



# **2017**

# **Annual Activity Report**

**European Anti-Fraud Office**

# Table of Contents

<b>THE DG IN BRIEF</b>	<b>3</b>
<b>EXECUTIVE SUMMARY</b>	<b>5</b>
A) KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG (EXECUTIVE SUMMARY OF SECTION 1).....	6
B) KEY PERFORMANCE INDICATORS (KPIs).....	8
C) KEY CONCLUSIONS ON FINANCIAL MANAGEMENT AND INTERNAL CONTROL (EXECUTIVE SUMMARY OF SECTION 2.1) .....	9
D) INFORMATION TO THE COMMISSIONER.....	9
<b>1. KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG</b>	<b>10</b>
<b>2. ORGANISATIONAL MANAGEMENT AND INTERNAL CONTROL</b>	<b>26</b>
2.1 FINANCIAL MANAGEMENT AND INTERNAL CONTROL.....	26
2.1.1 CONTROL RESULTS .....	27
2.1.2 OBSERVATIONS AND RECOMMENDATIONS FROM AUDIT AND OTHER SUPERVISORY BODIES.....	35
<b>2.1.3 ASSESSMENT OF THE EFFECTIVENESS OF THE INTERNAL CONTROL SYSTEMS</b> .....	<b>38</b>
<b>2.1.4 CONCLUSIONS AS REGARDS ASSURANCE</b> .....	<b>39</b>
<b>2.1.5 DECLARATION OF ASSURANCE</b> .....	<b>39</b>
<b>DECLARATION OF ASSURANCE</b>	<b>40</b>
<b>2.2 OTHER ORGANISATIONAL MANAGEMENT DIMENSIONS</b> .....	<b>41</b>
<b>2.2.1 HUMAN RESOURCE MANAGEMENT</b> .....	<b>41</b>
<b>2.2.2 BETTER REGULATION</b> .....	<b>42</b>
<b>2.2.3 INFORMATION MANAGEMENT ASPECTS</b> .....	<b>45</b>
<b>2.2.4 EXTERNAL COMMUNICATION ACTIVITIES</b> .....	<b>46</b>

# THE DG IN BRIEF

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.

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The Commission and the Member States are both required by the Treaty on the Functioning of the European Union (**Article 325 TFEU**) to counter fraud and any illegal activities affecting the financial interests of the Union. In addition, the Commission, in accordance with Article 317 TFEU, is responsible for implementing the EU budget, and must ensure that there is a framework in place to enable the effective prevention and detection of fraud. Within the Commission, anti-fraud responsibilities fall both on OLAF and on all services with responsibilities in the implementation of the budget. The modalities for the prevention, detection, investigation and sanctioning of fraud, and the respective responsibilities of the Commission and the Member States, vary depending on the method of implementation of the budget (direct, shared with Member States, or indirect).

In this context, **Regulation (EU, EURATOM) No 883/2013** concerning investigations conducted by the European Anti-fraud Office (OLAF)<sup>1</sup> empowers OLAF to conduct **external administrative investigations** at national level (Article 3 of Regulation 883/2013) and **internal administrative investigations** within the European Union institutions and bodies, wherever the EU's financial interests are at stake, as well as internal investigations concerning the discharge of professional duties (Article 4 of Regulation 883/2013).

OLAF operates within a complex institutional framework and cooperates with a group of bodies concerned either directly or indirectly with anti-fraud issues. These bodies fall into three sub-groups:

- a) Those located in the Member States or third countries, such as police and customs services, judicial authorities and administrative anti-fraud authorities;
- b) European Union bodies, such as the Investigation and Discipline Office of the Commission (IDOC), each institution's internal audit service, Eurojust, Europol; and
- c) International organisations such as the UN, the World Bank, the World Customs Organisation, etc.

