

The Director-General

Brussels,

**NOTE FOR THE ATTENTION OF MS COLETTE DRINAN,
CHAIR OF THE OLAF SUPERVISORY COMMITTEE**

Via the Secretariat of the Supervisory Committee

**Subject: OLAF report for 2016 on its implementation of the Supervisory
Committee recommendations**

Dear Ms Drinan,

Please find enclosed to this note the OLAF report for 2016 on its implementation of the Supervisory Committee (SC) recommendations.

This report includes updates on recommendations issued between May 2014 and December 2015, included in four SC Opinions¹, on which OLAF reported for the first time in January 2016. The report also covers recommendations issued in 2016, included in three SC Opinions², on which OLAF reports for the first time here. Out of the 24 included in this report, OLAF considers 15 recommendations as implemented, 4 as ongoing and 5 as not applicable.

Please note that the three recommendations included in the SC Opinion 2/2016 *on the OLAF Annual Activity Report*, adopted by the SC on 20 January 2017 and transmitted to OLAF on 9 February 2017³, are not included in this report. They will be reported on in the context of the OLAF report for 2017, which will take place at the beginning of 2018.

OLAF remains available for any questions you might have and would suggest a meeting to reach a mutual agreement on the implementation of recommendations, as also suggested by the Committee in its latest Opinion 2/2016 transmitted to OLAF on 9 February 2017.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Giovanni Kessler', is written over the typed name.

Giovanni KESSLER

¹ Opinion 3/2014 *OLAF's preliminary draft budget for 2015*, Opinion 4/2014 *Control of the duration of investigations conducted by OLAF*, Opinion 5/2014 *Statistics on investigative performance of OLAF (part I) - OLAF external reporting on the duration of investigations* and Opinion 1/2015 *OLAF's preliminary draft budget for 2016*.

² Opinion 2/2015 *Legality check and review in OLAF*, Opinion 3/2015 *Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016* and Opinion 1/2016 *OLAF's Preliminary Draft Budget for 2017*.

³ Ares(2017)729825 of 9 February 2017.

Encl: OLAF report for 2016 on its implementation of the Supervisory Committee recommendations

List of additional documentation:

1. Transmission note Ares(2015)2843967 of SC Opinion N°1/2015 on OLAF's Preliminary Draft Budget for 2016 to DG BUDG
2. Transmission note Ares(2017)663795 of SC Opinion N°1/2016 on OLAF's Preliminary Draft Budget for 2017 to DG BUDG
3. Unit Monthly Investigation Performance report of Directorate A on the monitoring of the duration of investigations, example of September 2016 – transmitted via encrypted email to the Head of SC Secretariat
4. Unit Monthly Investigation Performance report of Directorate B on the monitoring of the duration of investigations, example of September 2016 – transmitted via encrypted email to the Head of SC Secretariat
5. Guidelines on Investigation Procedures of October 2013
6. Instructions concerning the continuous conduct of investigations of July 2014
7. Legality Check and Review - Best Practices of November 2016.
8. Workform 40 - Opinion on the Final Report and recommendations
9. OLAF Guidelines on case selection of June 2015

Copy: M. Hofmann, B. Sanz Redrado, C. Scharf-Kroener, M. D'Ambrosio, C. Ullrich, E. Weyns, I. Sacristan Sanchez, C. Arwidi, M. Kaduczak



OLAF report for 2016 on its implementation of the Supervisory Committee recommendations¹

Summary:

This report includes:

- Table 1: Follow-up on the OLAF report for 2015² on 15 SC recommendations issued between May 2014 and December 2015³. Out of these 15 recommendations, the SC has communicated on 14 November 2016⁴ that it considers two as obsolete and three as implemented. Table 1 contains OLAF's updates on the 10 remaining recommendations. The Office considers 6 recommendations as implemented, 1 as not applicable and 3 as ongoing.
- Table 2: OLAF Report for 2016 on 14 SC recommendations issued between January to December 2016 in three SC Opinions: SC Opinion 2/2015 *Legality check and review in OLAF*, SC Opinion 3/2015 *Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016* and SC Opinion 1/2016 *OLAF's Preliminary Draft Budget for 2017*. The Office considers 9 recommendations as implemented, 4 as not applicable and 1 as ongoing.

¹ The follow up of 50 recommendations issued between June 2012 and March 2014 was closed by the SC, according to its Annual Report 2015. On 15 January 2016 OLAF reported on 15 recommendations issued by the SC between May 2014 and December 2015. This report for 2016 covers updates on 10 of the recommendations already reported on on 15 January 2016 (Table 1) as well as 14 recommendations issued by the SC between January and December 2016 (Table 2).

² Ares(2016)222388 of 15 January 2016.

³ The 15 recommendations were included in four SC Opinions - Opinion 3/2014 *OLAF's preliminary draft budget for 2015*, Opinion 4/2014 *Control of the duration of investigations conducted by OLAF*, Opinion 5/2014 *Statistics on investigative performance of OLAF (part I) - OLAF external reporting on the duration of investigations*, and Opinion 1/2015 *OLAF's preliminary draft budget for 2016*.

⁴ Ares(2016)6405298

Table 1 - Follow-up on the OLAF report for 2015 on 15 SC recommendations issued between May 2014 and December 2015. 5 recommendations are not included since these were considered by the SC either as obsolete or implemented⁵

I. No	II. SC Document Reference	III. SC position	IV. OLAF position	V. OLAF assessment of the implementation
1.	<p>SC Opinion 3/2014</p> <p>OLAF's preliminary draft budget for 2015</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>I. OLAF should present more detailed information on the allocation of resources to priority areas.</p> <p>Extract from SC Opinion 3/2014: "The SC reiterates that OLAF should develop its reporting and present information on the allocation of resources to various activity and priority areas in its management plan and the documents underlying preliminary draft budget. The budget documentation could in the future be clearer on the impact of the preliminary draft budget on the core business of OLAF, investigations."</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>OLAF did not implement the recommendation within the analysis period but the SC notes that the recommendation has been implemented in the Preliminary Draft Budget 2017.</i></p> <p><i>We welcome your reply to the SC Opinion on the budget 2016, as Supervisory, we would like to receive a full documentation on your action plan to avoid the limitation imposed by the forms. This form can be extended or filled by OLAF to take into account the recommendations of the SC.</i></p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>OLAF has taken into consideration the suggestion to link targets and indicators in the management plan and the budget documentation. It should be noted that the budget documentation follows fixed templates, as predefined in the budgetary circular and integrated in the budget application Badgebud, which are used in a uniform way by all services of the European Commission.</p> <p>Since 2012 several reorganisations, the most recent taking effect on 1 October 2015, have led to a better distribution of responsibilities and competences, the reduction of non-core activities, overheads and administrative burden and have improved the efficiency of investigations.</p> <p>As a result of the above actions, the number of staff members carrying out investigative functions increased since January 2012 by more than 10%, despite the staff cuts.</p> <p>However, DG HOME and DG ECHO's recent joint call for expression of interest triggered the transfer of 5 staff members with their posts to DG HOME, reducing the number of investigators.</p> <p>As regards financial resources, the budget dedicated to investigations was increased from EUR 1,4 million in 2014 to EUR 1,7 million for 2015 and 2016.</p> <p><u>OLAF position February 2017</u></p>	<p>Implemented</p>

⁵ Recommendations III and IV from Opinion 3/2014 OLAF's preliminary draft budget for 2015 were considered by the SC obsolete. Recommendation 1 from Opinion 5/2014 Statistics on investigative performance of OLAF (part I) - OLAF external reporting on the duration of investigations and recommendations I and II from Opinion 1/2015 OLAF's preliminary draft budget for 2016 were considered by the SC as implemented.

