the evaluation, the Commission has prepared an assessment in line with Better Regulation principles²⁰ with a view to a proposal for the amendment of Regulation 883/2013 mid-2018. The proposal will adapt the functioning of OLAF to the establishment of the EPPO, to ensure close cooperation based on the complementarity of their respective mandates and prepare the support of OLAF to the EPPO. It will also consider targeted changes, necessary to strengthen the framework for OLAF investigations, in order to maintain a strong and fully-functioning OLAF that complements the EPPO's criminal law approach with administrative investigations. This amended text should be in force by the time the EPPO becomes operational, to ensure a seamless transition to the new institutional framework.

¹⁷ See footnote 16.

¹⁸ ICF Consulting Services Limited, 2017, Evaluation of the application of Regulation no 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), Final report, https://ec.europa.eu/anti-fraud/sites/antifraud/files/evaluation_of_the_application_regulation_883_en.pdf

¹⁹ OLAF Supervisory Committee, Opinion 2/2017 "Accompanying the Commission Evaluation report on the application of Regulation (EU) of the European Parliament and of the Council No 883/2013 (Article 19)", http://europa.eu/supervisory-committee-olaf/sites/default/files/opinion_2_2017.pdf.

²⁰ Commission Staff Working Document 'Better regulation guidelines', 7 July 2017 SWD (2017) 350 <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>



European Commissioner for Budget and Human Resources, Günther H. Oettinger, joined more than 200 stakeholders at a high-level conference on 1-2 March 2017 in Brussels. *"I can only commend OLAF for its impressive work in protecting the EU budget and helping ensure that citizens' money goes towards projects that improve the lives of all Europeans,"* Commissioner Oettinger said.

Commissioner for Budget & Human Resources Günther H. Oettinger (right) at the Conference on the evaluation of Regulation 883/2013, in March 2017

6.2. Preparing for the creation of the European Public Prosecutor (EPPO)

On 31 October 2017, the Regulation on the creation of the European Public Prosecutor's Office was published in the Official Journal²¹. The EPPO represents a significant institutional innovation which will provide the EU budget with better protection against fraud and will also change the landscape of justice in Europe. It will operate as a single body across all participating Member States. The EPPO will tackle fraud and corruption affecting the EU budget, including serious cases of cross-border VAT fraud, and will be equipped to deal with complex, transnational cases in a more efficient way than is possible today. The EPPO will be established under enhanced cooperation (at this stage) among twenty Member States, and is expected to start operations at the end of 2020. Other EU Members can join at any time.

The EPPO and OLAF will work closely together, to ensure that all available means are used to protect the EU budget. The EPPO will be able to rely on the support of OLAF, benefitting from OLAF's experience in the fight against fraud affecting EU funds.

6.3. The adoption of the PIF Directive

Following the political agreement reached between the co-legislators at the end of 2016, the Directive on the fight against fraud to the Union's financial interests by means of criminal law was adopted on 5 July 2017²². Member States now have two years (until July 2019) to transpose it into their national legislation.

The Directive will strengthen the protection of the Union's financial interests by harmonising the definition of offences affecting these interests (offences of fraud, corruption, money laundering and misappropriation), as well as harmonising sanctions and time limitations for such cases. It covers cross-border VAT fraud cases involving a total damage of at least EUR 10 Million. The Directive will replace the Convention on the protection of the European Communities' financial interests and its protocols (PIF Convention) for those 26 Member States bound by the Directive, while the Convention remains applicable to Denmark and the UK.

21 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283, 31.10.2017, p. 1–71.

22 Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29–41.



6.4. Strengthening the EU's policy on fighting the illicit tobacco trade

In addition to its enforcement role in fighting the illicit tobacco trade, OLAF also contributes to strengthening the EU's policy in this field.

In May 2017, the Commission adopted a Report on the progress in implementing the 2013 Strategy to step up the fight against the illicit tobacco trade²³. The report highlighted that important milestones have been reached, notably the adoption of the Tobacco Products Directive²⁴ and the ratification of the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products by the EU. Targeted enforcement action has also led to new records in seizure volumes. However, the smuggling of tobacco products has not receded, and reflections will continue on additional initiatives to stem especially the inflow of so-called 'cheap white' cigarettes. OLAF will continue to drive such initiatives.

