



# The **OLAF** report **2015**

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# The **OLAF** report **2015**

**Sixteenth report of the  
European Anti-Fraud Office,  
1 January to 31 December 2015**

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**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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#### **Mailing address:**

European Commission/European Anti-Fraud Office (OLAF)/1049 Brussels, Belgium

#### **Address for visitors:**

European Anti-Fraud Office (OLAF)/Rue Joseph II 30/1000 Brussels, Belgium



## Executive Summary

Four years after its reorganisation in 2012, OLAF has reached “cruising altitude,” improving its effectiveness across all activity areas. Compared to the years preceding the restructuring, OLAF has increased the number of concluded investigations by 93 %, while also delivering 83 % more recommendations. The more efficient processing of incoming information of potential investigative interest - the selection process - has also led to the opening of 86 % more investigations than before 2012. These increases in productivity were achieved despite a decrease in staff and a change in investigative procedures. Regulation 883/2013 <sup>(1)</sup> introduced additional investigative requirements and more stringent internal controls which could have led to longer investigations. However, the average duration of OLAF investigations has decreased by 18 % in the last four-year period.

In 2015, OLAF recorded 1372 incoming items of information. The flow of information seems to have stabilised, a testament to the positive cooperation the Office has established with its partners, as well as to its efforts to inform European citizens of the need to report fraud. OLAF’s better allocation of resources has led to a faster, more efficient selection process. The Office reduced the average duration of its selections to 1.7 months in 2015. In this Report, OLAF is presenting examples illustrating the considerations which determine whether the Office will open an investigation.

In 2015, OLAF opened 219 new investigations. It concluded 304 investigations, which represents a new record for the Office. As in previous years, the Structural and Social Funds sector continued to be the largest single area of OLAF’s investigative activity.

Through its recommendations, OLAF creates the conditions for inappropriately spent EU funds to be recovered to the EU budget. In 2015, the Office issued 364 recommendations to the relevant EU and national authorities and recommended the financial recovery of EUR 888 million.

For the first time, the Report presents a comparison between the financial recommendations issued by OLAF and the financial impact of irregularities detected and reported by Member States. Our analysis shows the important contribution OLAF investigations are making in ensuring that EU money serves its intended goals.

In addition to its investigation and coordination cases, in 2015 OLAF organised several Joint Customs Operations (JCOs). These operations are coordinated and targeted actions of a limited duration with the aim of combating the smuggling of sensitive goods and fraud in certain risky areas and/or on identified trade routes.

OLAF has progressed in its efforts to fight the illicit trade in tobacco products, helping national authorities seize 619 million cigarette sticks in 2015.

Thanks to its anti-fraud expertise, OLAF was also able to support the EU institutions in building a legal framework that offers improved protection to the EU budget. In particular, throughout 2015 OLAF took an active role in the on-going negotiations on the European Commission proposal for the establishment of the European Public Prosecutor’s Office (EPPO). OLAF believes the EPPO would streamline the process of identifying fraudsters and bringing them to justice more swiftly. The EPPO would significantly reduce the current fragmentation of national law enforcement efforts to protect the EU budget, thus strengthening the fight against fraud in the European Union.

<sup>(1)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.





## Foreword

It is with great pleasure that I introduce this edition of the annual report of the European Anti-Fraud Office (OLAF). In 2015, OLAF maintained its strong investigative performance, closing a record number of investigations, even if faced with diminishing staff numbers. The Office particularly focused on reducing its backlog of cases older than 20 months, significantly decreasing the number of long-lasting investigations in its portfolio.

Once more, Structural and Social Funds proved to be the single largest area of OLAF's investigative work, and one where its added value was also most visible. In 2015, of the total EUR 888.1 million recommended for financial recovery, EUR 624 million were in the areas of Structural and Social Funds alone.

OLAF is also celebrating a milestone of sorts - it is four years since our reorganisation in 2012, and we believe we have a lot to show for. When embarking on the journey of rethinking the way the Office functioned, efficiency and optimal use of resources were our main goals. We wanted to serve European citizens better, contributing to an increased protection of the EU's financial interests. Four years on, we can now see that our work has paid off. Compared to the period before the reorganisation, the Office has made significant efficiency gains in all areas. Despite increasing legal constraints, we have assessed more items of incoming information and have opened and concluded more investigations faster than ever.

OLAF owes these excellent results to its committed staff members and to the continued cooperation with both Member States and with institutional partners. However, despite some encouraging signs we have received from countries concentrating increasingly on the fight against fraud, there is still a lot of work that remains to be done. To ensure that European money reaches projects that create jobs, growth and wellbeing in Europe and beyond, awareness among citizens of the fight against fraud and the political will to tackle this major problem are both paramount. OLAF will continue supporting European countries in developing their own national anti-fraud strategies and encouraging them to report any instance of fraud they might encounter, knowing their concerns will always be treated with the utmost care and consideration.

There are, however, limits to how much we can contribute to safeguarding the EU budget. We are increasingly faced with transnational cases of fraud, requiring more powers and more capacity than OLAF currently has. What we need and what we are working towards is a European Public Prosecutor's Office, a body which can both investigate fraud and prosecute inside and across Member States.

I would like to, once again, take the opportunity to thank our staff for their excellent work and dedication throughout the past year. OLAF's success is their accomplishment, and they can be truly proud of what they have achieved.

Giovanni Kessler  
Director-General of OLAF

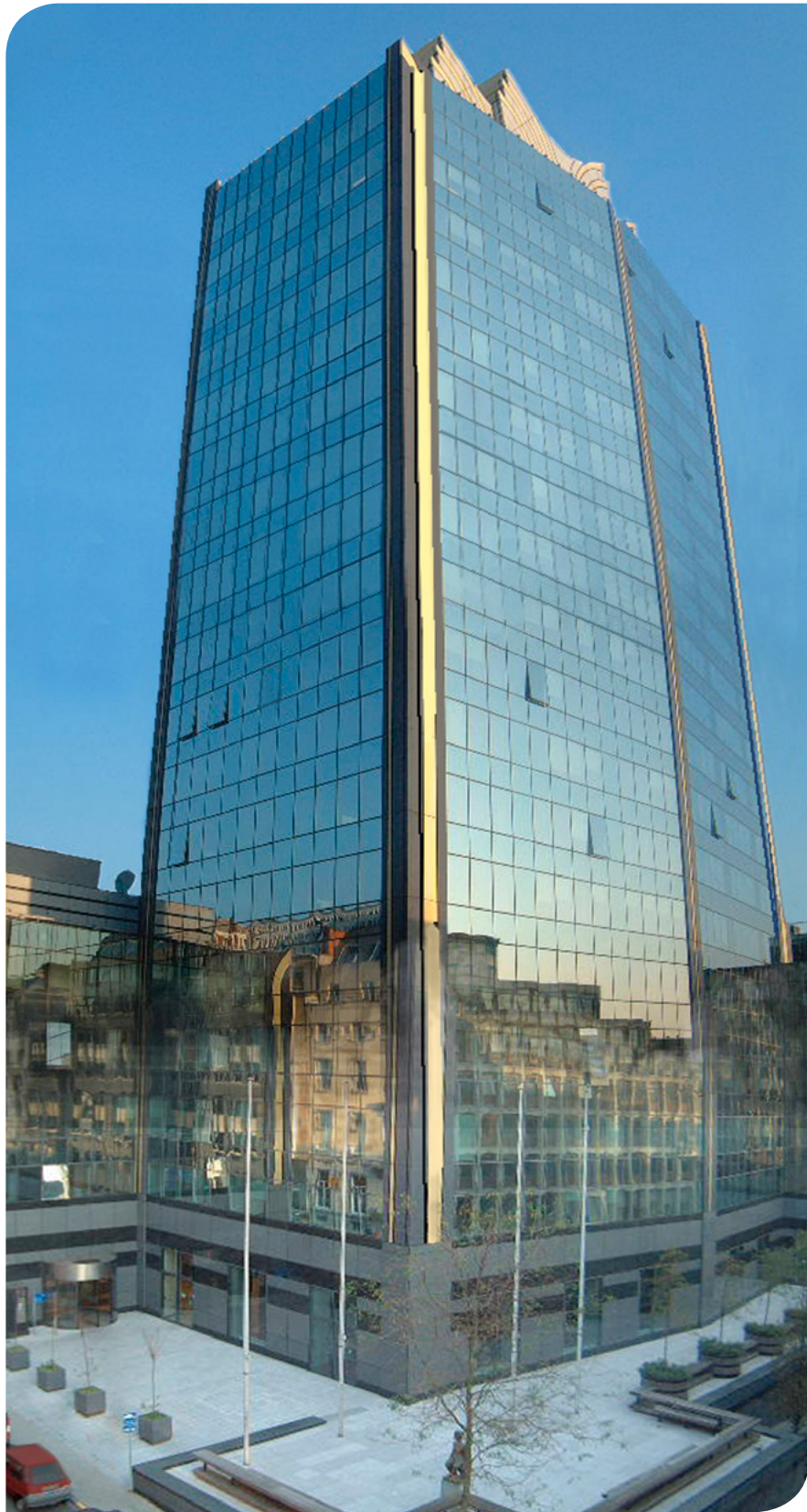






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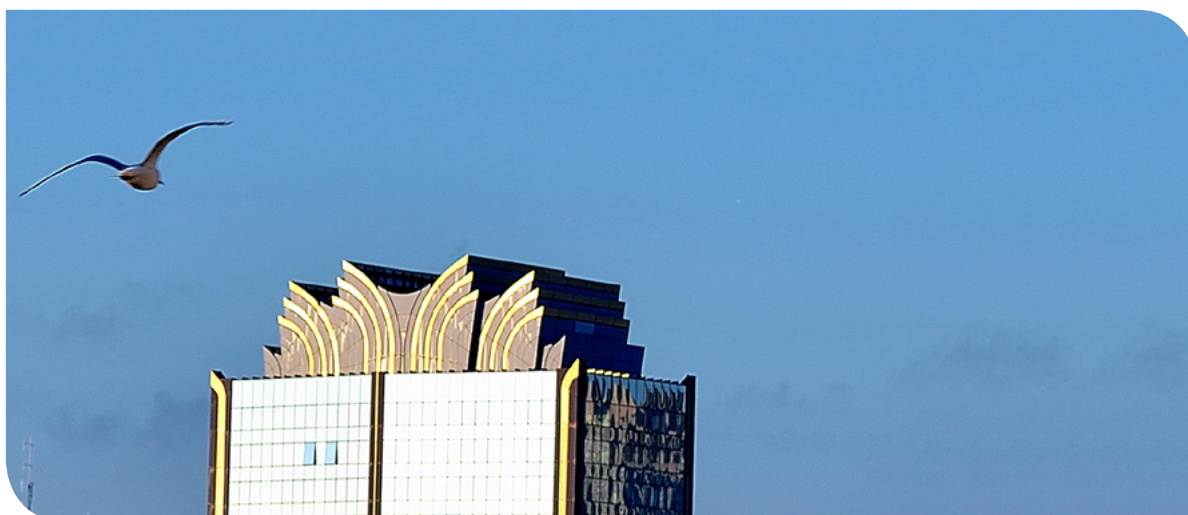
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*The seat of the European Anti-Fraud Office, in Brussels.*



# 1. Mission and mandate



**OLAF Mission:** Detect, investigate and work towards stopping fraud with European Union funds.

## MANDATE

OLAF's mandate is:

- ▶ to conduct independent investigations into fraud, corruption and irregularities 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 open 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 Vice-President Kristalina Georgieva. However, in its investigative mandate, OLAF acts in full independence.

## WHAT WE DO

OLAF's investigative work involves:

- ▶ assessing incoming information to determine whether there are sufficient grounds for opening an investigation;
- ▶ conducting administrative investigations, where appropriate, in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- ▶ supporting the investigations of national authorities;
- ▶ recommending necessary 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 we provide to relevant 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 by OLAF in cooperation with a wide range of partners, at national, European and international level.

OLAF cases frequently concern:

- ▶ corruption in public procurement procedures involving EU finance;
- ▶ double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made;
- ▶ cross-border procurement fraud;
- ▶ 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, and the deliberate gross disrespect of the conditions of financial assistance.

#### Case study

#### OLAF helps misled donors recover

#### lost funds

OLAF received an allegation through its Fraud Notification System that a beneficiary domiciled in a Member State and active in an African country had deliberately misled several foreign donors in order to make a fraudulent profit on the financing of an ecological project. The grant from the EU alone was EUR 2 million.

Acting in close cooperation with the investigation services of other donors, OLAF established that the beneficiary had indeed systematically provided false information to all donors, and had in particular claimed payment of the same costs from different donors.

OLAF recommended the recovery of the whole EU grant and the prosecution of those responsible. OLAF also provided the other donors with information which should enable them to recover their money.

Customs revenue is often threatened by false declarations of the description of goods, their origin or value. Revenue is also threatened by straightforward smuggling - for example by concealing goods which are of high value, goods of illegal origin or counterfeit products.

