The European Parliament

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CONFERENCE ON THE EVALUATION OF REGULATION 883/2013
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OLAF’s powers of investigation in relation to the EP

OLAF Regulation applies to MEPs.

- Article 1(4) “[..] The Office shall [..] investigate serious matters [..] or an equivalent failure to discharge obligations on the part of members of institutions [..].”
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- whereas 12: “Investigations should be conducted in accordance with the Treaties and in particular with Protocol No 7 on the privileges and immunities of the European Union [..]”
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- Art. 4 Statute for Members: “Documents and electronic records which a Member has received, drafted or sent shall not be treated as Parliament documents unless they have been tabled in accordance with the Rules of Procedure”.
PARLIAMENT’S IMMUNITY

- PPI - Protocol on privileges and immunities
- RoP - Rules of Procedure of the European Parliament
Article 8 - PPI

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.
Article 9 - PPI
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Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.
Rule 6 – RoP: Waiver of immunity

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- that they will not be obliged to appear on a date or at a time which prevents them from performing their parliamentary duties, or makes it difficult for them to perform those duties, or that they will be able to provide a statement in writing or in any other form which does not make it difficult for them to perform their parliamentary duties; and
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- that they are not obliged to testify concerning information obtained confidentially in the exercise of their mandate which they do not see fit to disclose.
2. In exercising its powers on privileges and immunities, Parliament shall act to uphold its integrity as a democratic legislative assembly and to ensure the independence of its Members in the performance of their duties. Parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole and of its Members.
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Therefore

Any OLAF investigation of MEPs' private office and computers must require a mandate or order from a national judicial authority.

These limitations derive from the Parliamentary Immunity

Immunity must be waived beforehand by the Parliament
Cash for influence case (2011)

European Parliament half-opened its doors to OLAF
Rule 12 RoP - Internal investigations conducted by the European Anti-Fraud Office (OLAF)

The common rules laid down in the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-Fraud Office (OLAF) comprising the measures needed to facilitate the smooth running of investigations conducted by the Office shall be applicable within Parliament, pursuant to Parliament Decision of 18 November 1999 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests.
INTERINSTITUTIONAL AGREEMENT of 25 May 1999 (OJEC L136/15)

Article 1 Duty to cooperate with the Office

The Secretary-General, the services and any manager, official or servant of (the institution, body, office or agency) shall be required to cooperate fully with the Office’s agents and to lend any assistance required to the investigation. With that aim in view, they shall supply the Office’s agents with all useful information and explanations.
Specific texts APPLYING between OLAF and the EP

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Without prejudice to the relevant provisions of the Treaties establishing the European Communities, in particular the Protocol on privileges and immunities, and of the texts implementing them, members shall cooperate fully with the Office.
Specific texts APPLYING between OLAF and the EP

Practical arrangements between OLAF and the EP of 19 July 2013

Purpose:

- effectiveness of OLAF’s investigations
Practical arrangements between OLAF and the EP of 19 July 2013

Purpose:
- effectiveness of OLAF’s investigations
- streamline and improve best practices between OLAF and the EP, in relation among others to inspections of the EP premises
Cooperation between OLAF and EP is very successful

- address the matter of Parliamentary Accredited Assistants (APAs)?
- request for immunity through the European Public Prosecutor Office?
- extend practical arrangements to OLAF’S contact points in Member States to expedite coordination cases?
THANK YOU