The EU, with OLAF as lead service, had a key role in negotiating the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products under the auspices of the World Health Organisation. The EU became a Party to the Protocol in 2016. However, the Protocol will only effectively help curbing illicit trade if it is also implemented by third countries which are the main source of illicit tobacco products or are transit countries on the smuggling routes. The Commission is intensifying its efforts to promote the Protocol outside the EU while assisting Member States in the quick completion of their internal ratification procedures. OLAF is engaged in these discussions on the European and international scene.



23 COM(2017)235 final.

24 Directive 2014/40/EU of 3 April 2014, OJ L 127, 29.4.2014, p. 1.

7. Relations with the Supervisory Committee

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. Its members are appointed by common agreement of the European Parliament, the Council and the Commission.

The Members as of 31 December 2017 are the following: Ms Fazenda, Mr Klement, Mr Mulder, Mr Munoz Lopez Carmona and Ms Stronikowska. Mr Mulder has been Chairman since March 2017.

In line with Regulation 883/2013, the Members are supported by a Secretariat. As of 1 January 2017, following an amendment of Regulation 883/2013, the Supervisory Committee Secretariat is provided by the Commission, outside OLAF.

The Director-General of OLAF keeps the Supervisory Committee regularly informed of the Office's activities, the implementation of OLAF's investigative function, and of action taken by way of follow-up to investigations.

In 2017, in accordance with Regulation 883/2013, OLAF made available to the Committee over 430 documents with information on investigations lasting more than 12 months. OLAF also informed the Committee of judicial recommendations transmitted to the national judicial authorities, and of OLAF cases in which information

was sent to national judicial authorities at the dismissal of the case. The Committee and its Secretariat had full access to 64 case files in OLAF's case management system in 2017.

On the basis of the information provided by OLAF, the Committee delivers Opinions to the Director-General of OLAF and reports to the EU institutions. In 2017, the Supervisory Committee delivered three Opinions. Opinion 2/2016, issued in February 2017, concerned the OLAF Annual Activity Report, to which OLAF replied on 27 March 2017. Opinion 1/2017 concerned the OLAF Preliminary Draft Budget for 2018, to which OLAF replied on 6 October 2017. The Committee's Opinion No 2/2017 accompanied the Commission Evaluation report on the application of Regulation 883/2013.

In its Opinions, the Supervisory Committee issues recommendations to the Director-General. OLAF reports annually to the Committee on the state of implementation of these recommendations. On 9 February 2018, OLAF reported on all recommendations issued in 2017, and also on the follow-up of one recommendation issued in 2016 by the Committee.

Details of the Committee's work can be found in its annual activity report. This report and OLAF's responses, as well as other information, are publicly available on the OLAF website.



8. Data protection, legality checks and complaints

PROTECTION OF PERSONAL DATA CRUCIAL TO OLAF'S WORK

The protection of personal data is key to a successful investigation since it allows safeguarding the rights of individuals involved at any step of the investigative cycle. Since OLAF was set up as an independent investigative body, it has appointed its own data protection officer (DPO) who ensures that OLAF implements the requirements of Regulation 45/2001 on the protection of personal data, including recommendations of the European Data Protection Supervisor (EDPS). The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media.

In 2017, OLAF maintained its commitment to ensure the timely provision of relevant information to data subjects. OLAF received and handled 10 requests for access to personal data as well as one request for rectification. They were all handled in a timely manner.

The current Regulation 45/2001 is under revision to align with the General Data Protection Regulation 2016/679 (GDPR) entering into force in May 2018. OLAF has already conducted awareness-raising activities internally and has mapped the necessary steps to achieve compliance with the new data protection rules.

VERY LOW NUMBER OF COMPLAINTS ON OLAF INVESTIGATIVE ACTIVITY

Persons affected by an OLAF investigation may address a complaint directly to the Director-General of OLAF. This is without prejudice to the citizens' right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the EU or national courts.

In 2017, the Director-General received seven complaints from persons involved in OLAF investigations about issues relating to the handling of their procedural guarantees. All of the complainants received a

substantiated reply within the two-month deadline in accordance with the established procedures.