Smugglers seek out weak points in the national customs controls which protect the EU's external borders, such as frontier crossings, airports, seaports and inland customs clearance offices, in order to abuse the opportunities offered by the single market. The import of counterfeit goods endangers consumers, damages legitimate business and trade, and reduces tax receipts. The illicit trade in tobacco, in particular, is linked to many forms of serious international organised crime including money laundering, narcotics trafficking and terrorist financing, and has enormous financial and social costs.

#### Case study

#### OLAF investigation leads to closure of illegal shampoo factories

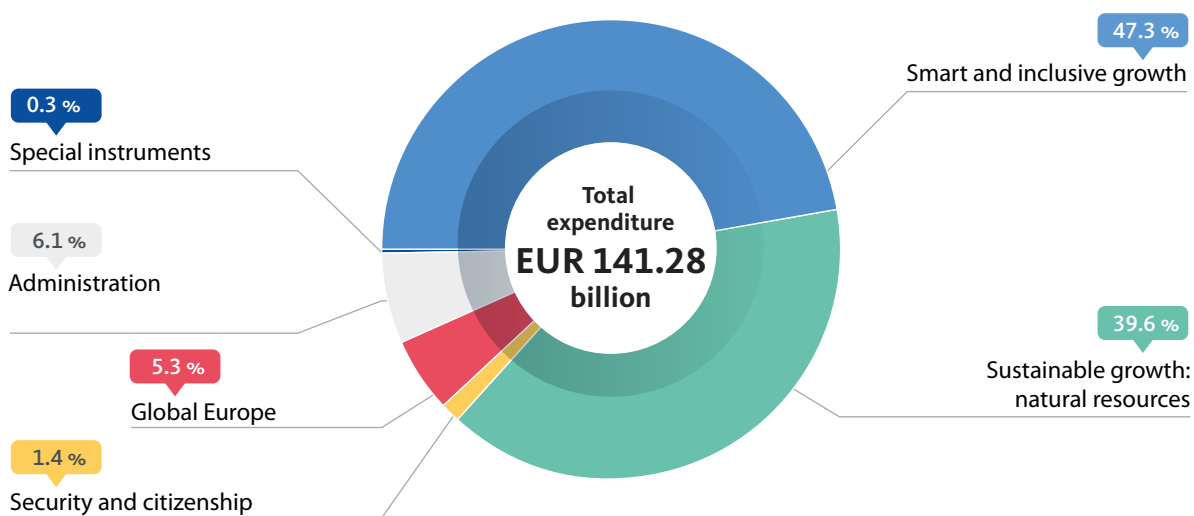
During 2014 and 2015, OLAF investigated the trafficking of counterfeit shampoo in the EU, in cooperation with the authorities of several Member States. One criminal organisation is thought to have imported around 50 containers of counterfeit shampoo over a six month period. Several million bottles manufactured in China and smuggled via Dubai and Singapore were seized by national authorities in France, Germany, the Netherlands, Italy and Spain. In addition, these investigations led to the closure of two illegal factories in Spain which were manufacturing similar counterfeit shampoo from materials imported from China or procured locally. Together, these illegal plants had a capacity of half a million bottles per month. In financial terms, the VAT loss alone to national budgets was at least EUR 3 million, in addition to the other revenue lost from black market trading. For the consumer, the trade in this counterfeit shampoo meant at best the purchase of an inadequate product, since the "shampoo" did not contain the essential active component of the genuine product. At worst, the consumer risked adverse health consequences since some of the counterfeit product contained a cosmetic ingredient which is banned in the EU.



EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, allowances, travel and relocation expenses, social security and health entitlements. They may also be at risk from corrupt activity by members and staff in procurement procedures, and from other forms of

corruption such as attempts to illicitly influence decision-making and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business, which also makes investigations more complex.

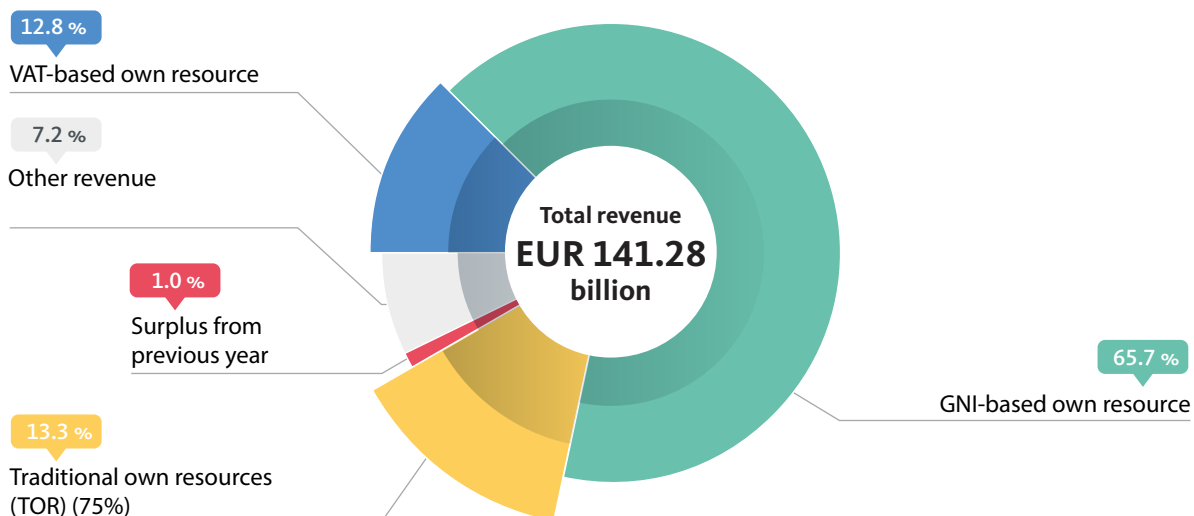
Figure 1: EU expenditure in 2015



Source: OJ L48, 24.2.2016, p. 13

Disclaimer: these amounts are still subject to reliability checks by the European Court of Auditors.

Figure 2: EU revenue in 2015

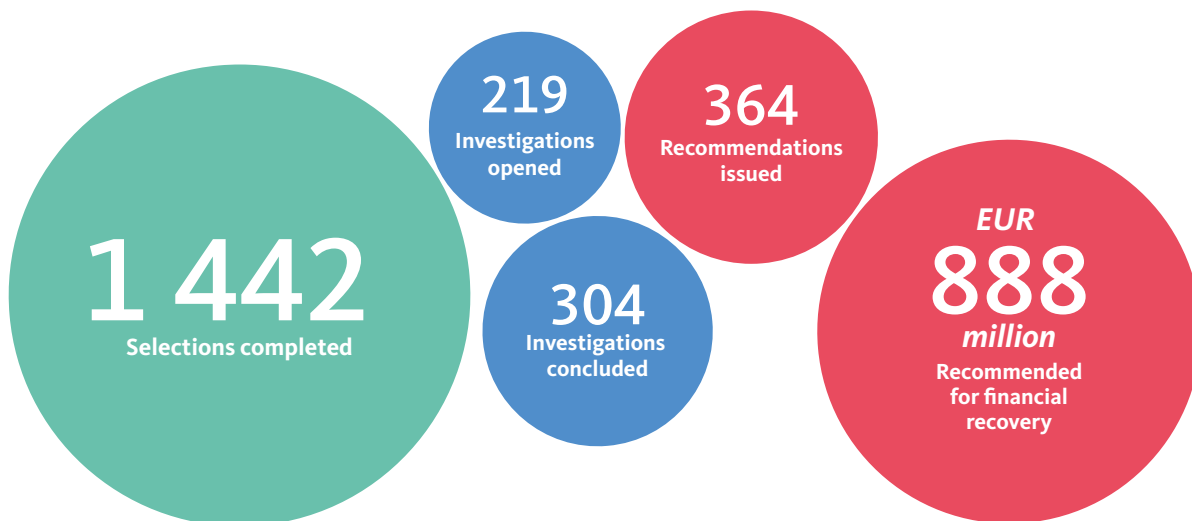


Source: OJ L48, 24.2.2016, p. 14

Disclaimer: these amounts are still subject to reliability checks by the European Court of Auditors.

## 2. Investigative activity

Figure 3: OLAF's investigative work in 2015



With 304 investigations concluded, 2015 proved to be yet another excellent year for OLAF. Following its reorganisation in 2012, the Office has now reached “cruising altitude,” its work is consistently effective and timely. The numbers speak for themselves – the Office assessed more items of information than in 2014 and took less time to do so. Moreover, OLAF opened a high number of new investigations and recommended more than EUR 888 million for financial recovery. These results are detailed in the following chapters, along with supporting graphs.

### 2.1. A successful reorganisation

As four years have passed since OLAF's internal reorganisation of 2012, it is now possible to have an overview of the effects that this has had on OLAF's performance. The results are as clear as they are impressive – the Office has, in effect, doubled its capacity, and the gains in efficiency are reflected across all areas of OLAF's work. Comparing the period before the reorganisation (2008-2011) with the period after (2012-2015), we can see that OLAF has increased the number of investigations it has concluded by 93%. The number of new investigations has also significantly improved, with 86% more investigations opened post-reorganisation. Consequently, OLAF delivered 83% more recommendations after 2012. OLAF completed 57% more

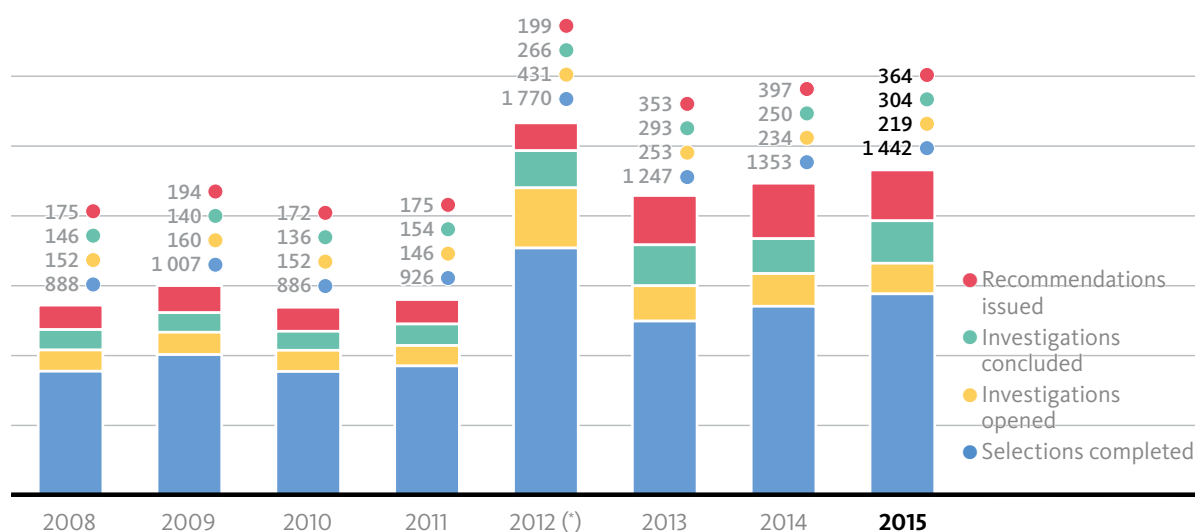
selections after the reorganisation, and has done so faster, providing sources with a prompt answer, even if the case was eventually dismissed. Indeed, compared to 2008, OLAF has almost doubled the number of cases it assesses in a year, while reducing the selection time by more than 60%.

The numbers are particularly good as the gains in efficiency have been achieved despite a decrease in staff and a change in OLAF's investigative procedures. Regulation 883/2013<sup>(?)</sup>, which provides for both additional investigative requirements and more stringent internal controls, has led to more complex investigation and selection processes. The additional requirements should have naturally led to longer investigations. Still, the average duration of investigations, including the selection phase, has decreased in the past four-year period by 18%, which is equivalent to 4.7 months. Since its reorganisation, the Office has consistently worked better, faster and has used fewer resources to do so.

<sup>(?)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.



Figure 4: OLAF in 2015: a record number of concluded investigations



(\*) The figures for 2012 include 219 investigation cases, already under evaluation, opened as a result of the reorganisation of 1.2.2012.

Figure 5: Impact of OLAF's reorganisation of 2012

	2008-2011	2012-2015	Before/After reorganisation
Number of selections completed	3 707	5 812	+ 57 %
Number of investigations opened	610	1 137	+ 86 %
Number of investigations concluded	576	1 113	+ 93 %
Number of recommendations issued	716	1 313	+ 83 %
Average duration of investigations (concluded and on-going) including the selection phase (in months)	26.6	21.9	- 18 %

## 2.2. The selection phase

### OLAF DEVELOPS A FASTER, MORE EFFICIENT SELECTION PROCESS

OLAF's investigative work starts with the selection procedure. OLAF assesses all incoming information in order to determine whether it meets the criteria for opening an investigation. This selection procedure is carried out by the Selection and Review Unit, which reports directly to the Director-General.

The first issue is whether the matter falls within OLAF's legal competence: if the matter lies outside OLAF's competence, it may be appropriate for OLAF to pass the information to another body, for example to a national judicial authority if the allegation relates purely to fraud against national finance. If the matter falls within OLAF's competence, it is assessed further.

