



Co-funded by the Justice Programme of the European Union 2014-2020

The future cooperation between EPPO and OLAF

Investigating and prosecuting offences in cooperation with the EPPO

ERA – Trier, 14 March 2018

European
Anti-Fraud
Office



OLAF – Office Européen pour la Lutte Anti-Fraude

1988 – creation of OLAF predecessor: UCLAF

1999 – creation of OLAF (COM Decision 1999/352)

2013 – OLAF Regulation no. 2013/883

2018 – proposal for the revision of Regulation 2013/883 (inter alia, adaptation to the EPPO)



European
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OLAF Mission and Mandate

Mission

- Detect, investigate and stop fraud affecting the financial interests of the EU

Mandate

- To conduct independent administrative investigations into fraud, corruption and other (non-fraudulent) irregularities affecting the EU budget;
- To investigate serious misconduct by EU staff and members of the EU institutions;
- To develop EU policies to counter fraud (as a regular COM service).



OLAF investigations

- OLAF investigates under administrative law. It has no judicial powers, nor coercive powers (*)
- OLAF may request EU and national authorities to cooperate
- OLAF seeks evidence for and against the "concerned person"
- OLAF can only make recommendations following its investigations:
 - *Financial*
 - *Judicial*
 - *Disciplinary*
 - *Administrative*

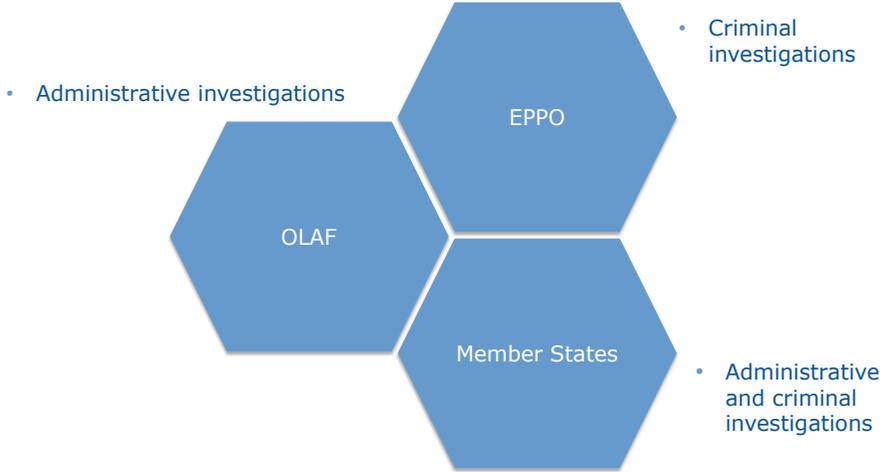
INVESTIGATIVE TOOLS

- Interviews with persons concerned and witnesses
- Inspection of premises
- On-the-spot checks
- Forensic operations
- Checks and inspections under sectoral rules
- Missions in third countries (ACAs)

The OLAF Report for 2017 - OLAF investigative performance

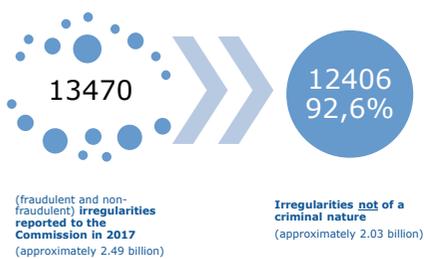


Institutional structure - investigations



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The role of OLAF after the beginning of operations of the EPPO



Source: PIF Report 2017

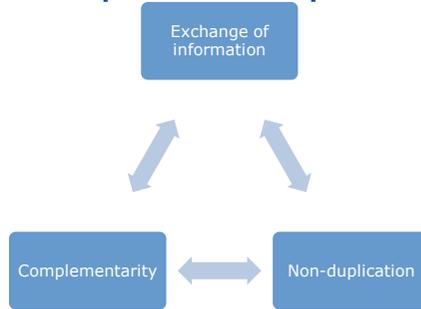
- EPPO: Enhanced cooperation between 22 Member States: in the non-participating MS, OLAF will continue to perform its tasks as it does today.
- EPPO: shared competence for criminal investigations with MS.
- OLAF support and complementarity to the EPPO

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OLAF-EPPO relationship in the EPPO Regulation

- Council Regulation (EU) 2017/1939
 - Art. 24
 - Art. 39(4)
 - Art. 101
 - Recitals (51), (103)
- Working arrangements to specify the concrete modalities of cooperation and exchange of information

Principle of close cooperation



The future role of OLAF in the EU anti-fraud landscape: Revision of Regulation 883/2013

I. Define OLAF's future relations with the EPPO (based on Art. 101 Reg. 2017/1939)

- To ensure full complementarity between OLAF and EPPO

II. Enhance the effectiveness of OLAF's investigations

- To ensure a strong OLAF for effective anti-fraud action



A targeted proposal



Reporting possible criminal offences to the EPPO

Article 12c

- Obligation on OLAF to report without undue delay (Art. 24(1) Reg. 2017/1939) – NOT via recommendations for judicial action
- Minimum content of the report (Art. 24(4) Reg. 2017/1939)
- At any stage in the investigation
- Preliminary evaluation of incoming information (Recital (51) Reg. 2017/1939), also on request of other IBOAs

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Non-duplication of investigations and complementary investigations

Article 12d

- No parallel investigation into the same facts which are object of an investigation by the EPPO (Art. 101(2), (3) Reg. 2017/1939), other than in the cases provided for by
 - Article 12e (on request of the EPPO)
 - Article 12f (complementary investigations)
- Mechanism of consultation: verification via EPPO CMS, further request to EPPO (10 working days)

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Support to the EPPO

Article 12e

- OLAF support or complement EPPO's activity on EPPO's request (Article 101(3) Reg. 2017/1939):
 - a) Information, analysis, expertise
 - b) Coordination of specific actions
 - c) Administrative investigations
- Legal framework for OLAF action: rules on administrative investigations/coordination activities in Regulation 883/2013

Complementary investigations

Article 12f

- To open or continue an investigation when EPPO conducts a criminal investigation for the purpose of
 - Precautionary measures
 - financial, disciplinary, administrative action
- Information to the EPPO
- Right of objection of EPPO → priority of the criminal investigation
 - within a specific deadline
 - subsequently, at any stage of the EPPO investigation
- Close consultation



Admissibility of OLAF-collected evidence

Amendment to Article 11(2)

- Distinction criminal proceedings/other type of proceedings in Member States
 - maintained: equivalence to national administrative reports in criminal proceedings
 - introduced: admissibility, subject to only verification of authenticity, in administrative or other judicial proceedings
- Admissibility in all proceedings at EU level
- No specific rules in relation to EPPO investigations

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Thank you!

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https://ec.europa.eu/anti-fraud/home_en