I. No	II. SC Document Reference	III. SC position	IV. OLAF position	V. OLAF assessment of the implementation
			<p>OLAF welcomes the recognition by the SC that its recommendation has been implemented in the Preliminary Draft Budget 2017 and in the subsequent final draft. It should be noted that it is not clear to OLAF what "full documentation" concerning OLAF's action plan means.</p>	
2.	<p>SC Opinion 3/2014</p> <p>OLAF's preliminary draft budget for 2015</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>II. OLAF should continue its work to develop an exemplary human resources strategy and inform the SC regularly on the progress.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>OLAF partially implemented the recommendation.</i></p> <p><i>We welcome the HR strategy paper. The SC has not received yet from OLAF an explanation of the implemented actions and the analysis of the implementation of the strategic plan foreseen by the end of 2016.</i></p>	<p><u>OLAF report of 15 January 2016</u></p> <p>OLAF has developed an HR Strategic Plan 2014-2016 in consultation with DG HR and OLAF staff. The HR Strategic Plan was transmitted to the SC on 29 August 2014.</p> <p>Unit 02 regularly informs OLAF staff on the implementation of the actions taken in the framework of the HR Strategic Plan. The Secretariat of the SC is invited to share this information with the SC.</p> <p>An analysis of the implementation of the Strategic Plan is foreseen by the end of 2016 and the SC will be informed thereof.</p> <p><u>OLAF position February 2017</u></p> <p>An analysis of the implementation of the HR Strategic Plan is now expected in the first half of 2017, due to important changes in HR management for the whole Commission. It is foreseen that as from mid-February 2017 OLAF will participate in the second phase pilot of the HR Modernisation project, which implies that the current HR functions will be spread between the Business Correspondents (BC team) in OLAF, the Account Management Centre (AMC) and DG HR's Centre of Expertise. Part of the current HR functions and staff in OLAF will be transferred to DG HR, while a BC team in OLAF will assume new HR role and responsibilities. The establishment of new procedures of cooperation between the new responsible entities is also foreseen.</p>	<p>Implemented</p>
3.	<p>SC Opinion 3/2014</p>	<p><u>Original SC recommendation to OLAF</u></p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p>	<p>Not applicable</p>

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	OLAF's preliminary draft budget for 2015	<p>V. In accordance with Article 7(2) of the Commission Decision of 28 April 1999, this Opinion should be transmitted by OLAF to the Budgetary Authority.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented. The SC takes note of the position of the DG. To be implemented in the Preliminary Draft Budget 2017</i></p> <p><i>To implement the recommendation of the SC the OLAF DG may send complementary information to the BUDG DG. There is no legal obligation to transfer such an information, however, there is an opportunity and possibility of doing so within the margin of appreciation of the OLAF DG. It is upon request of the OLAF DG in the SC plenary meeting that OLAF's input is included in the SC Opinion and that the resources of the investigative function shall be protected. This contributes to ensure that OLAFs has enough resources to carry out its investigative function properly.</i></p>	<p>Article 6(2), and not Article 7(2), of Commission Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office as amended by Commission Decision 2013/478/EU of 27 September 2013⁶, states that "After consulting the Supervisory Committee, the Director-General shall send the Director-General for budgets a preliminary draft budget to be entered in the annex concerning the Office to the Commission section of the general budget of the European Union.". The Decision does not say that OLAF should transmit any documents related to the budgetary procedure to the Budgetary Authority.</p> <p>In line with the Decision, OLAF transmits yearly to DG BUDG the preliminary draft budget. In addition, the SC Opinion N°1/2015 on OLAF's Preliminary Draft Budget for 2016 was also transmitted to the Director-General of DG BUDG (Note ARES(2015)2843967).</p> <p><u>OLAF position February 2017</u></p> <p>SC Opinion N°1/2016 on OLAF's Preliminary Draft Budget for 2017 was transmitted to the Director-General of DG BUDG (Ares(2017)663795).</p> <p>Documentation attached: Transmission notes Ares(2015)2843967 and Ares(2017)663795.</p>	
4.	<p>SC Opinion 4/2014</p> <p>Control of the duration of investigations conducted by OLAF</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>OLAF should improve the information transmitted to the SC for the purpose of monitoring of the duration of investigations, in order to enable the SC to effectively and efficiently carry out its monitoring role and thereby comply with its obligation to report</p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>It should be noted that Article 7 (8) of Regulation 883/2013 requires OLAF to provide the SC with information related to all investigations lasting more than 12 months on 1) the reasons and 2) the remedial measures envisaged with a view to speeding up the investigation. As recognised by the SC, OLAF already does so. Any additional information on investigations can be requested by the SC in</p>	Ongoing

⁶ http://ec.europa.eu/anti_fraud/documents/legal-framework-decisions/478-2013/olaf_decision_2013_478_jo_en.pdf