The second issue is then whether there is sufficient suspicion of fraud or irregularities to open an investigation, given the information available, the reliability of the source and the credibility of the allegations.

If sufficient suspicion is established, the third issue is whether it is appropriate to open an investigation in the light of the following interrelated criteria: proportionality, efficient use of investigative resources and subsidiarity. Whether an investigation falls within the Investigation Policy Priorities of OLAF is a determining factor in favour of opening at this stage.

The Selection and Review Unit submits an Opinion to the Director-General. The Director-General may decide to open an investigation, to open a coordination case – in which OLAF may coordinate or assist other authorities without undertaking investigative acts itself - or to dismiss the case.

The following examples illustrate some of the considerations which determine whether OLAF will open an

investigation. They are hypothetical but are based on OLAF's experience.

**1** *An anonymous correspondent alleges systematic violations of procurement procedures for infrastructure funded partly by the EU in a Member State. He claims that named national senior officials are linked to the company which has won important contracts and that the local judicial authorities have taken no action on complaints.*

Although the informant is anonymous, his communication to OLAF is well structured and coherent. OLAF's checks in open sources and Commission databases confirm that his knowledge of the details of projects is accurate, suggesting that he may have inside access. Furthermore, open source searches reveal local press reports alleging illicit influence on the projects. Contacts with OLAF's main partner in the Member State confirm that the local authorities are not investigating the matter.

OLAF opens an investigation.

**2** *An informant alleges that a named beneficiary of EU funds has made false declarations in order to obtain a subsidy. OLAF checks confirm that the beneficiary has indeed obtained the subsidy in question and that the allegations appear credible. However, OLAF's contacts with authorities in the Member State in question reveal that a national criminal investigation is already well advanced.*

OLAF does not open an investigation since it would not represent effective use of OLAF resources.

**3** *A company which has failed to win a tender published by an EU institution alleges misconduct in the procurement procedure. The allegations are general in character and seem to rely on hearsay, though they target named officials. Initial checks in open sources and the institution's databases do not reveal any apparent grounds for concern. Checks of OLAF's own records confirm that the complainant has made many such complaints in the past, none of which were substantiated.*

OLAF does not open an investigation since there are not sufficient grounds for suspicion given the lack of specific information and the doubtful reliability of the source.

**4** *OLAF receives information suggesting that staff members of an EU delegation in a developing country have infringed the EU staff regulations in various respects to favour the interests of family and friends. The information is well substantiated and seems to reflect a recurrent issue at the location.*

Although at first sight the financial consequences to the EU appear negligible, there is a reputational risk and potential for fraud. OLAF is the only body with the investigative powers and resources to establish the facts. OLAF opens an investigation.



**Figure 6: OLAF has completed more selections in a shorter time.**

	2008	2009	2010	2011	2012	2013	2014	2015
Number of selections completed	888	1 007	886	926	1 770	1 247	1 353	1 442
Average duration (in months) of selection phase	5.0	5.8	6.3	6.8	1.4	1.8	2.0	1.7

OLAF's flow of incoming information seems to have stabilised, reflecting the positive cooperation OLAF has established with its partner institutions and other public authorities, together with its efforts to inform European citizens of the need to report fraud. OLAF recorded 1372 incoming items of information in 2015 and completed 1442 selections. There was a marked reduction in the average duration of selections, from 2.0 months in 2014 to 1.7 months in 2015, with more than 90% of selections completed within two months. OLAF's procedures, together with a better allocation of resources, have led to a faster, more efficient selection process.

OLAF's performance remained strong in 2015, with the Office closing 304 investigations, a new record. OLAF concentrated particularly on finalising investigations older than 20 months, significantly decreasing the percentage of long-lasting investigations in its portfolio. During the last years, OLAF has aimed to have less than 30% of its investigations last more than 20 months. Due to the sustained efforts of investigators and continuous monitoring by managers, OLAF now has the lowest number of investigations lasting more than 20 months in the past three years, and has significantly reduced the percentage of long-lasting investigations compared to its pre-reorganisation period, from 38% in 2011 to 22% in 2015 (*Figure 7*).

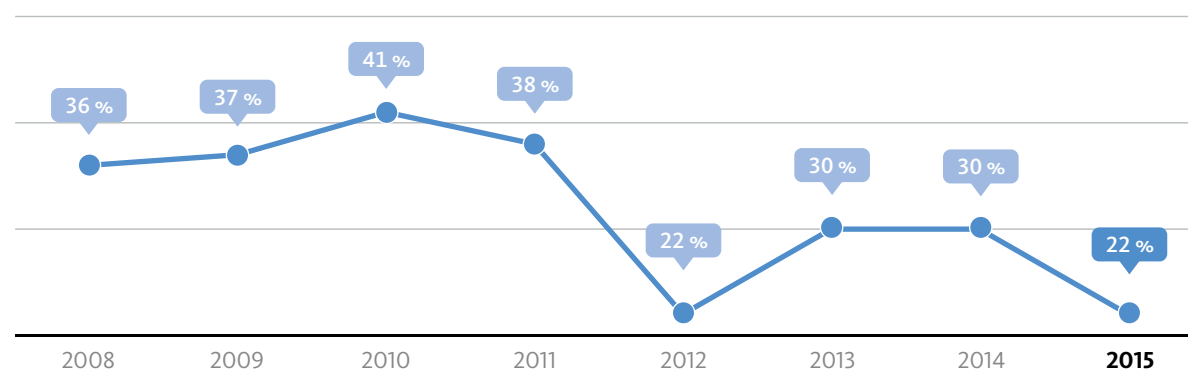
## 2.3. The investigation phase

### OLAF CLOSSES A RECORD NUMBER OF INVESTIGATIONS

On opening, investigations are allocated to the relevant investigation unit. Occasionally, the scope of an investigation may necessitate allocation to an ad hoc Special Investigation Team made up of staff from more than one unit.

OLAF also opened 219 new investigations in 2015, a particularly high number achieved against the backdrop of a decrease in investigative staff. Moreover, in terms of the average duration of investigations, OLAF's performance in 2015 has remained relatively stable compared to the previous year. This is confirmed by two different indicators.

The first indicator (*Figure 8*) looks at both the duration of the investigations concluded during the year and the duration of the investigations that were on-going at the end of the year. This gives a complete picture of OLAF's

**Figure 7: Percentage of ongoing investigations lasting more than 20 months**

investigative performance, since it captures all investigations that have remained open for long periods of time.

OLAF has undertaken in 2015 to conclude older investigations lasting more than 20 months.

The second indicator (Figure 9) reflects only the duration of investigations concluded during the year. The slight increase in the duration of closed cases is due to the effort

In 2015, the Structural Funds sector continued to be the largest single area of OLAF's investigative activity, followed by external aid and centralised expenditure.

Figure 8: Average duration of closed and on-going investigations (in months)

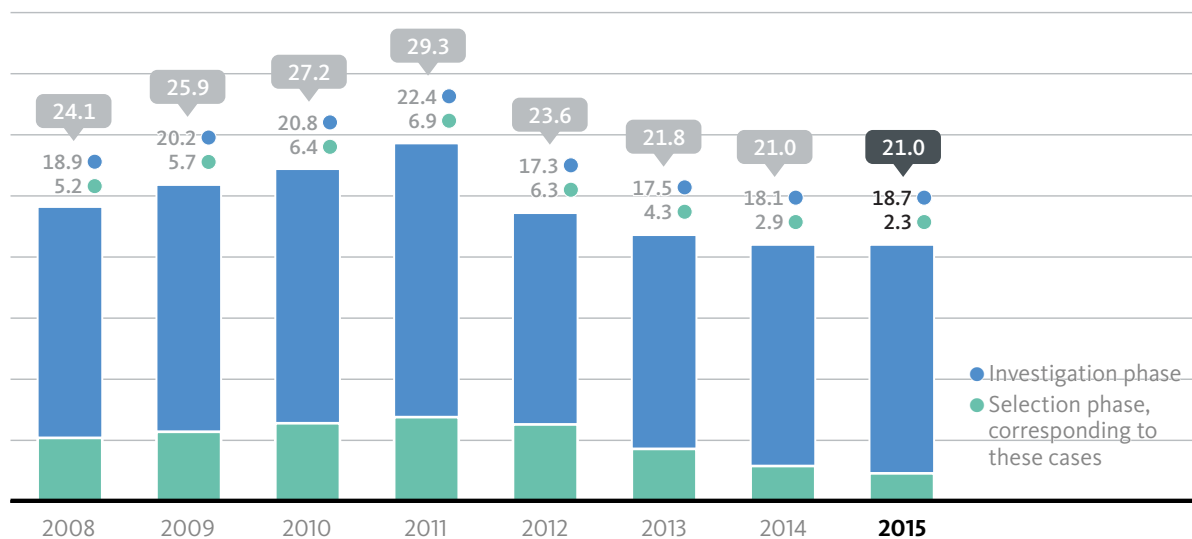


Figure 9: Average duration of closed investigations only (in months)

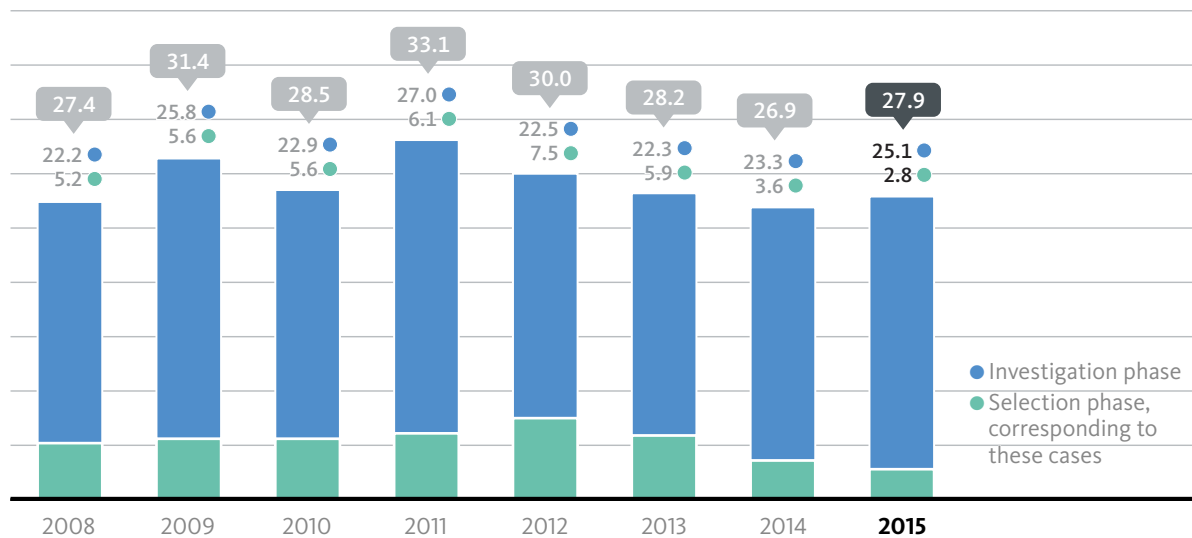
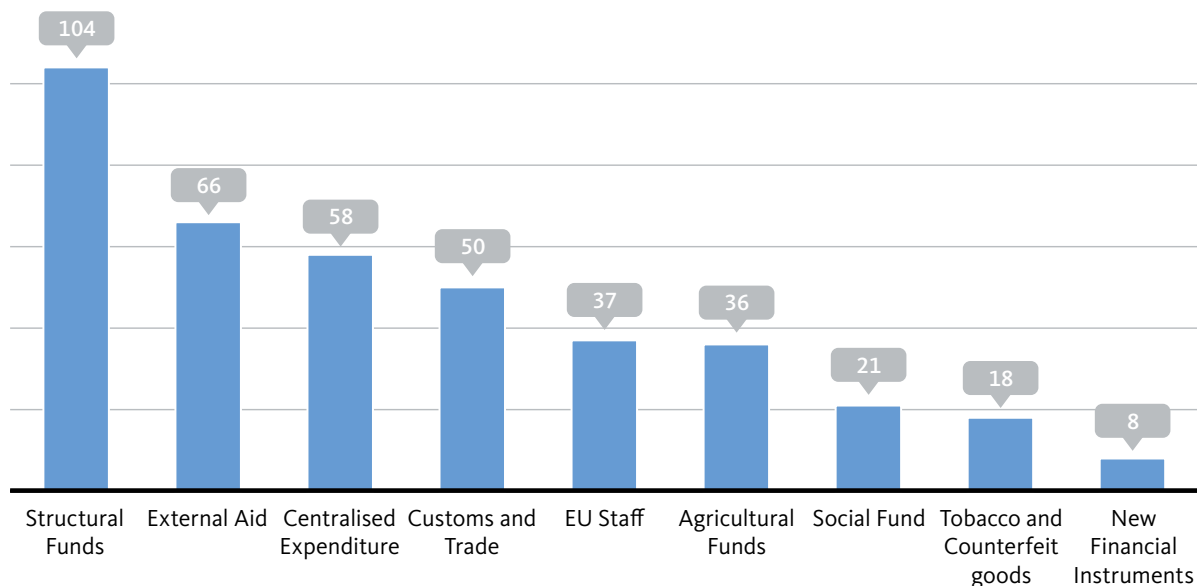




Figure 10: On-going investigations at the end of 2015, divided by sector



### Case study

#### OLAF investigation reveals manipulation of procurement procedures

OLAF investigated fraud allegations concerning the modernisation of a refrigeration plant for fruit and vegetables in Bulgaria, which had received EUR 1.3 million from the European Agricultural Fund for Rural Development (EAFRD). The initial information came from the Directorate- General for Agriculture and Rural Development of the European Commission and suggested there had been manipulation of the procurement procedure for machinery.