As the Member States are responsible for managing around 74% of European Union expenditure as well as for the collection of traditional own resources, it is essential for the effectiveness of the Office to work closely with national authorities (police, customs, the courts, etc.). The Member States are also responsible for criminal proceedings in cases of fraud affecting the EU budget but the diversity of their judicial systems renders the Office's task particularly complex. Moreover, the effectiveness of the investigation stage may be reduced if the Member States do not adequately respond to the Office's requests for support.

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<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.

The Director-General of OLAF is responsible for the conduct of OLAF investigations. In order to guarantee the **independence of OLAF** in its investigative function, the legislation foresees that the Director-General of the Office does neither seek nor take instructions from any government or any Institution (including the Commission) as regards this function. If the Director-General of OLAF is of the opinion that the Commission has taken a measure that challenges his independence, he has the possibility of bringing a case against the Commission before the Court of Justice.

To strengthen OLAF's independence, the investigative function of the Office is subject to regular monitoring by the OLAF **Supervisory Committee**<sup>2</sup>. The Committee comprises five independent members, having experience in senior judicial or investigative functions or comparable functions relating to the areas of activity of the Office. They are appointed by common agreement of the European Parliament, the Council and the Commission.

The OLAF control system for its investigating function puts special emphasis on risks linked to the assurance of the quality of investigations, the protection of the individual rights of the persons concerned and the secure handling of sensitive documents.

OLAF has a small operational budget and limited financial transactions. In this context, in 2017 OLAF handled financial transactions linked to the Hercule programme (protection of EU financial interests) and the Anti-Fraud Information System (AFIS - cooperation with partners).

OLAF's organisational structure demonstrates a focus on the core business tasks (investigations and their support - Directorates A, B and C) and on anti-fraud policy (Directorate D). Two units, Unit 0.1 "Investigation Selection and Review" and Unit 0.2 "Budget and HR Business Correspondent", report directly to the Director-General.

Following a request by the government of the Republic of Italy, the European Commission decided on 11 October 2017 to second Mr Giovanni Kessler, Director-General of OLAF, to Italy's Customs and Monopoly Agency (secondment in the interest of the service under Article 38 of the EU Staff Regulations). To ensure business continuity, and in line with a Commission Decision of 13 July 2005, Mr Nicholas Ilett has become acting Director-General of OLAF as of 16 October 2017 and will serve until the appointment of the new Director-General in 2018.

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<sup>2</sup> <http://europa.eu/supervisory-committee-olaf/>

## EXECUTIVE SUMMARY

The Annual Activity Report is a management report from the Director-General of OLAF to the College of Commissioners. Annual Activity Reports are the main instrument of management accountability within the Commission and constitute the basis on which the College takes political responsibility for its decisions as well as for the coordinating, executive and management functions it exercises, as laid down in the Treaties<sup>3</sup>.

The executive summary has four subsections:

- a) Key results and progress towards the achievement of general and specific objectives of the DG (executive summary of section 1)
- b) The most relevant Key Performance Indicators (KPIs) for the illustration of policy highlights identified in the DGs 2016-2020 Strategic Plan
- c) Key conclusions on Financial Management and Internal control (executive summary of section 2.1)
- d) Information to the Commissioner

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<sup>3</sup> Article 17(1) of the Treaty on European Union

## a) Key results and progress towards the achievement of general and specific objectives of the DG (executive summary of section 1)

OLAF's mission is to detect, investigate and work towards stopping fraud with European Union funds. In doing so OLAF contributes to protecting the EU's financial interests as per Article 325 TFEU. EU funds are not only spent by the EU institutions, bodies, offices and agencies, but to about 74% through shared management, i.e. at local, regional and national levels in the Member States. This raises the level of complexity substantially. The EU programmes and projects often involve actors – contractors and subcontractors and their staff - from EU, Member States, third countries and international organisations. This makes the prevention and early detection of fraud a significant challenge, also because the applicable rules on financial management are numerous and often complicated. OLAF is also the main service mandated to investigate corruption and serious misconduct of EU staff and members of the EU institutions. In that respect, OLAF plays an important role in guaranteeing the integrity of EU staff, a necessary precondition for the EU institutions to function efficiently.