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		<p>to the EU institutions. In doing so, OLAF should:</p> <p>(1) Enrich the content of the 12-month reports with recurrent factual case-related information, in order to enable the SC to understand the background and progress of investigations.</p> <p>To implement this recommendation, the SC suggests that the reports contain information such as the legal basis for the opening of investigations, a short description of the investigation (allegation, category of source of information, type of fraud or irregularity, the area concerned, the EU institution, body, office, agency or the Member State concerned, legislation allegedly breached, estimation of the financial impact, if possible), main investigative activities carried out or to be carried out and their chronology, time barring issues.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented .</i></p> <p><i>The Opinion of the SC is supported by paragraph 13 of the Joint Opinion of the Legal Services of the European Parliament, the Council and the Commission on three aspects of the relationship between OLAF and its Supervisory Committee.</i></p> <p><i>In paragraph 13 of the abovementioned Joint Opinion, it is established that both articles 7(8) and 17(5) "imply an active duty of information for OLAF. In that regard, a purely passive electronic access granted to the OLAF databases would not be sufficient to comply with the reporting obligations laid down by Regulation 883/2013"</i></p>	<p>accordance with Article 15 (1) of the Regulation, in duly justified situations. Since the investigations lasting more than 12 months are on-going investigations, they are subject to strict rules of confidentiality and data protection requirements. OLAF cannot automatically provide the SC with extensive case related information which is not expressly foreseen by the Regulation.</p> <p>During the discussions between OLAF and the SC on the revision of the Working Arrangements, which have been ongoing since late 2014, it was however agreed that under Article 10.1 f) OLAF would provide the SC, in addition to the information on reasons and remedial measures, with a more comprehensive set of background information related to the investigations lasting more than 12 months (OF number, current stage, OF creation date, opening investigation date, responsible unit, major sector, type of source, type of investigation, relevant EU body, relevant country). It was discussed that this information should be transmitted to the SC by means of electronic access.</p> <p>Following a meeting of 17 November 2015 on the revision of the Working Arrangements between Vice-President Georgieva, SC Chairman and OLAF Director-General, it was agreed to consult the legal services of the Institutions on three points, including the reporting by means of electronic access.</p> <p>Since the implementation of Article 10.1 f) is linked to the pending decision on reporting by means of electronic access, the implementation of this recommendation should be considered as ongoing.</p> <p><u>OLAF position February 2017</u></p> <p>As explained in OLAF's report of 15 January 2016, the enriched information was proposed in a draft revised Working Arrangements. The question of whether electronic reporting is legal or not was clarified by the Joint Opinion of the Legal Services of the three Institutions, of 12 September 2016. The Opinion confirmed that electronic access, coupled with a periodic transmission of detailed list</p>	

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		<p><i>The Joint Opinion further establishes in its paragraph 27, when defining the scope of the SC access to additional case-related information that: "the effet utile of the provision also excludes a restrictive interpretation. OLAF should facilitate the Committee's tasks to monitor the exercise of OLAF's investigative functions by providing the required information, unless it is clear that the information requested is not necessary for the performance of its functions or would interfere with ongoing investigations. The Regulation does not exclude the access of the Supervisory Committee to certain categories of information, eg because of their particular sensitive character." Both closed and ongoing investigations may be the subject of a SC request for additional information as set in paragraph 28 of the Joint Opinion.</i></p> <p><i>Finally, the Legal Services of the three EU Institutions agree on the fact that the OLAF Director General has no powers to refuse a request for additional information on the sole basis that it could only be granted in exceptional cases (see paragraph 32 of the Joint Opinion).</i></p>	<p>of cases, could be an adequate way for OLAF to comply with its reporting obligation under article 7 (8) of Regulation 883/2013.</p> <p>Such electronic reporting can only take place once OLAF develops the reporting capacities in OLAF Content Management, foreseen during 2017. In relation to the needs of the SC, OLAF needs to know what information SC requires access to. This is the purpose of the Working Arrangements.</p> <p>In this regard, the Committee itself in its Opinion No 1/2016 OLAF's Preliminary Draft Budget for 2017, point (11), "draws the attention of OLAF on the electronic access to the Supervisory Committee's Members as recognized in the Joint Opinion of the three Legal Services of 12 September 2016, which implies that the specific needs for the implementation of the Members' legal duties should be determined by the Committee jointly with OLAF." Indeed, the Joint Opinion of the three Legal Services states that "OLAF and its Supervisory Committee should organise their collaboration in a jointly agreed framework, fully respecting the applicable legal provisions".</p> <p>OLAF is now waiting for the SC to resume discussions on the Working Arrangements and to find an agreement to implement the Joint Opinion of the Legal Services of the three Institutions, and develop the technical application. Therefore, the implementation of this recommendation is still ongoing.</p>	
5.	<p>SC Opinion 4/2014</p> <p>Control of the duration of investigations conducted by OLAF</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>OLAF should improve the information transmitted to the SC for the purpose of monitoring of the duration of investigations, in order to enable the SC to effectively and efficiently carry out its monitoring role and thereby comply with its obligation to report to the EU institutions. In doing so, OLAF should:</p> <p>(2) Better substantiate the factual information</p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>OLAF notes that over the years, more than half of its investigations have lasted more than 12 months - this is the norm rather than the exception. The SC should take this into consideration when requesting more information on the reasons for delay and the remedial measures after only 12 months.</p> <p>As recognised by the SC, OLAF respects the requirements set out in Articles 7(8) and 17(5) (c) of Regulation 883/2013 concerning the</p>	<p>Ongoing</p>

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		<p>concerning reasons for investigations lasting more than 12 months.</p> <p>To implement this recommendation, the SC suggests that OLAF include in the 12-month reports categories and sub-categories of non-exhaustive pre-defined reasons explaining the non-completion of investigations within 12 months, supplemented by specific case-related information. OLAF could also provide guidelines and/or training to the investigators.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented .</i></p> <p><i>The Opinion of the SC is supported by paragraph 13 of the Joint Opinion of the Legal Services of the European Parliament, the Council and the Commission on three aspects of the relationship between OLAF and its Supervisory Committee.</i></p> <p><i>In paragraph 13 of the abovementioned Joint Opinion, it is established that both articles 7(8) and 17(5) "imply an active duty of information for OLAF. In that regard, a purely passive electronic access granted to the OLAF databases would not be sufficient to comply with the reporting obligations laid down by Regulation 883/2013"</i></p> <p><i>The Joint Opinion further establishes in its paragraph 27, when defining the scope of the SC access to additional case-related information that:"the effet utile of the provision also excludes a restrictive interpretation. OLAF should facilitate the Committee's tasks to monitor the exercise of OLAF's investigative functions by providing the required information, unless it is clear that the</i></p>	<p>provision of information on investigations lasting more than 12 months. In fact in 2014, OLAF informed the SC of reasons and remedial measures in 658 instances where cases lasted more than 12 months, concerning 391 investigations. OLAF's investigative management is continuously working on improving the quality of the information provided on cases lasting more than 12 months.</p> <p>OLAF has, on its own initiative and in the context of the revision of the Working Arrangements, proposed to the SC to improve the information it provides automatically on the reasons and the remedial measures. It was agreed during these discussions on the revision of the Working Arrangements to create a pre-defined list to be completed by the investigators, as well as the possibility to add further information as free text. Such information would be provided to the SC by means of electronic access, which would allow the SC to retrieve information needed at any time.</p> <p>As mentioned in reply to recommendation 4 above, the reporting by means of electronic access is one of the three points which should be consulted with the legal services of the Institutions in the context of the revision of the Working Arrangements. Therefore the implementation of this recommendation should be considered as ongoing.</p> <p><u>OLAF position February 2017</u></p> <p>SC recommendations (2) and (3) from SC Opinion 4/2014 (number 5 and 6 in the current reporting) are treated together.</p> <p>See reply to recommendation 4 above.</p>	