OLAF's analysis of documentation subsequently obtained from the Bulgarian Paying Agency confirmed this initial suspicion and pointed also to the fraudulent inflation of prices and misappropriation of EU funds. OLAF carried out on-the-spot checks with the assistance of national investigative authorities, in order to verify the elements of the commercial transactions and the origin of the machinery in question.

The investigation confirmed the allegations and pointed to financial damage to the EU budget, leading to the finding that the entire project was ineligible for EU funding. The fraud scheme uncovered by OLAF was the following: the Bulgarian beneficiary plant was owned by an Italian company, managed by an Italian citizen. The same Italian citizen was also the

beneficial owner and manager of the company which won the procurement procedure for the machinery. The winning tenderer was in fact a shell company which simply sold on finished equipment, thus acting as a mere intermediary. The manipulated procurement procedure resulted in a supply to the beneficiary at a substantially inflated price. Following OLAF's recommendations, criminal proceedings are in course in Italy and Bulgaria.





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

Year	2011	2012	2013	2014	2015
Coordination and investigation cases	156	156	281	168	602
Joint Customs Operations (JCOs)	2	0	68	132	17
<b>Total</b>	<b>158</b>	<b>156</b>	<b>349</b>	<b>300</b>	<b>619</b>

OLAF has also supported the investigations of national authorities, in what we call coordination cases. However, in such cases OLAF has only limited powers and does not carry out investigative activities. The added value of OLAF’s involvement relates to its capacity to coordinate multiple law enforcement agencies from different Member States, which increases the ability of these national authorities to successfully deal with cases of transnational crime.

Not all OLAF operational work takes the form of investigations or coordination cases. In the course of its efforts to counter the illicit trade in tobacco, OLAF receives information notably through its AFIS system <sup>(3)</sup>

about suspicious transit movements and dispatches this information to the national services, which are best able to use it, often in real time <sup>(4)</sup>. In addition, the Joint Customs Operations (JCOs), which OLAF organises with Member States and non-EU countries, also led to the seizure of smuggled goods. In 2015, 17 million cigarette sticks were seized during JCOs alone. OLAF estimates the total quantity of cigarettes seized as a result of its overall activities during the year at 619 million cigarette sticks.

<sup>(3)</sup> The Anti-Fraud Information System (AFIS) is an umbrella term for a set of anti-fraud applications operated by OLAF under a common technical infrastructure aiming at the timely and secure exchange of fraud-related information between the

competent national and EU authorities, as well as the storage and the analysis of relevant data. AFIS encompasses two major areas, Mutual Assistance in Customs matters and Irregularities Management on the expenditure side of the EU budget.

<sup>(4)</sup> The legal base for this activity is Regulation 515/1997 on mutual administrative assistance.

## Joint Customs Operations (JCOs) in 2015

In 2015, OLAF led three JCOs by providing intelligence, technical and financial support.

**JCO Sasha** targeted the smuggling of chemical drug precursors and the disruption of organised crime networks behind the transport of these illegal chemicals by sea and air. Almost all Member States participated in this action in the autumn of 2015, which was organised together with, and on the initiative of the French customs service and supported by Europol.

**JCO Baltica** was led by the Polish customs administration and OLAF, with the involvement of six Member States (Finland, Estonia, Latvia, Lithuania, Poland and Sweden) and Europol. The operation focused on the problem of illegal tobacco products coming from non-EU countries

such as Belarus and Russia. Over 13 million cigarettes were seized during the operation.

**JCO Romoluk II** was co-organised by OLAF and Romanian customs, targeting commercial and non-commercial consignments entering the EU on the Romanian border with Ukraine and Moldova via road and rail. As the aim of this JCO was not only to increase the number of seizures and disrupt criminal networks, but also to improve and increase the exchange of information and the level of cooperation between the services involved, the operation was carried out together with EUBAM, Frontex, Europol, Ukrainian and Moldovan customs and border police. This JCO led to 81 seizures, with a total of 3.74 million cigarettes.

## 2.4. Recommendations

### OLAF RECOMMENDS EUR 888 MILLION FOR FINANCIAL RECOVERY

Once an OLAF investigation has been closed, the Final Report and any recommendations issued by the Director-General of OLAF are forwarded to the competent authorities in Member States or in EU institutions and bodies, which are responsible for subsequent actions.

Through its recommendations, the Office creates the conditions for EU funds inappropriately spent to be recovered to the EU budget. OLAF also works to make sure any concerns regarding the conduct of EU staff and members of the EU institutions are promptly addressed. OLAF recommendations may be of a financial, judicial, disciplinary or administrative nature:

- ▶ Financial recommendations are addressed to the EU institutions, bodies or agencies providing or managing the EU funds, as well as to the competent authorities of Member States. The aim of financial recommendations is to seek the recovery of the defrauded EU funds or to prevent additional amounts from being disbursed.
- ▶ Judicial recommendations are addressed to the national prosecution authorities, asking them to consider taking judicial action.

- ▶ Disciplinary recommendations are addressed to the particular authorities with disciplinary powers in the EU institution or body concerned, asking them to consider disciplinary action against a specific staff member.
- ▶ Administrative recommendations are addressed to the EU institutions, bodies, organisations or agencies where weaknesses in administrative procedures, related to one or more cases, need to be addressed in order to prevent fraud.

In 2015, OLAF issued 364 recommendations. While most recommendations were of a financial nature, OLAF slightly increased the number of disciplinary and administrative recommendations compared to 2014.

The Office once again recommended a very large amount for financial recovery, more than EUR 888 million. While slightly lower than in 2014, the amount is still more than double that of 2013. The Structural and Social Funds sectors provided the bulk of the amounts recommended, with more than EUR 624 million, followed by the customs and trade area, and external aid. OLAF monitors these actions in order to take account of lessons learnt and to assess its own performance. Since OLAF Regulation 883/2013 came into effect on 1 October 2013, Member States have a statutory duty to report to OLAF on the actions they have taken as a result of OLAF recommendations.

Figure 12: Recommendations issued

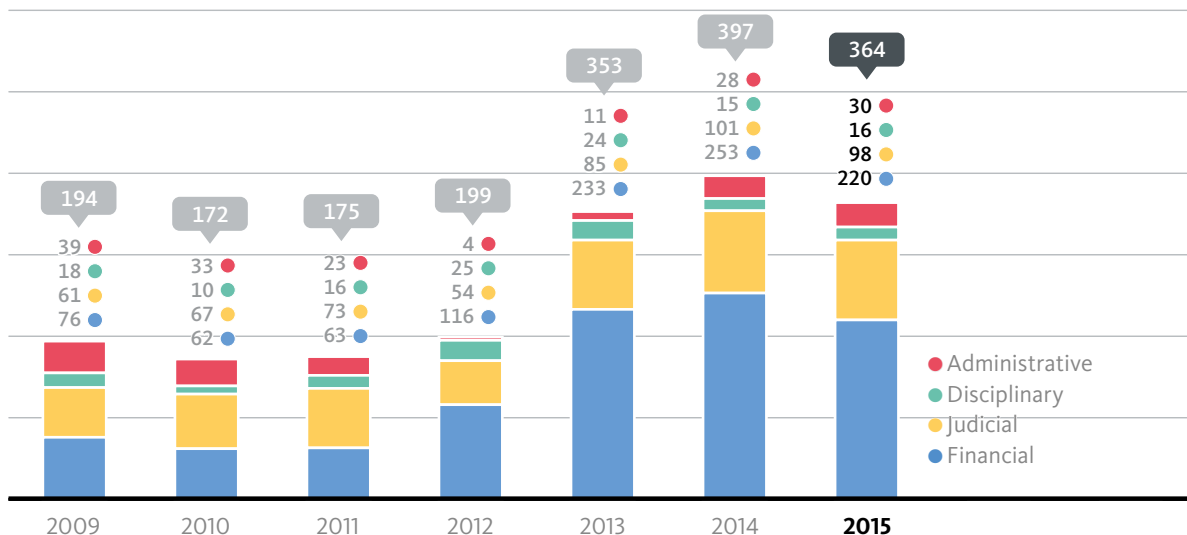
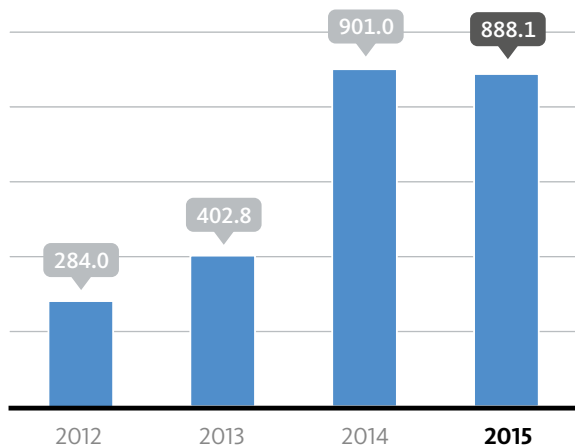


Figure 13: Amounts recommended by OLAF for financial recovery (million EUR)



Case study

OLAF recommends EUR 50 million recovery in anti-dumping case

In June 2013, the EU imposed an anti-dumping duty on solar modules produced in China. Initial indications that this duty was being evaded by misdescription of origin emerged within weeks. OLAF opened investigations in December 2013 into fraudulent transshipment via Japan (misdescription of Japanese origin) and in March 2014 into fraudulent transshipment via Malaysia (misdescription of Malaysian origin). OLAF requested assistance from Japanese and Malaysian authorities and conducted investigations jointly with several Member States. OLAF has so far recommended the recovery of over EUR 50 million and has advised several Member States to use the results of OLAF's investigations in criminal proceedings.

Figure 14: Amounts recommended by OLAF for financial recovery in 2015, divided by sector (million EUR)

Reporting sector	Amount recommended
Structural & Social Funds	624.0
Customs and Trade	97.9
External Aid	76.1
Centralised Expenditure	42.0
Agricultural Funds	36.8
New Financial Instruments	10.4
EU Staff	0.9
<b>Total</b>	<b>888.1</b>



## 2.5. Complaints on OLAF's investigative activity

Persons affected by an OLAF investigation may address a complaint directly to OLAF. The possibility to make a complaint to the Director-General of OLAF is without prejudice to the citizen's right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the European Courts.

In 2015, there were four complaints under the established procedures allowing persons involved in OLAF investigations to alert the Director-General about issues relating to the handling of the procedural guarantees.

The European Ombudsman opened inquiries in relation to three complaints involving OLAF in 2015, one of which was already closed in the course of the year. In this case, which concerned the handling of initial information, the Ombudsman concluded that the Office had appropriately considered whether to open an investigation and had dealt properly with the information. The two other inquiries were pending by the end of the reporting period. In two further cases, rapid solutions could be found without the opening of inquiries, following suggestions by the Ombudsman which were accepted by OLAF.

Issues related to OLAF investigations were also raised before the European Courts in a very limited number of cases. Usually, this occurs in the context of litigation against measures taken by the Commission or

other institutions, bodies or agencies based on OLAF recommendations, such as financial recovery or disciplinary procedures.

Despite the large number of investigations carried out by OLAF every year, the sensitive nature of its activities and the fact that OLAF deals with cases involving the integrity and reputation of natural persons, the low number of complaints confirm that OLAF consistently respects procedural guarantees.

OLAF's compliance with the requirements of Regulation 45/2001<sup>(5)</sup> is further scrutinised by the European Data Protection Supervisor (EDPS) in the context of complaints filed by data subjects.

In 2015, five complaints were filed with the EDPS, three of which have already been closed. In two, the EDPS confirmed that OLAF respected its legal obligations. In the third case, which raised questions concerning OLAF's procedures for digital forensic re-acquisition<sup>(6)</sup>, the EDPS considered that OLAF respected its obligations as regards the re-acquisition itself but failed to inform the complainant about the re-acquisition in a timely manner. The other two complaints were still being processed by the EDPS at the end of the reporting period.

In 2015, the EDPS issued three decisions relating to complaints filed in the previous years. In two cases, OLAF agreed to provide additional information to the complainant. In the third case, OLAF implemented an EDPS recommendation on updating its privacy statement.

<sup>(5)</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

<sup>(6)</sup> Forensic re-acquisition is the procedure by which a digital forensic image, which OLAF already possesses having acquired it for a specified investigation, is subsequently examined in the context of a different investigation.