**The General objective 1** corresponds to the Commission's General objective for central services: ***To help achieve the overall political objectives, the Commission will effectively and efficiently manage and safeguard assets and resources, and attract and develop the best talents.*** Almost all activities of the Office contribute to this General objective.

OLAF's investigative activities are covered by **Specific objective 1: Efficient and effective management of OLAF's investigations and coordination actions.** In 2017, OLAF reached most of the targets falling under this objective. This includes delivering on two of the three key performance indicators for OLAF.

The investigation support work is covered by **Specific objective 2: Provision of necessary IT tools to support OLAF's investigative activities,** where, in 2017, further work has been done to improve the performance of OLAF's content management system introduced at the end of 2016.

As regards **Specific objective 3: Compliance with legal obligations related to access to documents and personal data,** only a few deadlines were not met.

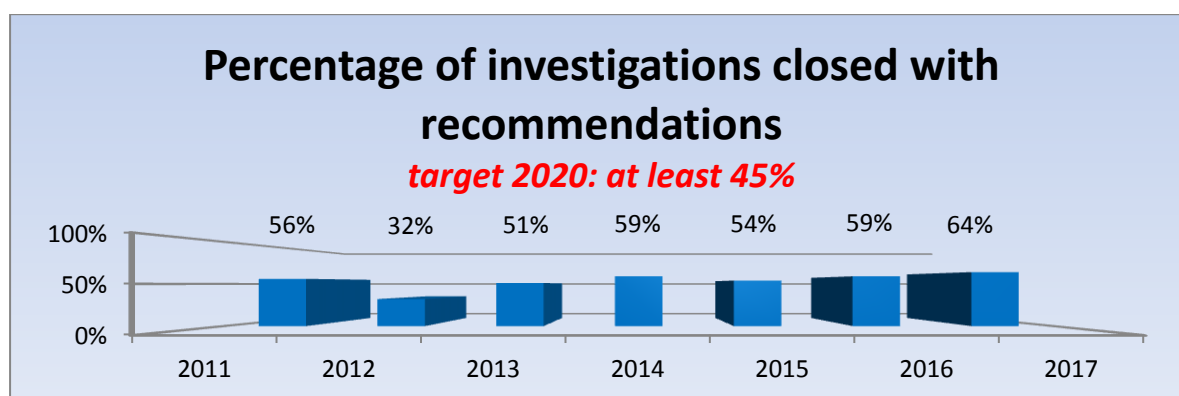
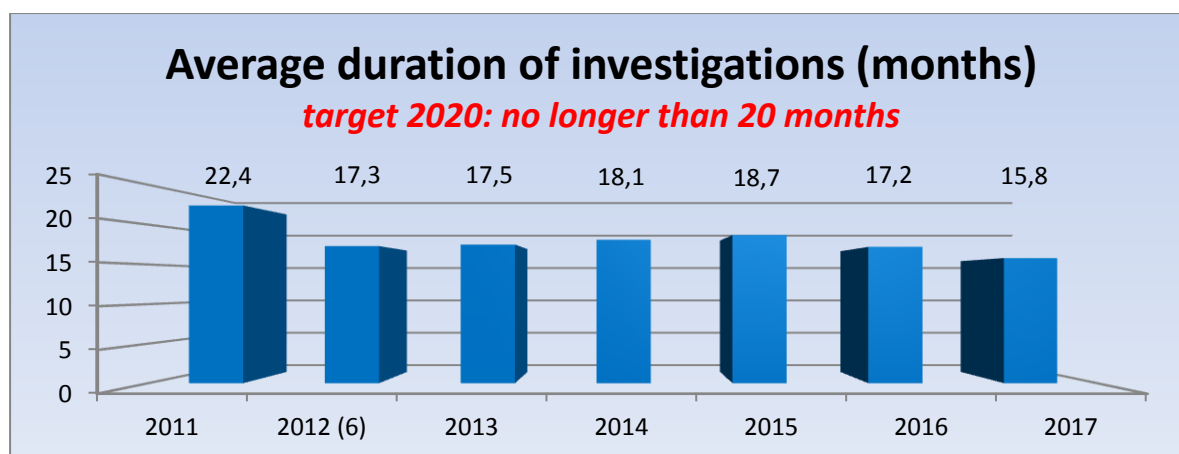
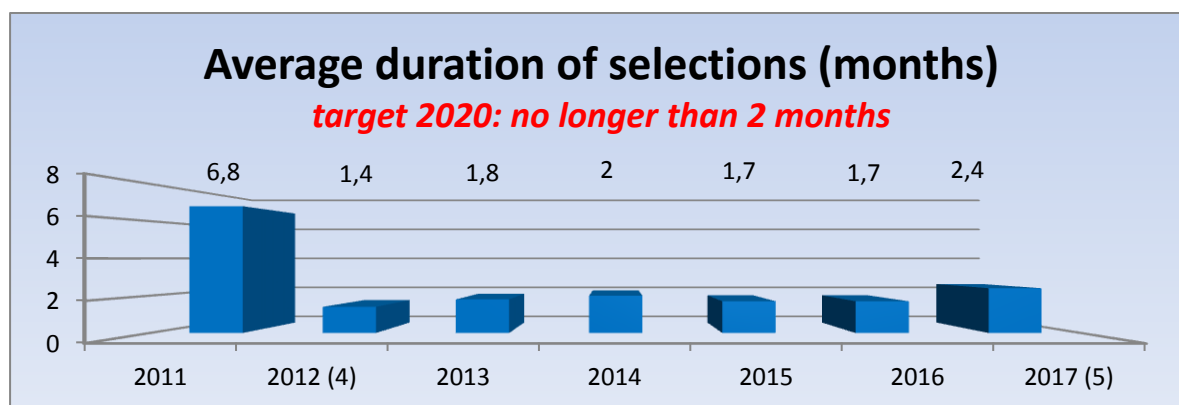
OLAF's anti-fraud policy work contributes to the first General objective, mostly through the activities mentioned in **Specific objective 4: Protection of the financial interests of the EU by developing anti-fraud policy, legislation and enhancing the cooperation with the Member States and other partners.** In 2017, targeted meetings with representatives of the Member States were organised. Via the Anti-Fraud Information System (AFIS) assistance was given to the European Commission and Member States in the fight against customs fraud. The irregularity management with regard to the expenditure part of the EU budget is also part of AFIS. In addition, 11 Joint Customs Operations (JCOs) were co-organised or supported by OLAF.