Officials and other EU staff may also complain to OLAF under Article 90a of the Staff Regulations against any act adversely affecting them in connection with OLAF investigations. In 2017, OLAF received one complaint in which Article 90a of the Staff Regulations was invoked. The response to the complaint is pending.

In 2017, the European Ombudsman opened ten new inquiries in relation to complaints involving OLAF. Seven were closed in the course of the year either without a finding of maladministration or because OLAF had settled the matter. The remaining three concern two requests for public access to documents and a decision not to open an investigation, and are still pending.

In the course of 2017, the Ombudsman also concluded two inquiries that had been opened in previous years. The first inquiry concerned a request for access to documents. OLAF disagreed with the Ombudsman as to the scope of the request and the case was closed with a finding of maladministration. However, after the complainant came back with a new request, OLAF gave partial access to the requested documents, to the complainant's satisfaction. The second inquiry concerned alleged irregularities during an investigation. In particular, the complainant argued that OLAF had failed to follow its normal administrative practices when opening that investigation and wrongly communicated information about its investigation to third parties. The Ombudsman found that OLAF complied with the relevant applicable rules and the principles of good administration. As a result, the Ombudsman closed her inquiry with a finding of no maladministration. In 2017, the Ombudsman published her 'Putting it Right' Report for cases closed in 2016, in which OLAF scored the maximum of 100% satisfactory replies to the Ombudsman.

9. Staff and Budget

INVESTING IN STAFF

In the context of the general reductions in staff and budget in the EU public service, the number of OLAF staff members continued to decrease in 2017. At the end of 2017, the total number of staff members and available vacancies at OLAF stood at 405, a 2.5% decrease compared to 2016. Despite this, OLAF did its utmost to maintain the staff resources allocated to the fight against fraud and to its anti-fraud policy work, with staff cuts mainly impacting overhead functions such as HR, finance and ICT infrastructure management.

OLAF staff members have had to adapt to a structural increase in workload while maintaining the quality and efficiency of investigations. In a context of limited resources, OLAF counts on the wide range of skills and diverse professional background of its staff. Dealing

efficiently with a high number of investigations in various fields and countries requires a high level of expertise, knowledge of a broad range of languages, as well as commitment to defending taxpayers' interests. Two specialist competitions in the investigation field were finalised in 2017, providing OLAF with a list of 45 laureates possessing the relevant professional experience and qualifications.

OLAF invests continuously in career development. OLAF staff have the opportunity to participate in Commission or external training, coaching sessions, or lunchtime debates and workshops, which further their professional and personal development. OLAF is also committed to investing in the training of its managers, to ensure excellent leadership.