### 3. OLAF's partners in the fight against fraud



*Mr Yu Guangzhou, Minister, General Administration of China Customs and Mr Giovanni Kessler, Director-General of the European Anti-Fraud Office, sign a Strategic Administrative Cooperation Arrangement in the presence of China's Premier Mr. Li Keqiang, of the President of the European Commission, Mr. Jean-Claude Juncker and of the President of the European Council, Mr. Donald Tusk.*

OLAF works in partnership with the EU institutions, bodies and agencies, as well as with many administrative, judicial, police and customs authorities in the Member States. OLAF also cooperates closely with international organisations and control authorities in non-EU countries.

The Member States are responsible for the management of 80% of EU expenditure and for the collection of the majority all of the EU's revenue from "own resources." Only Member State authorities have law enforcement powers.

Regulation 883/2013 requires all Member States to set up Anti-Fraud Coordination Services (AFCOS). The role of the AFCOS is "to facilitate effective cooperation and exchange of information, including information of an operational nature" with OLAF. However, the legislation is general in nature, so there are considerable differences among the national Coordination Services in terms of relative size and powers. Some have limited coordinating roles, while others have full investigative powers. OLAF organises an annual meeting of AFCOS to facilitate mutual understanding and to exchange views and best practices. Furthermore, OLAF assists

national authorities in improving their capacity to identify and prevent fraud against EU funds, providing them with training and practical tools to identify signs of fraud ("red flags").

OLAF also cooperates with the equivalent anti-fraud agencies of the United Nations, the World Bank and other international organisations. This work is facilitated by Administrative Cooperation Arrangements. In 2015 OLAF signed five new Arrangements with international organisations <sup>(7)</sup>. OLAF is a member of several anti-fraud and anti-corruption bodies, such as the European Partners against Corruption/ European Contact-Point-Network against Corruption, the Economic Crime Agencies Network and the International Association of Anti-Corruption Agencies.

OLAF also works with Europol and Eurojust in order to facilitate cooperation and synergies between investigations at national and EU level: in 2015, OLAF and

<sup>(7)</sup> The European Bank for Reconstruction and Development, the Inter-American Development Bank, the Organisation for Economic Cooperation and Development, the World Food Programme and the UN Office for Project Services.



Europol continued the process of reviewing the existing working arrangements. In its work with Eurojust, the emphasis was on identifying cases of common interest.

In the areas of customs and trade fraud, OLAF has developed close relationships with the authorities of a number of non-EU countries, which are important trade partners with the EU. In 2015 OLAF strengthened cooperation with China through the signature of a Strategic Administrative Cooperation Arrangement and of an Action Plan on undervaluation. OLAF has liaison officers in China and Ukraine.

OLAF also establishes, on a continuous or ad hoc basis as appropriate, relationships with non-EU country authorities, which are necessary to investigate fraud against the EU budget (mainly EU funds spent on external aid). In 2015, OLAF concluded Administrative Arrangements with partner authorities in Angola, Moldova and Senegal <sup>(8)</sup>.

The EU institutions, agencies and bodies are directly responsible for the expenditure of about 20% of the EU budget and employ about 33,000 staff members. Administrative arrangements between OLAF and EU institutions are important because they provide a structured framework for cooperation – particularly in relation to internal investigations, they facilitate the timely exchange of information, and they reflect OLAF's investigative independence. Arrangements with the European Commission and the European External Action Service were signed in January 2015, and with the Economic and Social Committee and the European Investment Bank in early 2016 after concluding negotiations in 2015. Moreover, significant progress was made in 2015 in discussions with the European Central Bank and the Council.

While OLAF has the power to investigate allegations of fraud against the EU Budget within EU bodies, and also other allegations of serious misconduct involving Members of staff of EU institutions and bodies, the recovery of funds and the initiation and conduct of disciplinary proceedings are the responsibility of the EU institution or body concerned. Criminal proceedings against Members or employees can only be undertaken by a Member State which has jurisdiction over the individual in question.



It follows that OLAF can only succeed in its mission if it maximises its capacity to engage and leverage the contribution of all of its partners in the fight against fraud to the EU budget, at all stages of the investigation or coordination cases.

## Inter-institutional exchange of views on OLAF's investigative policies

The Regulation governing OLAF foresees an annual exchange of views at political level between the Parliament, the Council, the Commission and the Director-General of OLAF, with the participation of the OLAF Supervisory Committee. The second annual exchange took place on 28 September 2015. The discussions focused on OLAF's Investigation Policy Priorities and on the conclusions drawn by the European institutions from the 2014 OLAF Report and the Supervisory Committee's Activity Report for 2014.

<sup>(8)</sup> The Office of the Inspector General of Angola, the National Anti-Corruption Centre of Moldova, and the National Anti-corruption and Anti-fraud Office of Senegal.

### 3.1. Sources of information

One indication of the level of engagement of Member States is the number of items of information about possible fraud or misconduct forwarded to OLAF, especially when the information comes from an official body. Member States' authorities are encouraged to send such information to OLAF in particular in those cases where OLAF's involvement is of added value, for example in complex cross-border cases.

In 2015, Member States collectively provided 65 items of information, which represents only two-thirds of the

information that they had provided in 2014. Indeed, 11 Member States provided half or fewer items of information than they had in 2014 and only three Member States provided more.

There are reasons why this number varies among Member States - not just differences in the number of inhabitants, but also in the level and nature of EU expenditure in certain Member States. The presence of EU institutions on the territory of some Member States may also lead to the recording of relatively more information from those particular Member States. While OLAF supports Member States to develop their own

Figure 15: Incoming information by source

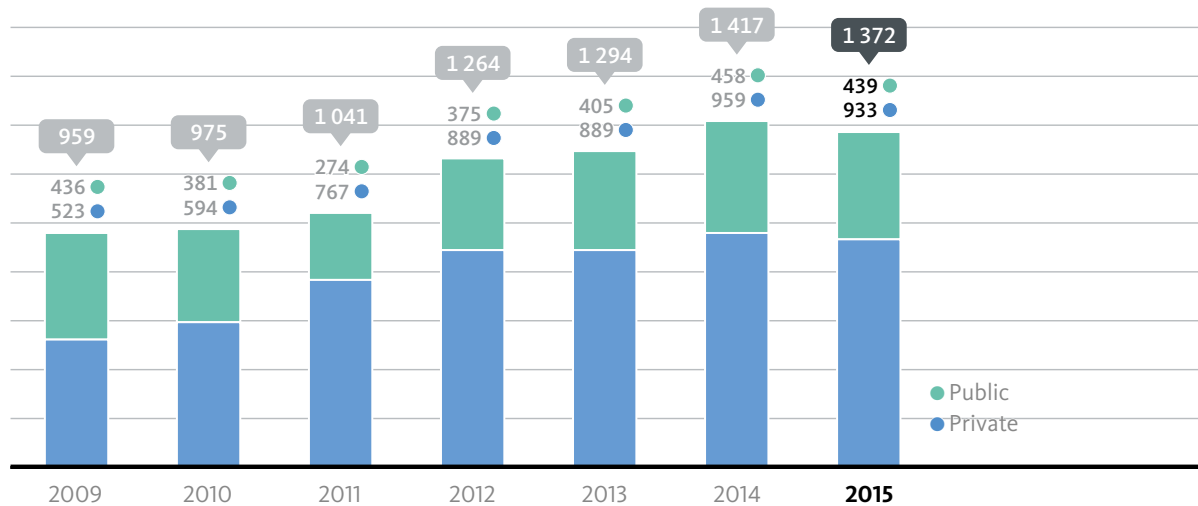
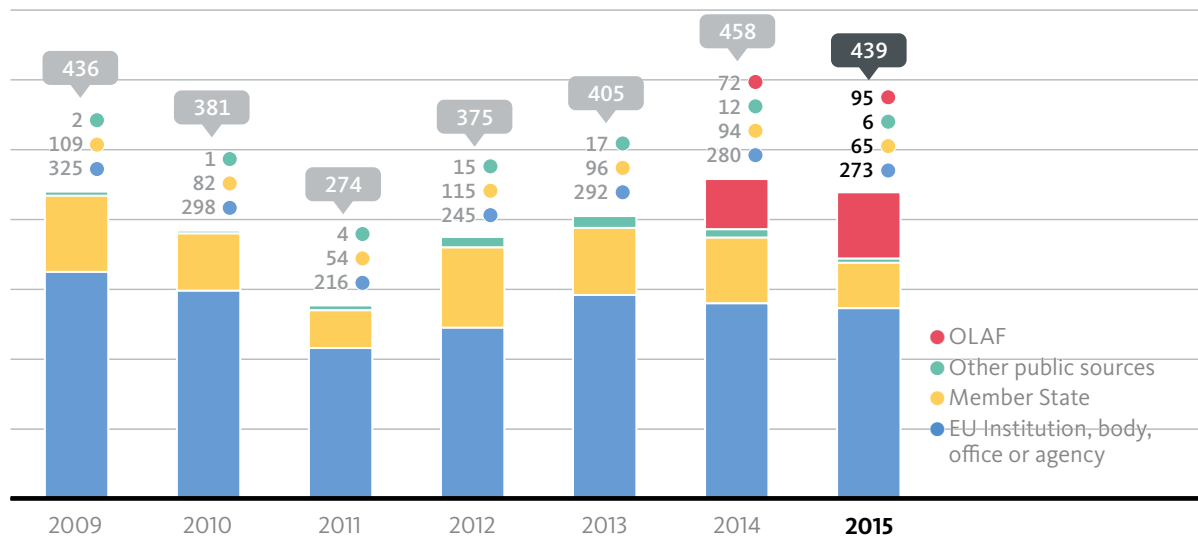


Figure 16: Incoming information from public sources



Note: The items of information now marked as OLAF were previously counted under the EU Institution, body, office or agency heading.

anti-fraud strategies and encourages them to provide the Office with any information on fraud cases affecting the EU's financial interests, some national authorities forward very little information to OLAF.

**Figure 17: Incoming information from Member States in 2015**

Member State	Public source	Private source	Total
Austria	0	6	6
Belgium	8	20	28
Bulgaria	2	32	34
Croatia	4	3	7
Cyprus	0	1	1
Czech Republic	2	10	12
Denmark	0	3	3
Estonia	0	1	1
Finland	0	2	2
France	2	13	15
Germany	5	29	34
Greece	3	13	16
Hungary	1	20	21
Ireland	0	8	8
Italy	12	28	40
Latvia	0	6	6
Lithuania	1	4	5
Luxembourg	0	2	2
Malta	0	1	1
Netherlands	1	7	8
Poland	6	18	24
Portugal	2	2	4
Romania	11	38	49
Slovakia	0	11	11
Slovenia	0	5	5
Spain	3	17	20
Sweden	1	4	5
United Kingdom	1	11	12
<b>Total</b>	<b>65</b>	<b>315</b>	<b>380</b>

Most of the incoming information sent to OLAF by Member States comes from private sources. However, information from private sources tends to be less reliable than information from official sources, since it often relates to matters which are outside OLAF's remit. Private information is nevertheless an essential source for the opening of OLAF investigations. Again, there are marked differences in the quantity of information provided by private sources in different Member States and it is not always easy to determine where the informant is resident. The figures therefore need to be interpreted with caution. They are, however, of some interest as indications of the level of awareness of the existence of OLAF, of citizens' concerns about fraud and corruption in public life, and of citizens' perception of the importance of protecting EU funds.

Most of the allegations of fraud or serious misconduct that OLAF received from public sources were submitted by EU institutions, bodies, offices or agencies. This was virtually the same in 2015, with 273 items, a testament to the successful implementation of anti-fraud strategies within the European Commission. However, information from employees of EU institutions and bodies, which was forwarded to OLAF on their own initiative rather than through official channels, increased to 95 items in 2015.

While the Office received slightly fewer items of incoming information than in 2014, the largest amount of incoming information was, once again, related to the Structural Funds sector.

## 3.2. Partnership in investigations

### COOPERATION WITH THE AUTHORITIES OF MEMBER STATES

During its investigation process, OLAF works closely with partner services in the Member States and elsewhere, and with any EU bodies concerned.

In 2015, OLAF concluded 199 investigations into the use of EU funds managed in whole or in part at national or regional level. These included 23 Member States and 26 non-EU countries and territories. These investigations covered the sectors of Structural and Social Funds, agricultural funds, new financial instruments and external aid.

**Figure 18: Investigations into the use of EU funds managed in whole or in part at national or regional level concluded in 2015**

		<i>Concluded with recommendations</i>
Romania	45	22
Bulgaria	19	12
Hungary	17	14
Greece	13	4
Slovakia	11	5
Italy	9	4
Poland	8	5
Netherlands	6	1
Germany, Moldova, Spain	15 (5 per country)	8
France, Guyana, Portugal, Turkey	16 (4 per country)	9
Serbia	3	1
Armenia, Croatia, Czech Republic, Ethiopia	8 (2 per country)	5
Afghanistan, Austria, Bangladesh, Belgium, Bosnia and Herzegovina, Cameroon, Congo (Brazzaville), Congo (Democratic Republic), Cyprus, Eritrea, Estonia, Georgia, Honduras, Kosovo, Latvia, Liberia, Libya, Lithuania, Mali, Malta, Nigeria, Pakistan, Russian Federation, Saint Lucia, Sierra Leone, Sri Lanka, Sweden, Ukraine, United Kingdom	29 (1 per country)	16
<b>Total</b>	<b>199</b>	<b>106</b>

OLAF's overall caseload in Bulgaria and Romania includes a large number of related investigations involving the misuse of funds from the Special Accession Programme for Agriculture and Rural Development (SAPARD). SAPARD funds supported the efforts of the two Eastern European countries in the pre-accession period to prepare for their participation in the common agricultural policy and the single market.