With respect to **Specific objective 5: Reduction of illicit trade in tobacco products,** in May 2017 OLAF led the Commission's work in reporting on the progress made with the 2013 strategy to fight the illicit tobacco trade. This report was well received by Member States.

The Hercule III programme, which falls primarily under the **Specific objective 6: To prevent and combat fraud, corruption and any other illegal activities affecting the Union's financial interests,** had its fourth year of implementation in 2017 after the entry into force of the new Regulation in March 2014. This year, 47 grant agreements were concluded for technical assistance and training actions. These covered support to Member States' authorities to purchase equipment and organise training and conferences for staff and other professionals who contribute to the protection of the Union's financial interests.

The **General objective 2** corresponds to one of the ten policy priorities that President Juncker highlighted for this Commission. Under ***An Area of Justice and Fundamental Rights Based on Mutual Trust*** the need to "progress on new tools such as the European Public Prosecutor's Office (EPPO) which is designed to tackle criminal fraud which damages the EU budget" was specifically mentioned. OLAF progressed on **Specific objective 7: *Strengthened legal framework for protection of the financial interests of the EU***, as co-responsible service in the continued legislative negotiations throughout 2017 on the EPPO and on a Directive on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive). Both legal acts were adopted in 2017.

## b) Key Performance Indicators (KPIs)



Source: OLAF C1

<sup>4</sup> This result is based on 11 months starting from 1 February 2012, the date on which significant changes were introduced to OLAF's investigative procedures and organisation. Including January, the average duration of the selection phase was 3.9 months.

<sup>5</sup> The average duration of selection has increased following the introduction of a new case management system at the end of 2016.

<sup>6</sup> As part of the changes introduced on 1 February 2012, the assessment phase was replaced with a selection phase. As a result, 419 cases, which were being assessed under the previous investigative procedure, were opened as investigation or coordination cases. This lowered the average duration of investigations and coordination cases for 2012.



## **c) Key conclusions on Financial management and Internal control (executive summary of section 2.1)**

In accordance with the governance arrangements of the European Commission, OLAF conducts its operations in compliance with the applicable laws and regulations, working in an open and transparent manner and meeting the expected high level of professional and ethical standards.

The Commission has adopted a set of internal control standards/principles, based on international good practice, aimed to ensure the achievement of policy and operational objectives. The financial regulation requires that the organisational structure and the internal control systems used for the implementation of the budget are set up in accordance with these standards/principles. OLAF has assessed the internal control systems during the reporting year and has concluded that the internal control standards/principles are implemented and function as intended. Please refer to Section 2.1.3 for further details.

In addition, OLAF has systematically examined the available control results and indicators, including those aimed to supervise entities to which it has entrusted budget implementation tasks, as well as the observations and recommendations issued by internal auditors and the European Court of Auditors. These elements have been assessed to determine their impact on the management's assurance as regards the achievement of control objectives. Please refer to Section 2.1 for further details.

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director-General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

## **d) Information to the Commissioner**

In the context of the regular meetings during the year between the Director-General and the Commissioner on management matters, also the main elements of this report and assurance declaration have been brought to the attention of Commissioner Oettinger, responsible for Budget and Human Resources.

# 1. KEY RESULTS AND PROGRESS TOWARDS THE ACHIEVEMENT OF GENERAL AND SPECIFIC OBJECTIVES OF THE DG

## **A. Investigative and coordination activities**

OLAF's investigative and coordination activities have contributed to the Commission's General objective for central services, especially to the safeguarding of assets and resources. Despite OLAF being subject to Commission-wide reductions in staff numbers and budget, the office achieved most of the targets set under the **Specific objective 1** *Efficient and effective management of investigations and coordination actions*.

### **A modern, proficient, investigative body at the service of EU taxpayers: key results**

OLAF has continued to perform very well throughout the reporting period. The average duration of investigations has been further reduced in 2017 (15.8 months) as well as the percentage of ongoing investigations lasting more than 20 months (22%) while the percentage of investigations closed with recommendations has increased (64%). The Office has recommended the recovery of over EUR 3 billion to the EU budget. These funds will gradually be returned and will be able to be spent on growth and jobs. These performance results clearly show the substantial work undertaken by OLAF in the last years to improve the effective management of its investigations and to deliver concrete results in the protection of the EU's financial interests. The average duration of selections has increased (2.4 months), as well as the percentage of selections taking longer than 2 months. Since a new case management system was introduced at the end of 2016, the processing of new incoming information required more time. This had an impact on the average duration of selections. It is expected that the average duration of selections will continue to decrease in the course of 2018.