Figure 17: Number and breakdown of OLAF staff from 2010 to 2017

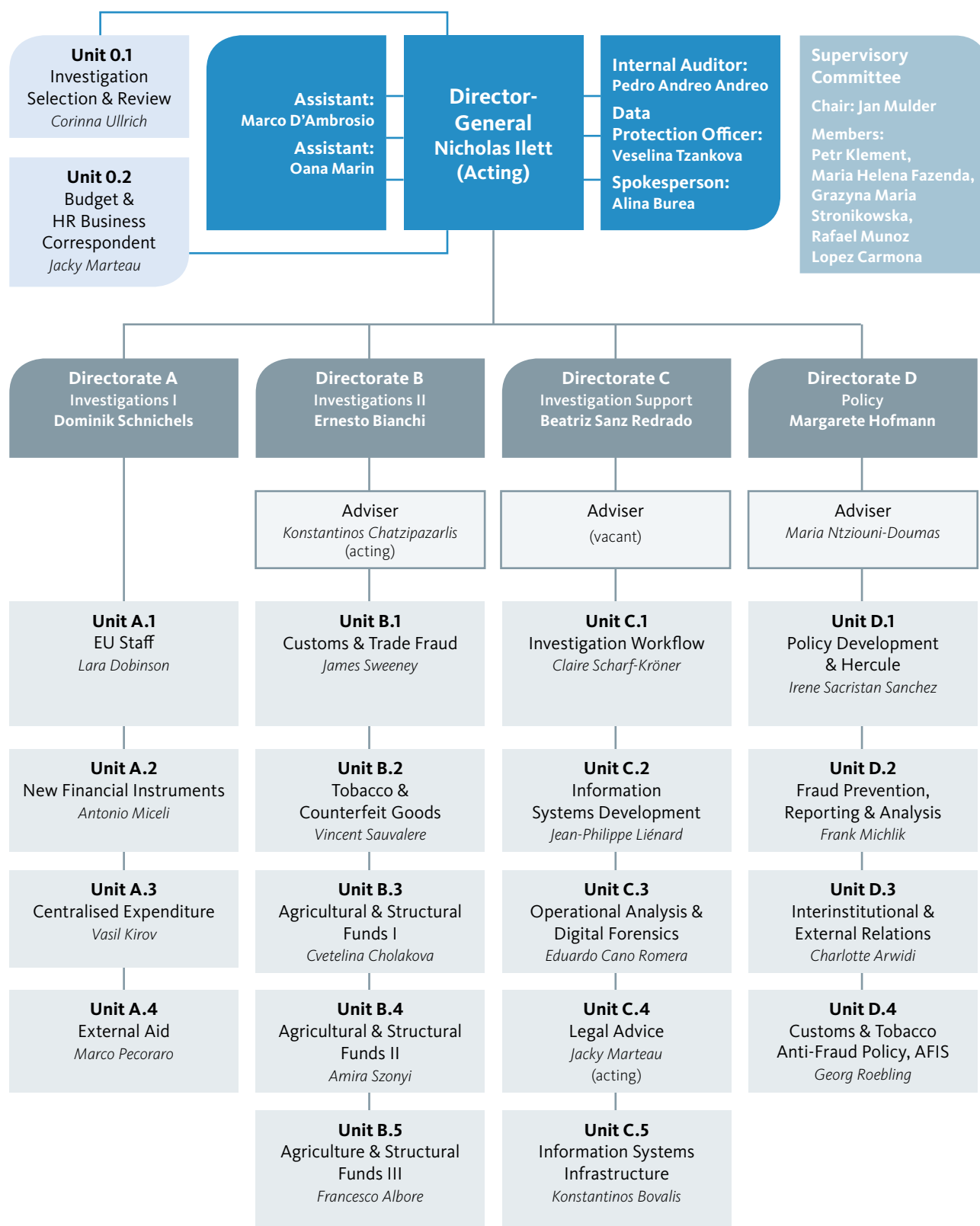
	2010	2011	2012	2013	2014	2015	2016	2017
Establishment posts occupied	360	351	347	350	362	356	336	318
Establishment posts vacant	46	33	35	34	18	11	24	32
External staff	60	53	53	56	59	55	55	55
Total	466	437	435	440	439	422	415	405

Figure 18: OLAF's administrative budget in 2017 (million EUR)

EU staff	42.1
Infrastructure	6.7
ICT	4.9
External agents (contract staff, seconded national experts and interims)	2.5
Missions	1.4
Anti-fraud Measures	1.9
Training, meetings and Committees	0.5
Total	60



Figure 19: Organisational chart (31.12.2017)