For this particular line of funding, national authorities in Romania and Bulgaria requested OLAF to open separate

investigations for each project concerned. This approach has led to a relatively heavy caseload concerning Bulgaria and Romania, which has also had an impact on the number of cases concluded with recommendations. As detailed in the table below, most of the SAPARD investigations were closed with recommendations; in the case of Romania, 83% of the investigations into cases involving SAPARD funds were concluded with recommendations, while in Bulgaria, this figure was 100%.

**Figure 19: Investigations concluded in Romania and Bulgaria in 2015, separated into SAPARD and non-SAPARD cases**

		<i>Concluded with recommendations</i>
Romania – SAPARD	12	10
Romania – EXCLUDING SAPARD	33	12
Bulgaria – SAPARD	2	2
Bulgaria – EXCLUDING SAPARD	17	10



## COOPERATION WITH EU INSTITUTIONS AND BODIES

OLAF concluded 40 internal investigations during 2015. The OLAF Report for 2014 contained for the first time a breakdown of these internal investigations by the institution and body concerned, in response to the interest expressed by stakeholders. *Figure 20* sets out this information for 2015. The overall number of internal investigations concluded is the same as last year but includes slightly more investigations in the European Parliament and the European Commission and fewer elsewhere.



### Case study

#### OLAF investigation prevents loss of EUR 4.3 million

OLAF investigated the misuse of EU funding for a manufacturing project in Hungary. The investigation showed that the supplier of machinery – the Pacific subsidiary of an Asian company – was de facto under the control of the Hungarian beneficiary. Prices had been fraudulently inflated and the machinery funded was not new and had been embellished with false serial numbers. OLAF's in-house forensic analysis team examined electronic data seized during on-the-spot checks and found evidence of the real nature of the beneficiary's relationship with the supplier. The Italian authorities contributed to the success of the investigation by establishing the true origin of the machinery. The Hungarian authorities are in the process of recovering some EUR 2.2 million and have not disbursed a further EUR 2.1 million that had been earmarked for the project. National judicial proceedings are ongoing.

**Figure 20:** Investigations into EU staff and members of the institutions concluded in 2015

		Concluded with recommendations
European Parliament	12	6
European Commission	11	5
European External Action Service	8	3
Agencies	5	3
Court of Justice	1	1
Council of the EU	1	1
Other EU bodies	2	0
<b>Total</b>	<b>40</b>	<b>19</b>



### 3.3. Judicial monitoring

Figure 22 summarises the actions taken by national judicial authorities following OLAF's judicial recommendations between 2008 and 2015. Due to the length of time judicial proceedings can take, especially where complex investigations are involved, OLAF measures these results over a seven-year rolling period. The outcome for the last seven years confirms the results from the previous period, namely that around half of the cases submitted by OLAF to national judicial authorities lead to indictments. There are significant differences between the indictment rates in individual Member States and, in the case of some Member States, between the indictment rates recorded from one rolling period to the next.

As previously explained, OLAF's overall caseload in Bulgaria and Romania includes a large number of investigations involving the misuse of SAPARD funds. However, SAPARD-related cases have led to a relatively low rate of judicial indictment. This was mainly due to the widespread use of consultants and agents in preparing aid applications and tender documents, which raised doubts at judicial level about the fraudulent intent of the beneficiaries. In both countries, the indictment rate of non-SAPARD cases is higher.

In 2014, OLAF undertook an analysis of the decisions by which national authorities in a number of Member States determined not to pursue cases following OLAF judicial

recommendations. In 2015, this exercise was repeated in relation to a further group of Member States. While it is not for OLAF to question the validity of national prosecutors' decisions to dismiss individual cases on grounds such as the inadequacy of evidence, OLAF's analysis confirms the argument in support of the Commission's 2013 proposal for a European Public Prosecutor's Office (EPPO) <sup>(9)</sup>. Thus, like the impact assessment accompanying that proposal, this analysis identifies a tendency among some national prosecutors not to consider cases where the damage is to EU interests with the same level of priority as where national interests are concerned. This different approach might be due to the greater difficulty of investigating European fraud cases, justifying a decision not to investigate them because of low public interest, given the length of time involved and the low probability of a positive outcome. The analysis will continue in the coming years, to help OLAF and its national partners develop a better understanding of how to improve the indictment rate and the capacity of Member States to prosecute fraud affecting the financial interests of the EU. At the same time, the establishment of an EPPO should gradually help resolve these problems and better protect the EU budget.

<sup>(9)</sup> Proposed by the Commission in 2013, COM(2013) 534 final. See in particular the Impact Assessment accompanying the proposal SWD(2013) 274 final, pp 19- 20, [http://ec.europa.eu/justice/criminal/files/eppo\\_impact\\_assessment\\_en.pdf](http://ec.europa.eu/justice/criminal/files/eppo_impact_assessment_en.pdf).



**Figure 21: Judicial recommendations and indictment rate in Romania and Bulgaria, separated into SAPARD and non-SAPARD cases (2008-2015)**

	Number of judicial recommendations	Indictment rate
Romania – SAPARD	65	20 %
Romania – EXCLUDING SAPARD	35	50 %
Bulgaria – SAPARD	8	20 %
Bulgaria – EXCLUDING SAPARD	29	69 %

**Figure 22: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2008 and 31 December 2015 (\*)**

Number of Judicial recommendations by Member State	No decision taken by JA		Decision taken by JA			Indictment Rate	
	Reporting period (**)	On-going	Total	Dismissed	Indictment		
Austria	7	1	6	3	3	50 %	
Belgium	45	5	32	15	17	53 %	
Bulgaria	37	8	21	9	12	57 %	
Croatia	1	1	0			NA	
Cyprus	4		4	3	1	25 %	
Czech Republic	9	1	6	4	2	33 %	
Denmark	4		3	2	1	33 %	
Estonia	3		3	2	1	33 %	
Finland	4	3	1	1		0 %	
France	20	2	13	6	7	54 %	
Germany	36	9	24	12	12	50 %	
Greece	22	4	10	1	9	90 %	
Hungary	22	4	4	3	1	25 %	
Ireland	3		2	2		0 %	
Italy	60	7	39	11	28	72 %	
Latvia	5	2	1	1		0 %	
Lithuania	8	1	7	4	3	43 %	
Luxembourg	10	1	3	2	1	33 %	
Malta	6		4		4	100 %	
Netherlands	15	6	6	5	1	17 %	
Poland	17	4	13	2	11	85 %	
Portugal	14	2	6	6		0 %	
Romania	100	16	67	48	19	28 %	
Slovakia	14	3	8	7	1	13 %	
Slovenia	4		1		1	100 %	
Spain	26	5	15	10	5	33 %	
Sweden	4		2	1	1	50 %	
United Kingdom	27	10	16	9	7	44 %	
<b>Grand Total</b>	<b>527</b>	<b>94</b>	<b>116</b>	<b>317</b>	<b>169</b>	<b>148</b>	<b>47 %</b>
<b>Grand Total without SAPARD</b>	<b>454</b>	<b>92</b>	<b>99</b>	<b>263</b>	<b>126</b>	<b>137</b>	<b>52 %</b>

(\*) This includes updated figures resulting from the monitoring exercise conducted in 2015.

(\*\*) 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. 'Reporting period' means these cases are still in this 12 month period.

### 3.4. Disciplinary monitoring

Figure 24 summarises the actions taken by the disciplinary authorities of EU institutions and other bodies in the years 2013-2015 as a result of OLAF investigations and recommendations. OLAF measures these results over a three-year rolling period, to take account of the length of time which some disciplinary proceedings can take.

Figure 23 lists the sanctions imposed following OLAF's disciplinary recommendations issued between 2013 and 2015. These can go from warning or reprimand to removal from post.

**Figure 23: Sanctions imposed following OLAF's disciplinary recommendations issued between 1 January 2013 and 31 December 2015 (\*)**

Deferment of advancement or downgrading	2
Removal from post	6
Warning or reprimand	12

(\*) 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 into the same person concerned in one action and, subsequently, impose one single sanction.

**Figure 24: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued between 1 January 2013 and 31 December 2015 (\*)**

Main recipient	Total	No decision taken		Decision taken		
		Reporting period (**)	Ongoing	Total	No case is made	Action taken
Agencies	8		1	7	4	3
Committee of the Regions	1			1	1	
Council of the European Union	1		1	0		
Court of Justice	1			1		1
European Commission	28	6	5	17	7	10
European Economic and Social Committee	2			2	1	1
European External Action Service	4	1	3	0		
European Investment Bank	2			2		2
European Parliament	11	4	5	2	1	1
<b>Total</b>	<b>58</b>	<b>11</b>	<b>15</b>	<b>32</b>	<b>14</b>	<b>18</b>

(\*) This includes updated figures resulting from the monitoring exercise conducted in 2015.

(\*\*) When OLAF sends a disciplinary recommendation to an appointing authority, the competent authority has to report on the actions taken following the recommendation within 6 months. 'Reporting period' means that these cases are still in this 6 month period.

### 3.5. Financial monitoring

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

As Member States are responsible for most of EU spending, as well as manage the collection of the majority of the EU's customs revenue, their activities represent the first line of defence against any attempt to defraud the EU budget.

Therefore, under sectoral regulations, Member States are obliged to report to the European Commission any irregularity or suspicion of fraud <sup>(10)</sup> they encounter exceeding EUR 10,000. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU financial interests.

<sup>(10)</sup> 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.





**Figure 25: Member State/OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2013-2015**

Traditional Own Resources (TOR)				
Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities (*)	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % of TOR collected
	N	%	N	%
Austria	216	2.00 %	6	0.10 %
Belgium	574	0.80 %	17	0.80 %
Bulgaria	87	6.10 %	14	2.30 %
Croatia	32	1.50 %	0	0.00 %
Cyprus	30	2.10 %	5	0.10 %
Czech Republic	212	2.30 %	13	1.40 %
Denmark	204	1.20 %	12	0.80 %
Estonia	20	1.90 %	6	0.50 %
Finland	210	1.10 %	5	0.20 %
France	1 151	2.00 %	15	0.20 %
Germany	5 362	2.30 %	26	0.30 %
Greece	130	3.70 %	9	0.20 %
Hungary	155	1.10 %	8	0.60 %
Ireland	83	0.70 %	4	0.10 %
Italy	581	1.70 %	22	0.30 %
Latvia	77	4.70 %	8	3.30 %
Lithuania	142	2.60 %	7	1.80 %
Luxembourg	0	0.00 %	0	0.00 %
Malta	12	1.50 %	1	0.10 %
Netherlands	1 286	2.40 %	28	0.90 %
Poland	448	1.30 %	18	1.50 %
Portugal	107	1.70 %	10	0.90 %
Romania	248	4.70 %	18	2.90 %
Slovakia	51	1.10 %	7	0.50 %
Slovenia	44	0.90 %	10	0.30 %
Spain	1 114	2.20 %	18	0.70 %
Sweden	210	1.00 %	9	0.40 %
United Kingdom	3 334	6.30 %	26	0.40 %
<b>Total</b>	<b>16 120</b>	<b>2.70 %</b>	<b>322</b>	<b>0.50 %</b>

(\*) Please see 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 2014 Annual Report' (COM(2015) 386 final and the Commission Working Staff 'Statistical evaluation of irregularities reported in 2014' (SWD(2015) 186 final) and the other Reports and documents related to previous years at <https://ec.europa.eu/anti-fraud/about-us/reports/communities-reports>."

**Figure 26: Member State/OLAF detection of irregularities and their financial impact in the areas of Structural Funds and Agriculture for the period 2013-2015**

Shared Management: Structural Funds and Agriculture				
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	218	0.30 %	1	0.03 %
Belgium	249	0.60 %	1	0.03 %
Bulgaria	513	1.50 %	34	0.66 %
Croatia	5	0.20 %	1	0.00 %
Cyprus	69	0.60 %	0	0.00 %
Czech Republic	2 788	6.10 %	4	0.09 %
Denmark	165	0.20 %	0	0.00 %
Estonia	303	1.20 %	0	0.00 %
Finland	97	0.10 %	0	0.00 %
France	726	0.40 %	5	0.01 %
Germany	1 308	0.40 %	5	0.11 %
Greece	841	1.90 %	7	0.33 %
Hungary	1 876	0.90 %	29	3.51 %
Ireland	1 182	4.00 %	0	0.00 %
Italy	2 240	1.70 %	8	0.28 %
Latvia	379	2.70 %	1	0.01 %
Lithuania	777	2.30 %	3	0.09 %
Luxembourg	1	0.20 %	0	0.00 %
Malta	67	0.70 %	1	0.70 %
Netherlands	698	2.70 %	1	0.00 %
Poland	3 268	1.30 %	5	0.01 %
Portugal	1 161	1.10 %	5	0.22 %
Romania	3 606	3.40 %	90	0.58 %
Slovakia	976	15.40 %	10	3.97 %
Slovenia	203	2.30 %	0	0.00 %
Spain	6 853	3.00 %	4	0.66 %
Sweden	213	0.30 %	0	0.00 %
United Kingdom	2 111	1.00 %	0	0.00 %
<b>Total</b>	<b>32 893</b>	<b>1.90 %</b>	<b>215</b>	<b>0.42 %</b>



In parallel with the Member States, OLAF gathers data on the number of investigations it has conducted which have led to financial recommendations. On the basis of both internal information and data provided by Member States, OLAF has conducted an analysis in the field of Traditional Own Resources (TOR). The analysis provided an overview of the number of fraudulent and non-fraudulent irregularities detected by national authorities throughout the EU. They are shown as a percentage of the total TOR that authorities have collected for the years 2013-2015. Alongside the results by national authorities, the results obtained by OLAF during the same period are also published <sup>(11)</sup>.