The rate of indictments by national judicial authorities following the receipt of judicial recommendations in the years 2010 to 2017 is at 42%, below the target of 'at least 50%'. Because of the length of time which judicial proceedings can take, especially where complex investigations are involved, OLAF measures these results over a rolling seven year period. The results for the latest seven years confirm the trend of the previous period, namely that about half of the cases submitted by OLAF to national judicial authorities lead to indictments. There continue to be significant differences between the indictment rates in individual Member States. In order to seek a better indictment rate at national level and to help bring perpetrators to justice more swiftly, OLAF has liaised throughout the year with judicial authorities. OLAF will continue its work to understand the reasons why OLAF cases were sometimes dismissed at national level and how to prevent such dismissals to the extent possible.

Fraud affecting the EU budget as well as the misconduct of EU staff and members of the EU institutions can best be tackled at EU level. OLAF's added value consists in effectively and efficiently protecting the budget and the reputation of EU institutions through conducting administrative investigations, enhancing the cooperation with the Member States (and other partners) and strengthening the legal framework to fight fraud. The average rate of actions taken by EU disciplinary authorities following OLAF's disciplinary recommendations in the last 3 years is at 64% and therefore above the target of "at least 60%".

**Speedy initial assessment of whether a case should be opened**

**Result indicator 1.1: Average duration of selections<sup>7</sup>**

Source: OLAF C1

Baseline 2016	Current situation	Target 2020
1.7 months	2.4 months	No longer than 2 months

**Result indicator 1.2: Percentage of selections closed whose duration is no longer than 2 months**

Source: OLAF C1

Baseline 2016	Current situation	Target 2020
92%	50.4%	At least 75%

**Reasonable duration of investigations**

**Result indicator 1.3: Average duration of investigations<sup>8</sup>**

Source: OLAF C1

Baseline 2016	Current situation	Target 2020
17.2 months	15.8 months	No longer than 20 months

**Result indicator 1.4: Percentage of on-going investigations lasting more than 20 months**

Source: OLAF C1

Baseline 2012-2016 <sup>9</sup>	Current situation	Target 2020
2012-2016: 25%	22%	Less than 30%

**Efficient investigations**

**Result indicator 1.5: Percentage of investigations closed with recommendations**

**Definition:** In accordance with Article 11 of Regulation No 883/2013, on completion of an OLAF investigation, a Final Report shall be drawn up giving an account of the findings established and the conclusions of the investigation on the basis of which the Director-General may issue judicial, financial, disciplinary or administrative recommendations for action to be taken by the competent authorities of the Member States and/or responsible EU institutions, bodies, offices or agencies.

**Source of the data:** OLAF C1

Baseline 2016	Current situation	Target 2020
59%	64%	At least 45%

<sup>7</sup> Including both the items that resulted in an investigation or coordination case and those that did not.

<sup>8</sup> This indicator does not include coordination cases.

<sup>9</sup> Baseline calculated as a five year average (2012-2016) with respect of an average duration of 20 months.

**Result indicator 1.6: Results from the monitoring of the implementation of OLAF's recommendations**

**Definition:** OLAF collects information from its partners (in particular EU institutions and Member States authorities) on the actions they have taken following recommendations made by the Office (including the recovery of funds and judicial or disciplinary follow-up). OLAF applies this as a general indicator to measure the value-added of anti-fraud action.

6.a. Judicial recommendations => average rate of indictment

6.b. Disciplinary recommendations => rate of administrative enquiries initiated

**Source of data:** Annual reporting by OLAF's partners and stakeholders

<b>Baseline 2016</b>	<b>Current situation</b>	<b>Target: 2020 (unless otherwise indicated)</b>
<b>6.a</b> Average rate of indictment following OLAF's judicial recommendations issued in last 7 years 2009-2016: 44%	2010-2017: 42%	At least 50% for the reporting period 2013-2020
<b>6.b</b> Average rate of actions taken by EU disciplinary authorities following OLAF's disciplinary recommendations in last 3 years 2014-2016: 60% <sup>10</sup>	2015-2017: 64 %	At least 60% for the period 2015-2017

A new output on the implementation of OLAF's financial recommendations has been introduced in OLAF's Management Plan 2018. The indicator measuring this output will be the average amount established for recovery by the recipients of OLAF recommendations. OLAF is more in control of reporting on the amounts established for recovery rather than on amounts actually recovered. However, reporting on this output will only be possible in 2018 after a baseline is established for the year 2017.