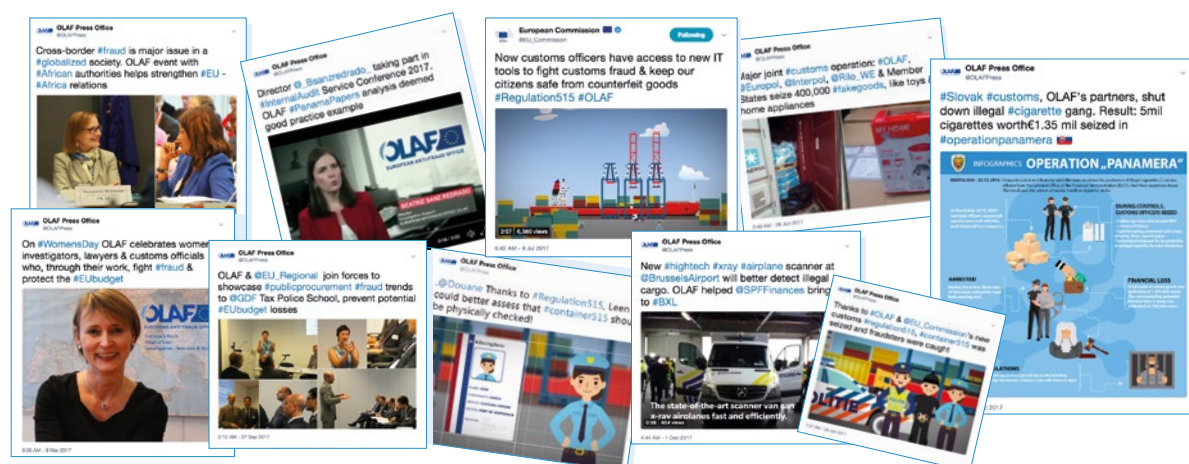
DON'T BRUSH FRAUD UNDER THE CARPET

In 2017, OLAF focused on both increasing its communication output and diversifying the channels through which it reaches its audience. Communication actions were geared towards developing and maintaining a positive relationship with journalists in Brussels and beyond, with the end goal of both informing the public on why enforcing a policy of zero tolerance to fraud is essential. OLAF organised or participated in several press conferences and events, on issues ranging from the launch of the OLAF annual report, to customs fraud or cigarette smuggling. It partnered with national law enforcement institutions in order to present cross-European case studies, for example supporting the Latvian Ministry of Finance in its “Fraud off!” campaign, or co-organising a press event with Belgian Customs when a new scanner financed with EU funds was inaugurated at Zaventem Airport. OLAF management and experts gave a series of interviews

In 2017, OLAF has also continued to be active on Twitter. This has helped the Office get closer to its audience, as well as engage with partner anti-fraud services, showcasing their work and achievements. Twitter campaigns proved very popular, such as the “515 campaign” on presenting new tools facilitated by OLAF for customs officials. Guest-posting exercises developed with OLAF partner institutions helped spread the word further about the need to take action against fraud and corruption.

Throughout 2017, OLAF also continued to be the central point of the OAFCN, the OLAF Network of Anti-Fraud Communicators, which was created over a decade ago and is a unique cross-European network of communication experts working on anti-fraud issues. The Network brings together Communication Officers and Spokespersons from OLAF's operational partners in the Member States such as customs authorities, police, law enforcement agencies, AFCOS and prosecutors' offices. It plays a pivotal role in communicating the threat of fraud to the public across EU Member States, as well as the joint efforts made by national and European authorities to combat it. It is a key platform for raising awareness and reaching out to various audiences on fraud issues.

OLAF also engaged in joint actions with other European Commission services, supporting the EU Budget Focused on Results initiative of the Directorate-General for Budget, as well as presenting its work at the yearly Open Day of the European Institutions.





11. Statistical annex: additional data on OLAF investigative activity

This annex presents additional detailed data relating to OLAF's investigative activity in 2017, as a complement to the key indicators already mentioned in chapters 2 and 5.

Figure 20: OLAF's investigative performance

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Incoming information	959	975	1041	1264	1294	1417	1372	1136	1293
Investigations opened	160	152	146	431	253	234	219	219	215
Investigations concluded	140	136	154	266	293	250	304	272	197
Recommendations issued	194	172	175	199	353	397	364	346	309

Figure 21: Selections completed and their duration²⁵

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Selections completed	1007	886	926	1770	1247	1353	1442	1157	1111
Average duration (in months) of selection phase	5.8	6.3	6.8	1.4	1.8	2.0	1.7	1.7	2.4

Figure 22: Average duration of closed and ongoing investigations (in months)

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Average duration of investigation	20.2	20.8	22.4	17.3	17.5	18.1	18.7	17.2	15.8
Average duration of selection corresponding to these cases	5.7	6.4	6.9	6.3	4.3	2.9	2.3	1.7	1.8
Total average duration of cases	25.9	27.2	29.3	23.6	21.8	21.0	21.0	18.9	17.6

Figure 23: Average duration of closed investigations only (in months)

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Average duration of investigation	25.8	22.9	27.0	22.5	22.3	23.3	25.1	23.2	21.9
Average duration of selection corresponding to these cases	5.6	5.6	6.1	7.5	5.9	3.6	2.8	1.8	1.7
Total average duration of cases	31.4	28.5	33.1	30.0	28.2	26.9	27.9	25.0	23.6

²⁵ Since a new case management system was introduced at the end of 2016, the processing of new incoming information required more time. This explains why the average duration of selections has increased to 2.4 months in 2017. It is expected that the average duration of selections will decrease.