OLAF analysts have also looked at similar data in the two main areas of shared management, namely Structural Funds and Agriculture, and the financial impact of irregularities as a percentage of the total payments for the years 2012-2014 <sup>(12)</sup>. In 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 25* shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources between 2013 and 2015 and the percentage that their financial impact represents in terms of the total TOR collected by Member States. OLAF results are shown alongside those of national authorities.

*Figure 26* shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management, namely Structural Funds and Agriculture, between 2013-2015 and their financial

impact expressed as a percentage of the total payments for the years 2012-14, divided by Member State. OLAF results are shown alongside those of national authorities.

Our analysis shows the important contribution OLAF investigations are making in helping recover EU funds that have been defrauded. In terms of Traditional Own Resources, OLAF financial recommendations would represent 15.6 % to 18.5 % <sup>(13)</sup> of the entire financial impact of investigative and control activities in the Member States. The numbers are even higher in the shared management areas, where the financial impact of the activities of all Member States together accounts for 1.9% of payments, while OLAF alone recommended the recovery of 0.42% of payments.

Despite its limited resources and lack of law enforcement powers, OLAF is consistently making a big difference in ensuring EU money can serve its intended goals.

### 3.6. Financial recoveries

While OLAF in itself does not have the power to recover funds, as this is the task of competent national authorities and EU bodies, in 2015 as a result of OLAF investigations, EUR 187.3 million was recovered to the EU budget. This amount is 10.2% lower than the sum recovered in 2014, namely EUR 206.4 million, while recoveries in 2013 amounted to EUR 117 million. It is important to note that there is no correlation between amounts recommended in a year and the amounts recovered in that year. Amounts recovered often related to cases closed in previous years.

<sup>(11)</sup> 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 need to be considered as provisional as final data are 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 - 2015' which will be published in July 2016.

<sup>(12)</sup> The financial impact of irregularities detected between 2013 – 2015 is compared with payments disbursed between 2012-2014 as, in the area of expenditure, investigations are very rarely related to payments disbursed in the same fiscal year.

<sup>(13)</sup> 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.

## 4. Developing anti-fraud policies

In addition to its investigative work, OLAF contributes to developing EU anti-fraud policies. The Office is engaged in the drafting and negotiation of legislative proposals concerning the protection of the EU's financial interests against fraud and corruption. Thanks to its anti-fraud expertise, OLAF can support the EU institutions in building a legal framework that offers improved protection to the EU budget.

As part of its policy work, in 2015 OLAF has taken an active role in furthering the initiatives below.

### 4.1. The legislative anti-fraud framework

The negotiations on the European Commission proposal for a Regulation on the establishment of the European Public Prosecutor's Office (EPPO) <sup>(14)</sup> continued in 2015. The Council discussed the proposal under the Presidencies of Latvia and Luxembourg and examined the first half of the Regulation dealing in particular with the structure of the EPPO, its competence and powers of investigation. The Council departed from the Commission proposal by expressing its preference for an EPPO with a collegial structure and shared competence between the EPPO and the Member States for offences affecting the financial interests of the EU. The Parliament issued a resolution in 2015 <sup>(15)</sup> calling in particular for an independent and efficient EPPO. Negotiations are expected to continue throughout 2016.

In 2015, the European co-legislators also pursued the negotiation on the proposed Directive on the fight against fraud to the EU's financial interests by means of criminal law ("PIF directive") <sup>(16)</sup>. Trilogue meetings that had started in 2014 continued during the first half of 2015. The Parliament and the Council were close to an agreement on almost all issues previously discussed, but negotiations stalled due to a disagreement on the question of whether or not to include VAT fraud in the

scope of the Directive. Following a judgment of the European Court of Justice of 8 September 2015 <sup>(17)</sup>, the negotiations have been re-launched.

The amendment of *Council Regulation (EC) 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters*, proposed by the Commission in 2013, was adopted by the co-legislators on 9 September 2015 <sup>(18)</sup>. This amendment improves the current framework for detecting and investigating customs fraud at EU and national level, in particular through the creation of centralised databases containing information on container movements and on the goods entering, leaving and transiting the EU. This will strengthen the analytical capabilities of both OLAF and national customs authorities.

In May 2015, the Commission presented two proposals for Council Decisions on the conclusion on behalf of the European Union of a Protocol to Eliminate Illicit Trade in Tobacco to the World Health Organisation's Framework Convention on Tobacco Control (the so-called FCTC Protocol). This Protocol is set to be the cornerstone of the EU's future policy to combat cross-border cigarette smuggling. The Commission has also begun to promote accession to the Protocol to key non-EU countries. The legislative process continues. The final adoption of this protocol is foreseen for 2016, and Member States are expected to ratify it.

Throughout the reporting period, the Commission also implemented the 2013 strategy to step up the fight against cigarette smuggling, in close cooperation with national customs authorities. Several new initiatives were undertaken in this context, such as the creation of a dedicated laboratory for the independent analysis of seized tobacco products.

In 2015, the Commission adopted the package of four Delegated and four Implementing Regulations on the

<sup>(14)</sup> COM(2013) 534 final.

<sup>(15)</sup> P8\_TA-PROV(2015)0173.

<sup>(16)</sup> COM(2012)363.

<sup>(17)</sup> Case C-105/14, «Taricco». The court concluded that the current EU legal instrument protecting the EU's financial interests, namely the PIF Convention which the PIF Directive should replace, covers VAT fraud.

<sup>(18)</sup> Council and Parliament Regulation (EU) 2015/1525EU - OJ L243, 18.9.2015.



Reporting of Irregularity provisions in the area of shared management for the Multi-annual Financial Framework 2014-2020. The acts entered into force in November 2015 <sup>(19)</sup>. The objective is to improve the quality and consistency of the information related to fraud received from Member States whilst imposing a minimal administrative burden on national authorities. An important element of the revised Financial Regulation is the establishment of a new Early Detection and Exclusion System which entered into force in 2016.

## Institutional support to the development of fraud prevention activities

In 2015, OLAF maintained its coordination role and support function for the implementation by the Commission services of the 2011 Commission Anti-Fraud Strategy (CAFS). OLAF plays an advisory role through the Commission Fraud Prevention and Detection Network, guidance notes and training sessions. OLAF has also regular meetings and training sessions on fraud prevention with the other EU institutions, bodies and agencies.

OLAF also steers and chairs the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), composed of representatives of Member States' authorities. COCOLAF deals with horizontal questions relating to the general policy of fraud prevention and the protection of EU financial interests. An important achievement of COCOLAF and its subgroups is the adoption of two guidance documents: "National Anti-fraud Strategy in practice: preparatory phase" and "Identifying conflicts of interests in the agricultural sector - A practical guide for funds managers".

<sup>(19)</sup> OJ L 293, 10.11.2015

## 4.2. Financial support for improving Member States' capacities to fight fraud

OLAF is responsible for the management of the Hercule III Programme <sup>(20)</sup>, which supports actions and projects that aim to protect the financial interests of the European Union. The Programme has a budget of more than 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 year. The annual work programme for 2015 made available a budget of EUR 14 million for the purchase of, for example, specialised technical equipment by law enforcement agencies in the Member States, such as customs authorities. The Hercule Programme also supported conferences, seminars and training events attended by members of national administrations, law enforcement agencies and NGOs in order to strengthen mutual cooperation in the protection of the EU's financial interests.

In 2015, the Commission adopted a Report <sup>(21)</sup> on the achievement of the objectives of the Hercule II programme (2007-2013), based on the results of an independent evaluation. The evaluation found that the support granted to Member States led to better transnational and multidisciplinary cooperation between authorities and strengthened the operational and investigative capacity of its main beneficiaries.

In order to protect the EU funds disbursed in Ukraine, particularly following the adoption of the financial support package <sup>(22)</sup>, and to support the country's law enforcement capacity, the European Commission and OLAF are evaluating the possibility of setting up, together with the Ukrainian authorities, an EU-Ukraine Joint Investigative Body. The Investigative Body would be mandated to carry out criminal investigations against fraud and corruption occurring in Ukraine and affecting aid granted by the EU.

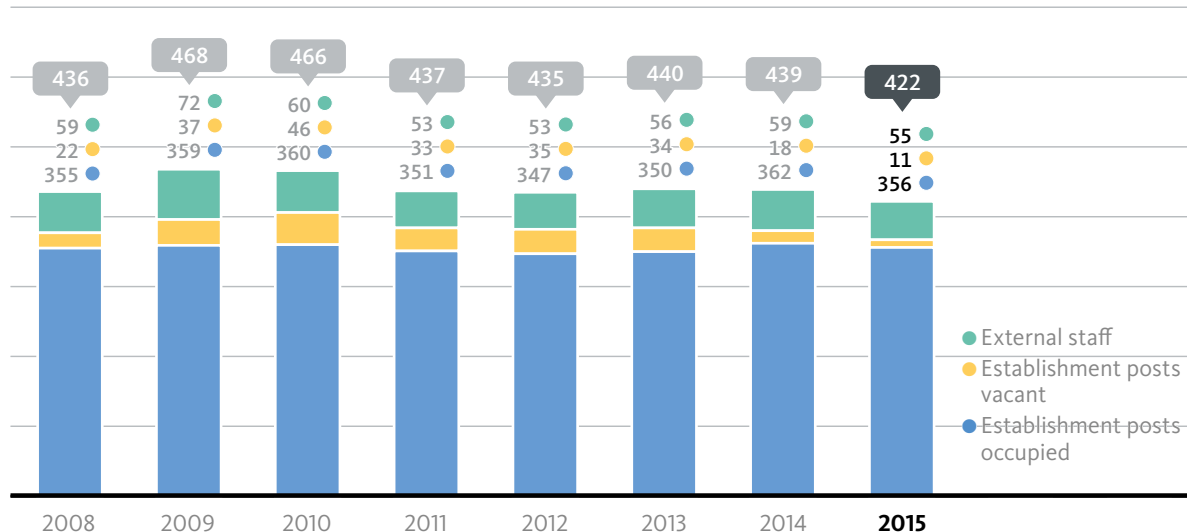
<sup>(20)</sup> Regulation (EU) No 250/2014 of the European Parliament and of the Council of 26 February 2014 establishing a programme to promote activities in the field of the protection of the financial interests of the European Union (Hercule III programme) and repealing Decision No 804/2004/EC, OJ L 84, 20.3.2014, p. 6–13.

<sup>(21)</sup> COM(2015)221 final of 27 May 2015.

<sup>(22)</sup> On 5 March 2014, the Commission adopted a financial support package for Ukraine with an initial volume of EUR 11 billion (see: [http://europa.eu/rapid/press-release\\_MEMO-14-159\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-159_en.htm)).

## 5. Staff and budget

Figure 27: Number and breakdown of OLAF staff from 2008 to 2015 (\*)



(\*) These staff figures include filled and vacant posts

The number of OLAF's staff has declined in 2015 by 4%, and is set to do so further in the coming years, in the context of the general reductions in staff numbers and budgets in the EU public service.

At the end of 2015, the total number <sup>(23)</sup> of staff members in OLAF stood at 422.

Despite the cuts, OLAF managed to maintain the relative share of staff allocated to the fight against fraud at 78% and to anti-fraud policy work at 12%. The remaining 10% were allocated to overhead functions such as HR, finance and ICT.

So far OLAF has coped with the combination of a structural increase in workload and reduction in staff numbers through efficiency gains. Indeed, a number of organisational changes were introduced since 2012 to streamline support functions and processes, improve the distribution of responsibilities and competences, and reduce non-core activities, overheads and administrative burdens. These changes have improved

the efficiency of investigations, despite the additional notification duties and legality checks imposed by Regulation 883/2013. On 1 October 2015, OLAF abolished one unit from the Investigation Support Directorate in order to create an additional investigation unit to handle the increasing complexity of investigations in the Structural Funds sector.

OLAF increasingly requires staff with a wide range of skills, training and professional backgrounds. Also, OLAF needs to be able to function and investigate in all EU languages. OLAF's staff profile in 2015 met the necessary standards. However, the challenges which OLAF faces in maintaining its current level of professional expertise go beyond the budgetary restrictions outlined above. OLAF will have to renew its ageing workforce, as investigative staff recruited from national services in the early days of the Office retire, and will have to manage the increasing demand from other Commission services and EU bodies for staff with the skills and background of OLAF professionals.