<sup>10</sup>This indicator was introduced in the OLAF Strategic Plan 2016-2020 and it replaced a former indicator present in the 2015 OLAF Management Plan ("rate of administrative enquiries initiated by EU disciplinary authorities following OLAF's disciplinary recommendations"). However, the baseline and target figures were not adapted to the new indicator, although they should have been reduced as the rate of enquiries initiated will be above the rate of enquiries concluded with action.

## Implementation of OLAF's Investigation Policy Priorities (IPP) for 2017

In the selection phase prior to the opening of an investigation, OLAF's competence needs to be ascertained first, followed by an assessment of whether there is sufficient suspicion of fraud or irregularity in the allegation. If these two requirements are met, then OLAF decides whether or not to open an investigation based on the criteria set out in the Article 5(1) of Regulation 883/2013. This requires taking into account the Office's IPPs. OLAF shall also take into account whether opening an investigation would constitute an efficient use of the Office's resources and would respect the proportionality principle. In the proportionality check, the level of EU financial resources at risk is also taken into account.

The OLAF IPPs should not be used by other Commission services, EU bodies or national authorities as justification not to report a suspected fraud to OLAF.

The IPPs for 2017 were defined as follows:

IPP 1. Cases with indications of fraud or corruption in relation to transport and infrastructure network projects, in particular public procurement procedures;

IPP 2. Cases of fraud concerning specific projects (co)financed by the European Social Fund, the European Regional Development Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the Pre-accession Funds, in which action by the Member States or Candidate Countries may be insufficient;

IPP 3. Cases of fraud indicating possible abuses of origin rules, tariff classification in both preferential and non-preferential trade regimes and valuation-related fraud, in order to evade payment of conventional customs duties, including tariff measures being part of the Union trade defence policy;

IPP 4. Cases of smuggling of tobacco and counterfeit medicines into the EU; and illegal manufacturing of tobacco.

In total, 215 investigations and 22 coordination cases were opened in 2017 based on information received by OLAF. Out of these, 56 investigations and 18 coordination cases fell under the 2017 IPPs (this represents 26 % and 82% of opened cases respectively). It is difficult to estimate to what extent the IPPs had a decisive effect on OLAF's case opening. In any case, it needs to be noted that the IPPs do not aim at (or have the effect of) excluding cases not falling under the IPPs.

The table below provides an overview of the role of the IPPs for 2017 in opening decisions:

	Cases for which IPPs 2017 contributed to the opening of an investigation	
	Number	% of all IPPs used in 2017
IPP 1	11	18.6%
IPP 2	20	33.9%
IPP 3	25 <sup>11</sup>	42.4%
IPP 4	3 <sup>12</sup>	5.1%
<i>Total</i>	56 <sup>13</sup>	

<sup>11</sup> In addition IPP3 contributed to the opening of 12 coordination cases.

<sup>12</sup> In addition IPP4 contributed to the opening of 6 coordination cases.

<sup>13</sup> In the case of three investigations, two IPPs contributed to the opening.

## B. Investigation support

OLAF's investigations cannot be efficient in the absence of a modern and solid support structure. Important investments have been made to update and constantly improve the support function, in particular IT support. OLAF progressed on its **Specific objective 2, Provision of necessary IT tools to support investigative activities**, by integrating a case management application (investigation workflow) and document management into OLAF Content Management (OCM). This represents a corporate improvement as two systems were used in the past for the investigative activities, one to manage cases and the other to manage documents. The development of OCM has been carried out in-house with internal available resources and with the expertise of external resources hired through the framework contracts already in place with the Directorate-General for Informatics. The first phase has been in production since the beginning of October 2016 and is focused on the core investigation activities. It includes electronic workflows for the selection, investigation, coordination and registry activities. A major module on 'delegations' was put in production during 2017. Considerable efforts were devoted to overcoming difficulties, fixing bugs and improving the performance of the system. In the coming year(s) new functionalities related to monitoring and reporting will be delivered. Overall, the system will improve OLAF's investigative performance by creating a modern infrastructure for saving and retrieving case-related documents electronically.