Figure 24: Percentage of ongoing investigations lasting more than 20 months

	2009	2010	2011	2012	2013	2014	2015	2016	2017
	37%	41%	38%	22%	30%	30%	22%	20%	22%

Figure 25: Recommendations issued

Type of recommendation	2009	2010	2011	2012	2013	2014	2015	2016	2017
Financial	76	62	63	116	233	253	220	209	195
Judicial	61	67	73	54	85	101	98	87	80
Disciplinary	18	10	16	25	24	15	16	18	10
Administrative	39	33	23	4	11	28	30	32	24
Total	194	172	175	199	353	397	364	346	309

Figure 26: Incoming information by source

Source	2009	2010	2011	2012	2013	2014	2015	2016	2017
PRIVATE	523	594	767	889	889	959	933	756	889
PUBLIC	436	381	274	375	405	458	439	380	404
Total	959	975	1041	1264	1294	1417	1372	1136	1293



Figure 27: Incoming information from Member States in 2017

Member State	Public source	Private source	Total
Austria	0	1	1
Belgium	12	4	16
Bulgaria	7	20	27
Croatia	1	11	12
Cyprus	0	0	0
Czech Republic	2	13	15
Denmark	1	0	1
Estonia	0	0	0
Finland	0	0	0
France	5	6	11
Germany	4	6	10
Greece	2	11	13
Hungary	1	26	27
Ireland	0	2	2
Italy	7	12	19
Latvia	0	0	0
Lithuania	1	3	4
Luxembourg	0	0	0
Malta	1	0	1
Netherlands	4	0	4
Poland	1	18	19
Portugal	1	1	2
Romania	7	17	24
Slovakia	1	8	9
Slovenia	0	2	2
Spain	12	19	31
Sweden	0	3	3
United Kingdom	4	5	9
Total	74	188	262

Overview of tables and charts

Figure 1: EU expenditure in 2017.....	11
Figure 2: EU revenue in 2017.....	11
Figure 3: OLAF's investigative activity in 2017: maintaining a steady investigative drive.....	12
Figure 4: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2017.....	13
Figure 5: Ongoing investigations at the end of 2017, divided by sector.....	13
Figure 6: Operation Paper Castle.....	19
Figure 7: Organised crime defrauding agriculture funds.....	21
Figure 8: Investigations into EU staff and members of the Institutions concluded in 2017.....	24
Figure 9: Undervaluation fraud trends (textiles and footwear).....	27
Figure 10: Solar panel fraud.....	29
Figure 11: Cigarettes seized with the support of OLAF (rounded to million sticks).....	33
Figure 12: Amount recommended by OLAF for financial recovery in 2017 (in millions).....	38
Figure 13: Member State/ OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2013-2017.....	40
Figure 14: Member State/ OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and Agriculture for the period 2013-2017.....	41
Figure 15: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2010 and December 2017.....	43
Figure 16: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2015 and 31 December 2017.....	44
Figure 17: Number and breakdown of OLAF staff from 2010 to 2017.....	50
Figure 18: OLAF's administrative budget in 2017 (million EUR).....	50
Figure 19: Organisational chart (31.12.2017).....	51
Figure 20: OLAF's investigative performance.....	53
Figure 21: Selections completed and their duration.....	53
Figure 22: Average duration of closed and ongoing investigations (in months).....	53
Figure 23: Average duration of closed investigations only (in months).....	53
Figure 24: Percentage of ongoing investigations lasting more than 20 months.....	54
Figure 25: Recommendations issued.....	54
Figure 26: Incoming information by source.....	54
Figure 27: Incoming information from Member States in 2017.....	55

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