<sup>(23)</sup> Officials, temporary agents, contract agents, seconded national experts and interim staff employed on 31/12/2015; excluding trainees and intramuros staff



To address these HR issues and ensure the continued development of OLAF staff, the OLAF HR Strategic Plan in 2015 includes:

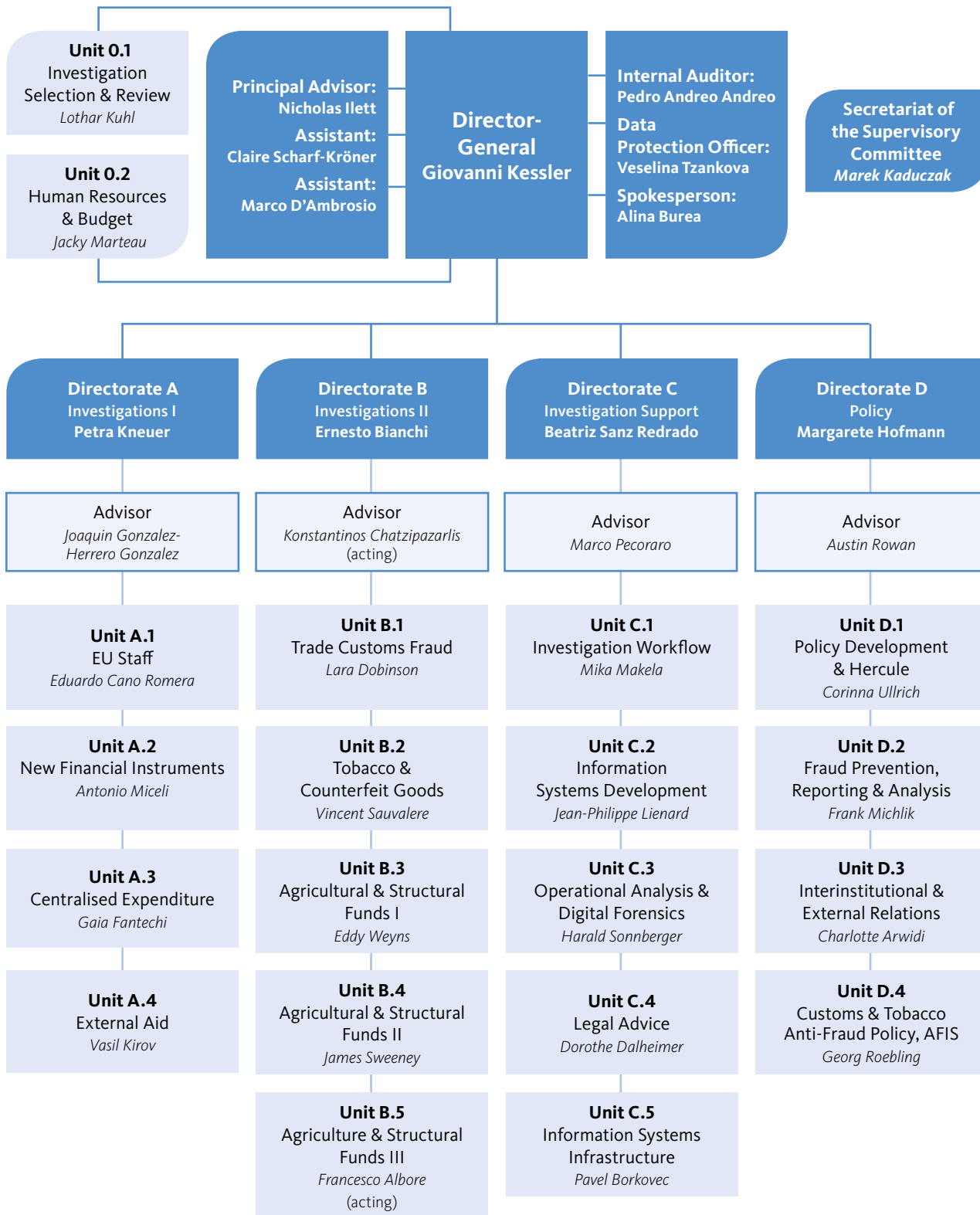
- ▶ preparation of a specialist open competition to recruit investigators, scheduled for the second half of 2016. This follows the successful open competitions in 2014 in the fields of digital and operational intelligence analysis, which are proving a useful means for OLAF to maintain its investigative capacity in these crucial support functions;
- ▶ reducing the vacancy rate for statutory posts by almost 50% compared to 2008 and from 4.7 % in 2014 to 3 % by the end of 2015;
- ▶ improving investigation-related training, both in-house and external;
- ▶ increasing continuous learning and internal communication.

**Figure 28: OLAF's administrative budget in 2015 (million EUR)**

EU staff	39
Infrastructure	6.5
ICT	5.3
External agents (contract staff, seconded national experts and interims)	2.6
Missions	1.7
Anti-fraud measures	1.7
Training, meetings and committees	0.9
<b>Total</b>	<b>57.7</b>



Figure 29: Organisational chart (as of 14 March 2016)



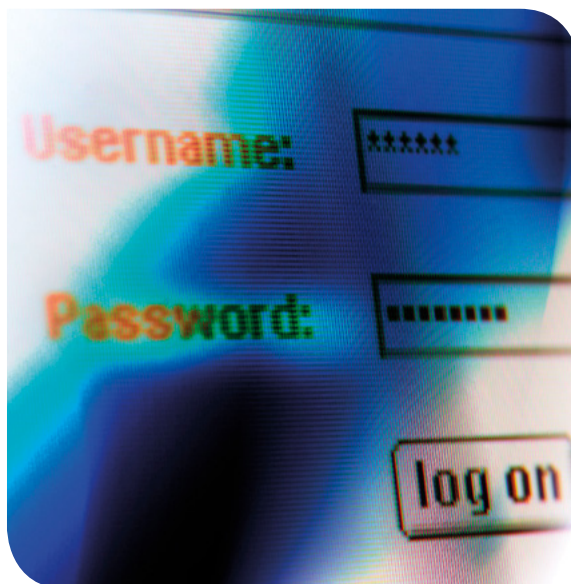




## 6. Data protection

The protection of personal data is key to a successful investigation because it is a crucial element in safeguarding the rights of individuals involved at any step of an investigation. Since OLAF was set up as an independent 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.

More than 2300 relevant data subjects have been listed in the numerous cases opened by OLAF between 2011-2015. By year end of 2015, privacy statements had been sent to 76% of them, and deferred in 5% of the cases because that was the appropriate and necessary measure to safeguard the investigation.



### IDCP authorisation

In 2015, OLAF received the authorisation of the European Data Protection Supervisor (EDPS) for its Investigation Data Cross-Checking Platform (IDCP). The IDCP is an innovative system which aims to further international cooperation in the fight against fraud by creating a database to support the exchange of investigative information. The database will contain a subset of data from investigative files of OLAF and its selected international partners. Taking full account of the recommendations of the EDPS, the system will automatically cross-reference newly uploaded information with data already in the system, looking for matches. Specific procedural arrangements concerning the functioning of the system will be signed by all partners to the IDCP before they will be allowed to use the system.

In 2015, OLAF entered several new Administrative Cooperation Arrangements (ACAs) which cover transfers of personal data with partners in non-EU countries and international organisations. Data protection clauses, based on a model established in consultation with the EDPS, were included in all of these ACAs. A total of 149 transfers of personal data were made during 2015 to non-EU countries or international organisations.

During 2015, OLAF received a total of 8 requests from data subjects for access to their personal data, which also included one request for rectification. OLAF granted access in response to each request, but refused the request for rectification, as the personal data concerned were based on subjective personal assessments, information or opinions provided by others, which by definition cannot be factually wrong. Requests for rectification of personal data only apply to objective and factual data.

## 7. Supervisory Committee

The Supervisory Committee of OLAF is a body of five outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. The Committee delivers Opinions to the Director-General of OLAF and reports to the EU institutions.

The Supervisory Committee members are appointed by the common agreement of the European Parliament, the Council and the Commission. The mandate of the current Supervisory Committee started in 2012. In accordance with Regulation 883/2013, to preserve the experience within the Committee, the Members are alternately replaced, two of them after three years of mandate, and the remaining ones after five years. As such, the European institutions are expected to establish a new list of Members, as well as a reserve list for the Supervisory Committee, in the course of 2016.

The Director-General of OLAF keeps the Supervisory Committee regularly informed of the Office's activities, implementation of its investigative function, and action taken by way of follow-up to investigations. In 2015, in accordance with the Regulation 883/2013 and the working arrangements between OLAF and the Supervisory Committee, OLAF transmitted to the Committee 622 documents with information on cases lasting more than 12 months. OLAF informed the Committee of 370

recommendations issued as a result of OLAF's investigations and a further 88 instances in which information was transmitted to judicial authorities of the Member States. The Committee also had full access to more than 100 case files in OLAF's case management system.

In 2015, the Supervisory Committee delivered four Opinions to the Director-General: namely, the *Control of the duration of investigations conducted by the European Anti-Fraud Office*; *OLAF external reporting on the duration of investigations*; *OLAF's Preliminary Draft Budget for 2016, Legality Check and Review in OLAF* <sup>(24)</sup>. The Supervisory Committee also issued a *Report on the opening of cases in OLAF in 2012*.

In its Opinions, the Supervisory Committee has issued a number of recommendations to the Director-General. The methodology for their implementation and reporting thereon are currently under discussion.

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 OLAF's website.

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<sup>(24)</sup> On 19 April 2016, the Supervisory Committee also transmitted to the institutions their Opinion 3/2015 - OLAF Draft Investigation Policy Priorities for the year 2016.



## 8. Towards a truly European space of justice

The data presented in this Annual Report suggest that OLAF is in a period of consolidation, allowing the Office to capitalize on the important efficiency gains achieved over the last four years. Both the flow of incoming information and the performance of OLAF staff in terms of the duration and output of investigations in 2015 are broadly consistent with the two previous years, remaining high following the major reorganisation of the Office and the introduction of new procedures in 2012.

The scale and nature of the threat to the EU budget means that although OLAF's competence is limited to the protection of the EU budget from fraud and other illegal activities, OLAF finds itself in the front line of the fight against many forms of cross-border economic crime. Moreover, OLAF is the only body with investigative powers at EU level. While other EU bodies and agencies have a wider remit in the auditing and law enforcement domains - the European Court of Auditors has powers to review EU finances, Europol and Eurojust have powers to gather and analyse information about criminal activities and to coordinate the work of national judicial and police authorities - none of these are empowered to conduct investigations on their own account.

That said, there are significant limits to how much OLAF can truly achieve, as its competences fall exclusively under administrative, rather than criminal law. While this may facilitate cross-border cooperation as well as collaboration with other agencies in the early stages of investigations and can pave the way for preventive and corrective measures to minimise the economic damage caused by fraud, in the area of criminal law, only Member State competent authorities are empowered to use the whole range of necessary investigation procedures.

OLAF has made as much use of its present armoury of powers as possible, and has taken the concept of administrative investigations as a precursor or partner to criminal investigations further than expected. Nevertheless the present arrangements are not efficient enough, particularly at a time of diminishing resources for enforcement and investigation at EU and national level. The transnational nature of the many cases of fraud that OLAF investigates requires a European approach, not only in the area of administrative investigations but also for criminal investigations. Faced with increasingly complex criminal networks, cooperation is simply not enough. As we still rely on the collaboration between

several investigating judicial authorities in different countries, we are continuing to take a national approach to fighting crimes that are decidedly cross-border. However, what is necessary and what OLAF is working towards, is integration – a truly European space of justice, a body with powers to not only investigate, but also prosecute inside and across Member States - a European Public Prosecutor's Office (EPPO).

While not replacing national-level law enforcement, the EPPO would streamline the process of both identifying fraudsters and bringing them to justice. The EPPO would be a viable solution to the current fragmentation of national law enforcement efforts, ensuring both efficiency and consistency throughout Member States. Therefore, Member States and the European institutions must support a strong, independent EPPO, one which could truly achieve what it was intended to do – bring fraudsters to justice more swiftly and effectively protect European money.

### Case study

#### OLAF investigation reveals fraud in Romanian health procurement

OLAF received information suggesting that a freelance consultant was soliciting bribes. The consultant had been employed by an international financial institution to draft technical specifications for a large health project in Romania funded by several donors including the European Investment Bank.

Working in close cooperation with the police and prosecutors in the Netherlands and the UK, OLAF confirmed that the consultant had identified companies likely to bid for the different lots and had formally agreed with each of them that he would receive 5% of the value of any contracts awarded. The consultant then distorted the international tender process to ensure that his favoured clients won and that he got his 5% kickback.

OLAF contacted the Romanian authorities and explained the situation. It was agreed that OLAF and the national prosecution service would work together in investigating this matter further. The joint approach identified compelling evidence using a variety of both administrative and criminal investigation techniques.

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