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		<p><i>information requested is not necessary for the performance of its functions or would interfere with ongoing investigations. The Regulation does not exclude the access of the Supervisory Committee to certain categories of information, eg because of their particular sensitive character." Both closed and ongoing investigations may be the subject of a SC request for additional information as set in paragraph 28 of the Joint Opinion.</i></p> <p><i>Finally, the Legal Services of the three EU Institutions agree on the fact that the OLAF Director General has no powers to refuse a request for additional information on the sole basis that it could only be granted in exceptional cases (see paragraph 32 of the Joint Opinion).</i></p>		
6.	<p>SC Opinion 4/2014</p> <p>Control of the duration of investigations conducted by OLAF</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>OLAF should improve the information transmitted to the SC for the purpose of monitoring of the duration of investigations, in order to enable the SC to effectively and efficiently carry out its monitoring role and thereby comply with its obligation to report to the EU institutions. In doing so, OLAF should:</p> <p>(3) Better substantiate the information with regard to remedial measures to speed up investigations.</p> <p>Taking into account the characteristics of some investigations, for which it is clear already at an early stage that they are likely to last more than 12 months, the SC suggests that OLAF adopt a pragmatic approach and indicate this probability in the first 12-month report.</p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>OLAF notes that over the years, more than half of its investigations have lasted more than 12 months - this is the norm rather than the exception. The SC should take this into consideration when requesting more information on the reasons for delay and the remedial measures after only 12 months.</p> <p>As recognised by the SC, OLAF respects the requirements set out in Articles 7(8) and 17(5) (c) of Regulation 883/2013 concerning the provision of information on investigations lasting more than 12 months. In fact in 2014, OLAF informed the SC of reasons and remedial measures in 658 instances where cases lasted more than 12 months, concerning 391 investigations. OLAF's investigative management is continuously working on improving the quality of the information provided on cases lasting more than 12 months.</p> <p>OLAF has, on its own initiative and in the context of the revision of the Working Arrangements, proposed to the SC to improve the</p>	<p>Ongoing</p>

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		<p><u><i>SC position 14 November 2016 - Ares(2016)6405298</i></u> <i>Not implemented .</i></p> <p><i>The Opinion of the SC is supported by paragraph 13 of the Joint Opinion of the Legal Services of the European Parliament, the Council and the Commission on three aspects of the relationship between OLAF and its Supervisory Committee.</i></p> <p><i>In paragraph 13 of the abovementioned Joint Opinion, it is established that both articles 7(8) and 17(5) "imply an active duty of information for OLAF. In that regard, a purely passive electronic access granted to the OLAF databases would not be sufficient to comply with the reporting obligations laid down by Regulation 883/2013"</i></p> <p><i>The Joint Opinion further establishes in its paragraph 27, when defining the scope of the SC access to additional case-related information that:"the effet utile of the provision also excludes a restrictive interpretation. OLAF should facilitate the Committee's tasks to monitor the exercise of OLAF's investigative functions by providing the required information, unless it is clear that the information requested is not necessary for the performance of its functions or would interfere with ongoing investigations. The Regulation does not exclude the access of the Supervisory Committee to certain categories of information, eg because of their particular sensitive character." Both closed and ongoing investigations may be the subject of a SC request for additional information as set in paragraph 28 of the Joint Opinion.</i></p> <p><i>Finally, the Legal Services of the three EU</i></p>	<p>information it provides automatically on the reasons and the remedial measures. It was agreed during these discussions on the revision of the Working Arrangements to create a pre-defined list to be completed by the investigators, as well as the possibility to add further information as free text. Such information would be provided to the SC by means of electronic access, which would allow the SC to retrieve information needed at any time.</p> <p>As mentioned in reply to recommendation 4 above, the reporting by means of electronic access is one of the three points which should be consulted with the legal services of the Institutions in the context of the revision of the Working Arrangements. Therefore the implementation of this recommendation should be considered as ongoing.</p> <p><u><i>OLAF position February 2017</i></u></p> <p>SC recommendations (2) and (3) from SC Opinion 4/2014 (number 5 and 6 in the current reporting) are treated together.</p> <p>See reply to recommendation 4 above.</p>	

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		<p><i>Institutions agree on the fact that the OLAF Director General has no powers to refuse a request for additional information on the sole basis that it could only be granted in exceptional cases (see paragraph 32 of the Joint Opinion).</i></p>		
7.	<p>SC Opinion 4/2014</p> <p>Control of the duration of investigations conducted by OLAF</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>OLAF should optimise the use of tools it has put in place for managing the duration of investigations. In doing so, OLAF should:</p> <p>(4) Give further consideration to the remedial measures to speed up investigations lasting more than 12 months and, in particular, develop tools allowing it to monitor the allocation of investigative resources based on the estimated workload.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not assess the recommendation in the absence of any element of evidence provided by OLAF. Notably on the day to day control and monitoring of the continuity of an investigation.</i></p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>OLAF would like to stress that Regulation 883/2013 does not set any target for OLAF concerning the duration of its investigations, but OLAF is continuously striving to keep the overall duration of its investigations under control.</p> <p>In fact, OLAF has reduced the duration of its investigations in recent years with the help of tools developed to monitor and control the duration of its investigations. OLAF senior and middle investigative management receives regular statistical reports with extensive information on the duration of investigations drawn from OLAF's case management system and on the workload of each unit. The SC has received samples of such statistical reports. Other tools include regular meetings between investigators and managers, and work plans.</p> <p>OLAF considers this recommendation as implemented with the use and development of the tools mentioned above.</p> <p><u>OLAF position February 2017</u></p> <p>As explained in OLAF's reporting of 15 January 2016, OLAF has reduced the duration of its investigations in recent years with the help of tools developed to monitor and control the duration of its investigations. OLAF senior and middle investigative management receives regular statistical reports with extensive information on the duration of investigations drawn from OLAF's case management system and on the workload of each unit. The SC has already received samples of OLAF statistical reports. Other tools include regular</p>	<p>Implemented</p>

I. No	II. SC Document Reference	III. SC position	IV. OLAF position	V. OLAF assessment of the implementation
			<p>meetings between investigators and managers, and work plans.</p> <p>Documentation attached: Unit Monthly Investigation Performance (MIP) reports of Directorate A and B on the monitoring of the duration of investigations, examples of September 2016.</p>	
8.	<p>SC Opinion 4/2014</p> <p>Control of the duration of investigations conducted by OLAF</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>OLAF should optimise the use of tools it has put in place for managing the duration of investigations. In doing so, OLAF should:</p> <p>Review and reinforce the process of verification of continuity of investigations carried out by the ISRU.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not assess the recommendation in the absence of any element of evidence provided by OLAF. Notably on the day to day control and monitoring of the continuity of an investigation.</i></p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>OLAF would like to stress that the day to day control and monitoring of the continuity of an investigation is the responsibility of the manager of the investigative unit.</p> <p>The role of the ISRU is to review an investigation as a whole ex-post and this is done by systematically checking in OLAF's case management system if there are significant delays or time gaps in the conduct of the investigation. If gaps are found in the conduct of the investigations, or elements which might indicate that the duration was disproportionate to the complexity and circumstances of the case, the reviewers rigorously assess the elements of the file and get in contact with the investigators in charge. Finally, they record their findings in the review opinion.</p> <p>OLAF investigative management, as well as the management of the Investigations Selection and Review Unit, is continuously working on improving the tools put in place for managing the duration of investigations.</p> <p>OLAF therefore considers the recommendation implemented.</p> <p><u>OLAF position February 2017</u></p> <p>As mentioned in OLAF's report of 15 January 2016, the day to day control and monitoring of the continuity of an investigation is the responsibility of the manager of the investigative unit.</p> <p>The obligation to conduct an investigation continuously and without</p>	<p>Implemented</p>

I. No	II. SC Document Reference	III. SC position	IV. OLAF position	V. OLAF assessment of the implementation
			<p>undue delay is reflected in Article 8.4 of the the Guidelines on Investigation Procedures (GIP). The obligation of managers to continuously monitor the duration of investigation is set out in the "Instructions concerning the continuous conduct of investigations" of 11 July 2014 (Ares(2014)2316620).</p> <p>Furthermore, in November 2016 OLAF issued Legality Check and Review Best Practices. Section 2.4. of the document specifies the role of the reviewer in monitoring the continuity of investigations ("<i>Every investigative activity should be registered in the case file. This will help the reviewer to ensure the continuity of the investigation. If there have been no investigative activities registered over long periods of time, this may lead to the conclusion that the investigative activities were sporadic and not continuous. Thus, reasons should be specified for any gaps of time in investigative activities (e.g., change in the investigation team).</i>").</p> <p>Documentation attached: Guidelines on Investigation Procedures of October 2013, Instructions concerning the continuous conduct of investigations of July 2014; Legality Check and Review - Best Practices of November 2016.</p>	
9.	<p>SC Opinion 5/2014</p> <p>Statistics on investigative performance of OLAF (part I)</p> <p>OLAF external reporting on the duration of investigations</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>(2) Any one-off administrative operations having an impact on the calculation of the average duration of investigations should be highlighted, as a matter of transparency, in OLAF's reporting.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Ongoing. There are still open cases which were open on the same day of February 2012 by a decision of the Director General without evaluation of the facts and without sufficient serious suspicion of fraud.</i></p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>OLAF will continue to report transparently whenever a one-off administrative operation having an impact on the calculation of the average duration of investigations takes place, as it has done in the past.</p> <p>However, OLAF does not intend to exclude from its statistics exceptionally short or long investigations recorded in its case management system.</p> <p><u>OLAF position February 2017</u></p> <p>OLAF does not understand the argument of the SC. The fact that, out</p>	Implemented

I. No	II. SC Document Reference	III. SC position	IV. OLAF position	V. OLAF assessment of the implementation
			<p>of the cases opened in February 2012, there are still cases open is not in contradiction with the fact that OLAF has always reported transparently whenever a one-off administrative operation having an impact on the calculation of the average duration of investigations took place. Relevant references linked with the reorganisation of 2012 have been included in all annual reports since 2012 (See pages 17 and 18 of OLAF Report 2012, pages 17 and 19 of OLAF Report 2013, page 15 of OLAF Report 2014, page 13 of OLAF Report 2015).</p>	
10.	<p>SC Opinion 5/2014</p> <p>Statistics on investigative performance of OLAF (part I)</p> <p>OLAF external reporting on the duration of investigations</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>(3) In the light of fundamental rights and/or principles of sound administration, OLAF should, in its Annual Report, report more transparently on the duration of the longest lasting investigations.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented.</i></p>	<p><u>OLAF report of 15 January 2016 - Ares(2016)222388</u></p> <p>Since 2014, OLAF reports on the duration of the longest lasting investigations by adding as an indicator in its Annual Report the percentage of investigations lasting more than 20 months. Furthermore, OLAF would like to underline that there is no link between statistical reporting and the respect of fundamental rights.</p> <p>See also reply to recommendation 9 above.</p> <p><u>OLAF position February 2017</u></p> <p>OLAF has reported in its annual reports since 2015 (see Figure 15 of OLAF Report 2014 and Figure 7 of OLAF Report 2015) on the percentage of ongoing investigations lasting more than 20 months.</p> <p>OLAF therefore considers the recommendation implemented.</p>	<p>Implemented</p>

Table 2 – OLAF report for 2016 on 14 SC recommendations issued between January to December 2016 - SC Opinion 2/2015 *Legality check and review in OLAF*, SC Opinion 3/2015 *Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016* and SC Opinion 1/2016 *OLAF’s Preliminary Draft Budget for 2017*

I. No	II. SC Document Reference	III. SC Position	IV. OLAF position	V. OLAF assessment of the implementation
1.	<p>SC Opinion 2/2015</p> <p>Legality check and review in OLAF</p>	<p><u>Original SC recommendations to OLAF</u></p> <p>(1) Ensure that the ISRU has at its disposal sufficient staff resources so as to cover, efficiently, the legal expertise on the national law of all the Member States;</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not assess the recommendation in the absence of any element of evidence provided by OLAF.</i></p>	<p>As explained in OLAF's reply to the SC Opinion 2/2015 <i>Legality check and review in OLAF</i>⁷, the reviewers' team is not conceived as a forum of prosecutors from the 28 Member States, but rather as a flexible and operational pool of legal experts who work in complementarity and ensure coherence and consistency of their practices. This model guarantees an optimal use of their experience, appropriate to the specific challenges, while drawing from available resources in OLAF. Increasing its size to include members from all Member States would not be an efficient use of resources.</p> <p>As observed by the SC, the number of reviewers has varied from 2012 to date. Currently, the review team consists of 6 staff, corresponding to 4 full time equivalents. This number of staff is sufficient and constitutes, at the same time, an efficient use of resources.</p> <p>The reviewers' knowledge of national legal systems covers the most relevant legal orders in the Member States. Specific country profiles prepared in the Office, together with the possibility of consulting the OLAF Legal Advice Unit if needed and the use of information made available by the European Judicial Network, can be utilised to assess a certain national legislation.</p>	<p>Implemented</p>

⁷ Ares(2016)525950 of 1 February 2016

<i>I. No</i>	<i>II. SC Document Reference</i>	<i>III. SC Position</i>	<i>IV. OLAF position</i>	<i>V. OLAF assessment of the implementation</i>
2.	SC Opinion 2/2015 Legality check and review in OLAF	<p><u>Original SC recommendation to OLAF</u></p> <p>(2) Consider modifying a number of questions in the work-forms used by the ISRU, so as to invite comprehensive and substantiated replies, including case-related circumstances and legal arguments, where necessary;</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not asses the recommendation in the absence of any element of evidence provided by OLAF.</i></p>	<p>As explained in OLAF's reply to the SC Opinion 2/2015 <i>Legality check and review in OLAF</i>, the workform templates have been created in such a way as to permit the insertion of reasoned comments on every aspect covered by the review where necessary. The reviewers thus provide more comprehensive explanations and argumentation on specific legal and procedural questions.</p> <p>OLAF is of the view that in their current form the ISRU opinions contain concrete information and assessment of all fields covered by the control, in particular in relation to the respect of the procedural guarantees of the persons involved and the national law of the Member State concerned.</p> <p>OLAF has considered the recommendation of the Committee and reflected on further modifications to the work forms. However, for the time being no additional changes have been implemented. OLAF experience has shown that the current workforms allow for the necessary flexibility to take account of the different degree of complexity of the different cases.</p> <p>Documentation attached: Workform 40 - Opinion on the Final Report and recommendations as of 2014.</p>	Implemented
3.	SC Opinion 2/2015 Legality check and review in OLAF	<p><u>Original SC recommendation to OLAF</u></p> <p>(3) Record properly in the case files the reviewers' suggestions and comments leading to eventual changes in the OLAF reports;</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not asses the recommendation in the absence of any element of evidence provided by OLAF.</i></p>	<p>In the new OLAF Content Management system, reviewers will record the main changes made to the final report during the review process in the "general comments" field. Additionally, in the reviewer's opinion workform, the details of changes to the Final Report, or other submitted documents, are set out in the comments section of the opinion.</p> <p>In case the Members of the SC would wish to see a live demonstration of OCM, Unit D3 is available to organise a meeting with the relevant staff.</p> <p>Documentation attached: Workform 40 - Opinion on the Final Report</p>	Implemented

I. No	II. SC Document Reference	III. SC Position	IV. OLAF position	V. OLAF assessment of the implementation
			and recommendations as of 2014.	
4.	SC Opinion 2/2015 Legality check and review in OLAF	<p><u>Original SC recommendation to OLAF</u></p> <p>(4) Ensure systematic follow-up to the reviewers' comments and provide them with appropriate feedback as to their implementation;</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not assess the recommendation in the absence of any element of evidence provided by OLAF.</i></p>	<p>The review process takes place in the framework of a continuous exchange between the review unit and the investigative unit in charge. This process includes not only the exchange of legal views but also mutual feedback and agreement on a mutually accepted solution.</p> <p>Documentation attached: Legality Check and Review - Best Practices of November 2016.</p>	Implemented
5.	SC Opinion 2/2015 Legality check and review in OLAF	<p><u>Original SC recommendation to OLAF</u></p> <p>(5) Develop reviewers' best practices, in particular with regard to the verification of respect of procedural guarantees and proportionate duration of investigations.</p> <p>The best practices referred to in Recommendation (5) should particularly:</p> <p>(a) Ensure that the reviewers systematically check whether the applicable requirements and procedural guarantees have effectively been complied with and sufficiently substantiate their opinions, where necessary, due to circumstances;</p> <p>(b) Reflect upon the necessity of establishing deadlines for the ISRU to provide its opinions, on the basis of a thorough analysis of the average time needed by it to issue opinions;</p> <p>(c) Ensure substantial compliance verification and more consistency of the ISRU's opinions with the</p>	<p>As explained in OLAF's reply to the SC Opinion 2/2015 <i>Legality check and review in OLAF</i>, in accordance with suggestions made by the SC, OLAF has collected best practices as identified in the review process.</p> <p>In November 2016, OLAF issued "Legality Check and Review - Best Practices", gathering best practices for each element of the legality check and the review. They are available on OLAF's intranet.</p> <p>Furthermore, regular meetings between the reviewers and each of the investigation units are held, where best practices and other relevant issues are discussed and developed.</p> <p>Documentation: Legality Check and Review - Best Practices of November 2016.</p>	Implemented

<i>I. No</i>	<i>II. SC Document Reference</i>	<i>III. SC Position</i>	<i>IV. OLAF position</i>	<i>V. OLAF assessment of the implementation</i>
		<p>case-files reviewed, so as to ensure that the ISRU detects, to the largest extent possible, all instances of possible non-compliance with the legal requirements, including procedural guarantees;</p> <p>(d) Make an analysis of the fields now identified by the ISRU as being in need of improvement and of the measures OLAF has taken on the basis of the review findings.</p> <p>(e) Continue developing and maintaining constructive relationships between the investigation units and the ISRU.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not assess the recommendation in the absence of any element of evidence provided by OLAF.</i></p>		
6.	<p>SC Opinion 2/2015</p> <p>Legality check and review in OLAF</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>(6) Ultimately, the SC invites the OLAF DG to consider the adoption in due time of an Action Plan on recommendations to be taken up in the future with a view to effectively reinforcing the internal control and advisory mechanism foreseen by the Regulation. Such an Action Plan could ideally be included in the Annual Management Plan of the Office.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>The SC can not assess the recommendation in the absence of any element of evidence provided by OLAF.</i></p>	<p>The Management Plan of the Office is a Commission tool intended to define the level of performance to be achieved every year by the operations covering the main actions and their outputs. It is drawn up following instructions from the Commission's Secretariat General. The OLAF Management Plan therefore does not seem the appropriate place to include an Action Plan on recommendations issued by the SC.</p> <p>As far as the review function is concerned, it should be noted that the legality check is a legal obligation. Again, the Management Plan which defines targets for performance does not seem to be the right tool in this context, since legal obligations have always to be fully complied with.</p> <p>Therefore, OLAF considers this recommendation as not applicable.</p>	Not applicable
7.	SC Opinion 3/2015	<p><u>Original SC recommendation to OLAF</u></p>	<p>As explained in OLAF's reply to the SC Opinion 3/2015 <i>on the OLAF draft IPPs for the year 2016</i>, an impact assessment or evaluation are</p>	Not applicable

<i>I. No</i>	<i>II. SC Document Reference</i>	<i>III. SC Position</i>	<i>IV. OLAF position</i>	<i>V. OLAF assessment of the implementation</i>
	Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016	<p>I. The Supervisory Committee recommends that OLAF determine IPPs, based on an impact assessment, the evaluation of the implementation of previous IPPs, the definition of specific performance indicators and a systematic linkage with EU spending priorities and EU policy priorities in the fight against financial crimes.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented. OLAF has not provided any element of evidence concerning implementation.</i></p>	<p>tools of the Commission to prepare and define its policies and legislative initiatives. The determination of the IPPs is not a legislative process. Furthermore, when determining the IPPs, OLAF's Director-General is exercising his duties related to the investigative function and has therefore to act in complete independence, in line with Article 17(3) of Regulation 883/2013.</p> <p>It should be noted that the IPPs follow a risk-based approach where the level of the spending is only one factor to be taken into account. The IPPs therefore do not have any direct link with the Commission's spending priorities although OLAF does give consideration to these spending priorities (e.g. infrastructure network projects) and remains open to assess how these priorities could be further developed. It should also be noted that OLAF cannot circumvent the need to establish sufficient suspicion to open an investigation.</p> <p>As explained above, the tools mentioned by the SC cannot be applied for the determination of the IPPs. Therefore, OLAF considers this recommendation as not applicable.</p> <p>For more background information on the situations where impact assessments or evaluations apply, please consult the Better Regulation Guidelines⁸ and Better Regulation Tool #5, "When is an IA necessary"⁹.</p>	
8.	SC Opinion 3/2015 Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016	<p><u>Original SC recommendation to OLAF</u></p> <p>II. The Supervisory Committee recommends that OLAF revise its instructions and guidelines to selection officers in order to fully reflect the importance of the IPPs in the case selection process. These revised guidelines should be submitted to the Supervisory Committee, prior to their adoption, in</p>	As explained in OLAF's reply to the SC Opinion 3/2015 <i>on the OLAF draft IPPs for the year 2016</i> , OLAF has put in place the appropriate guidelines. On 1 October 2013, Guidelines on Investigation Procedures (GIP) were adopted which replaced the former Instructions to Staff on Investigative Procedures (ISIP). The GIP was duly consulted with the SC prior to its adoption on 7 February and 5 July 2013. Articles 1 to 7 of the GIP are devoted to treatment of incoming information and to the selection process, article 5 of the GIP expressly referring to the need to	Not applicable

⁸ http://ec.europa.eu/smart-regulation/guidelines/ug_chap3_en.htm

⁹ http://ec.europa.eu/smart-regulation/guidelines/tool_5_en.htm#sdfootnote54sym

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		<p>line with the requirements of Article 17(8) of the Regulation.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented. OLAF has not provided any element of evidence concerning implementation.</i></p>	<p>take into account the IPPs in the opinion which serves as a basis for the exercise of the opening discretion. More technical guidance has been given in the Guidelines on case selection in 2015. These guidelines refer to IPPs, not only instructing selectors to indicate whether they are relevant, but also inviting selectors to take these policy considerations into account when assessing proportionality, if applicable (point 5.1.1). OLAF is accordingly committed to systematically reflect in each single selection the importance of the IPPs in the discretionary case selection process.</p> <p>There is no revision scheduled for the Guidelines on case selection in the near future. However, if and when the revision of this document takes place the comments of the Committee will be given further consideration.</p> <p>Documentation attached: Guidelines on Investigation Procedures of October 2013; OLAF Guidelines on case selection of June 2015.</p>	
9.	<p>SC Opinion 3/2015</p> <p>Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>III. The Supervisory Committee recommends that OLAF, with the aim of establishing IPPs for 2017, undertake as of now, a complete impact assessment of IPPs for previous years, in consultation with all stakeholders in the Commission, the other Institutions, Member States' authorities concerned and external parties involved. Useful external expertise could be also sought.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented. OLAF has not provided any element of evidence concerning implementation.</i></p> <p><i>The SC considers that the IPPs shall be adopted according to the information made available by the EU concerning risks, areas of expenditure and</i></p>	<p>As explained in OLAF's reply to the SC Opinion 3/2015 <i>on the OLAF draft IPPs for the year 2016</i>, to undertake an impact assessment for the establishment of the IPPs would be inappropriate for OLAF since such procedure is meant to prepare policies and legislative initiatives. The determination of the IPPs is not a legislative process. Furthermore, when determining the IPPs, OLAF's Director-General is exercising his duties related to the investigative function and has therefore to act in complete independence, in line with Article 17(3) of Regulation 883/2013.</p> <p>Therefore, OLAF considers this recommendation as not applicable.</p> <p>The implementation of previous IPPs is monitored internally. Each year, when reviewing the IPPs for the upcoming year, the implementation of past and current IPPs is taken into account.</p>	Not applicable

I. No	II. SC Document Reference	III. SC Position	IV. OLAF position	V. OLAF assessment of the implementation
		<i>management modes of the EU budget.</i>		
10.	<p>SC Opinion 3/2015</p> <p>Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>IV. The Supervisory Committee recommends that OLAF organise an inter-service consultation, in line with Commission procedures, when adopting the IPPs (consultation with all stakeholders in the Commission, the other Institutions, Member States' authorities concerned and external parties involved).</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p> <p><i>Not implemented. OLAF has not provided any element of evidence concerning implementation. For instance, OLAF has bilateral meetings with all Member States to discuss data of PIF reports, OLAF meets stakeholders from third countries (at Director General level), there is a flow of information being exchanged constantly with the EU Institutions on the results of investigations (opening decision, closing decision, involvement of staff, administrative recommendations, financial recommendations...etc)</i></p>	<p>As explained in OLAF's reply to the SC Opinion 3/2015 <i>on the OLAF draft IPPs for the year 2016</i>, an inter-service consultation is a Commission tool to prepare its policies, and can therefore not be reconciled with OLAF's independence in investigative matters. Furthermore, it should be noted that an inter-service consultation does not include other institutions or Member States' authorities, as suggested in the recommendation.</p> <p>OLAF has already in place a procedure for consulting its stakeholders when determining the IPPs. The IPPs are consulted each year with the anti-fraud correspondents of Commission services in FPDNet meetings. The members of this network have the possibility to comment or provide feedback during this meeting or in written. Furthermore, the IPPs are consulted with all the institutions in the framework of the Exchange of Views.</p> <p>OLAF therefore considers this recommendation as implemented.</p> <p>It should be noted that OLAF does not understand how the examples given by the SC in its document of 14 November 2016 concern the original recommendation, i.e. to do an inter-service consultation when adopting the IPPs.</p> <p>Finally, OLAF would ask the SC not to change the scope or wording of its recommendations over time.</p>	Implemented
11.	<p>SC Opinion 3/2015</p> <p>Opinion on the OLAF draft Investigation Policy Priorities (IPPs) for the year 2016</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>V. The Supervisory Committee recommends that OLAF clarify the IPPs for 2016 when referring to the illegal manufacturing "<i>of tobacco</i>", in the light of the contribution received from DG TAXUD.</p> <p><u>SC position 14 November 2016 - Ares(2016)6405298</u></p>	<p>OLAF took the recommendation of DG TAXUD on board and extended the wording of IPP 4 to clarify that the IPP refers not only to cigarette smuggling.</p> <p>OLAF welcomes the recognition by the SC that this recommendation is implemented.</p>	Implemented

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		<i>Implemented.</i>		
12.	SC Opinion 1/2016 OLAF's Preliminary Draft Budget for 2017	<p><u>Original SC recommendation to OLAF</u></p> <p>The Supervisory Committee recommends that the Director-General of OLAF:</p> <p>(I) Keeps on increasing the number, qualification and training of staff allocated to its investigative function.</p> <p>Keeps under review, without endangering OLAF's independence, the number of staff allocated to non-core functions notably by increasing synergies with other Commission's departments in non-investigative functions.</p>	<p>As recognised by the SC in its Opinion 1/2016 on OLAF's Preliminary Draft Budget for 2017 ("The Committee acknowledges the efforts of OLAF to maintain and increase the relative proportion of investigative staff to administrative staff."), OLAF has since 2012 made considerable efforts to concentrate its resources on its core business and to reduce the number of staff working in overhead functions, notably through a major re-organisation in 2012, several subsequent smaller re-organisations and a general shift in resources towards the investigative function of the Office. As a result, despite the number of establishment plan posts decreasing from 384 in 2012 to 363 on 30 June 2016, the number of investigators increased from 151 to 171 over the very same period.</p> <p>The Commission Decision 1999/352 establishing OLAF (Art. 2) entrusts to the Office a wide range of tasks, such as providing the Commission with support in the fight against fraud, providing training to other institutions and bodies as well as to Member State authorities, preparing legislative and regulatory initiatives, and collecting and analysing information in relation to the fight against fraud.</p> <p>The Office furthermore needs to keep resources in communication, IT, coordination and inter-institutional tasks, like all other DGs and services of the Commission. The central services of the Commission are not in a position to fulfil these tasks for OLAF, while guaranteeing OLAF's independence and proper functioning as a Commission service.</p> <p>OLAF considers this recommendation as implemented.</p>	Implemented
13.	SC Opinion 1/2016 OLAF's Preliminary Draft Budget for 2017	<p><u>Original SC recommendation to OLAF</u></p> <p>The Supervisory Committee recommends that the Director-General of OLAF:</p>	<p>OLAF fully shares the SC's view regarding the added-value of national legal experts. OLAF strives to recruit staff with legal expertise to cover adequately all national legal systems. Whenever needed, OLAF relies on the reviewers in the Selection and Review Unit, the Legal Advice Unit, other in-house expertise and relevant legal documents, notably</p>	Increase of the number of staff with certified legal expertise: ongoing

<i>I. No</i>	<i>II. SC Document Reference</i>	<i>III. SC Position</i>	<i>IV. OLAF position</i>	<i>V. OLAF assessment of the implementation</i>
		<p>(II) Increases the number of EU staff with certified legal expertise in the national legal orders in the related language, with a view of reaching a complete coverage of all the EU national legal frameworks, starting in the selection and review functions given the need to ensure full respect of the Rule of Law. In addition OLAF should ensure specific monitoring and yearly reporting in the OLAF Annual Activity report in this regard.</p>	<p>the country profiles available to OLAF investigative staff containing relevant national legislation. Furthermore, OLAF provides training to its staff.</p> <p>In 2016, OLAF has launched EPSO competitions for recruiting experienced investigators. The EPSO competitions are expected to be finalised by the third quarter of 2017, with a view to start the recruitments later in the year. Therefore, this part of the recommendation is ongoing.</p> <p>Concerning the AAR, it should be noted that when drafting it OLAF must comply with the Standing Instructions issued by Commission services (SG and DG BUDG), which do not provide for reporting on the expertise of staff. Therefore, this part of the recommendation is not applicable.</p>	<p>Reporting in the AAR on the expertise of staff: not applicable</p> <p>For the purpose of the reporting this recommendation is considered as ongoing. For future recommendations OLAF would suggest not to include different actions in the same recommendation, as this renders the monitoring difficult.</p>
14.	<p>SC Opinion 1/2016</p> <p>OLAF's Preliminary Draft Budget for 2017</p>	<p><u>Original SC recommendation to OLAF</u></p> <p>The Supervisory Committee recommends that the Director-General of OLAF:</p> <p>(III) For the purpose of clarity , provides to the Budgetary Authority the detailed costs for the full evaluation process of Regulation 883/2013 and, as far as investigative staff is concerned, clearly reproduce in its Annual Activity Report and Annual Report for the year 2016 the explanations provided that for the 171 staff working in the investigative field, “In</p>	<p>The Budgetary Authority has not requested to be informed of the costs for the evaluation of Regulation 883/2013, but will receive such information upon request. Therefore, this part of the recommendation is not applicable.</p> <p>OLAF has considered the SC's recommendation to include information on the definition of investigative staff in the next AAR and OLAF report.</p> <p>Concerning the AAR, it should be noted that when drafting it, OLAF must comply with the Standing Instructions issued by Commission services (SG and DG BUDG). These instructions do not provide for the inclusion of definitions of staff categories.</p>	<p>Transmission to the Budgetary Authority of the costs for the evaluation of Regulation 883/2013: not applicable</p> <p>Inclusion in the 2016 Annual Activity Report (AAR) and</p>

<i>I. No</i>	<i>II. SC Document Reference</i>	<i>III. SC Position</i>	<i>IV. OLAF position</i>	<i>V. OLAF assessment of the implementation</i>
		<p><i>addition to staff whose job description is "investigator", this figure includes also other investigative staff, such as "case-handler-selector" or "intelligence analyst". Heads of sector and deputy heads of investigative units are also investigative staff, despite having different job titles".</i></p>	<p>As for the OLAF Report, it included in 2014 the number of investigators, together with an explanation similar to the one requested by the SC (see figure 30, page 34). Whenever OLAF includes in future OLAF Reports the number of investigators, it will be accompanied by an explanation as suggested by the SC. Therefore, this part of the recommendation is implemented.</p>	<p>OLAF Report of the definition of "investigative staff": implemented (where applicable)</p> <p>For the purpose of the reporting this recommendation is considered as implemented. For future recommendations OLAF would suggest not to include different actions in the same recommendation, as this renders the monitoring difficult.</p>