**Specific objective 2: Provision of necessary IT tools to support OLAF's investigative activities**

☒ No spending programme

**Supply Information and Communication Technology (IT) tools**

**Result indicator 2: Internal users' degree of satisfaction with IT infrastructure and services**

Source: OLAF IT user satisfaction survey

Baseline 2014	Current situation	Target 2020
89.95% <sup>14</sup> (survey carried out in January 2015)	Indicator for 2016 (survey carried out in January 2017): 69% <sup>15</sup> Status in 2017: unknown, as a survey will be carried out in June 2018 the latest. Users' satisfaction has been impacted by teething problems of the (newly put in production) OCM system.	At least 90%
<b>Main outputs in 2017:</b>		
Description	Current situation	Target 2017
Deliver new release of OLAF Content Management (OCM)	OCM is operational, bugs are suppressed to a large extent and new functionalities are to be released in the first quarter of 2018.	OCM in stable operational mode

<sup>14</sup> 89.5 very satisfied or satisfied, 8.47% neither satisfied nor dissatisfied, 1.58% dissatisfied or very dissatisfied.

<sup>15</sup> 69% very satisfied or satisfied, 15% neither satisfied nor dissatisfied, 15% dissatisfied or very dissatisfied.

OLAF progressed on its **Specific objective 3, Compliance with legal obligations related to access to documents and personal data**, by the timely handling of such requests. Persons affected by OLAF investigations can complain to the European Data Protection Supervisor (EDPS) (in relation to the processing of personal data) as well as the European Ombudsman (complaints on alleged maladministration). Both institutions decide whether to open an inquiry and, in that case, transmit the complaint to OLAF for comments. In 2017, two complaints to the EDPS were received by OLAF. In total, OLAF replied to four requests from the EDPS, one of which was slightly delayed due to translation issues.

In 2017, OLAF received several requests from the European Ombudsman. In particular, OLAF was asked to react to seven new complaints, two recommendations issued by the Ombudsman regarding older ongoing inquiries and five requests for inspections of documents. The Ombudsman also transferred to OLAF a complaint to be assessed as a selection case and asked to be informed on the follow-up. A timely follow-up was ensured in all but two cases. In one case the delay was due to an administrative problem and in the second due to the complexity of the issues at stake.

OLAF regularly receives, in relation to its investigative activities, requests for access to personal data in accordance with Regulation 45/2001, as well as applications for public access to documents pursuant to Regulation 1049/2001. In 2017, it responded to 12 requests for access to personal data (including requests requiring extensive research), all of which were replied to in time. Of 32 replies to initial applications for access to documents, 31 were given within the deadline and one case was delayed for administrative reasons. In 12 cases, OLAF further responded to confirmatory applications, eight of which were within deadline. As regards the four other cases, the legal complexity of the matter and the resulting need for additional consultations led to delay<sup>16</sup>.

**Specific objective 3: Compliance with legal obligations related to access to documents and personal data**

☒ No spending programme

**Result Indicator 3.1: Timely replies to requests from the Ombudsman and the EDPS complaints<sup>17</sup>**

Source: CMS/Unit C.4

<b>Baseline 2016</b>	<b>Current situation</b>	<b>Target 2020</b>
Ombudsman 82% EDPS 100%	86.7% 75%	100% of replies within the within formal deadlines as proposed by Ombudsman and EDPS

<sup>16</sup>Confirmatory applications, which are also subject to identical short deadlines as the initial applications are to be submitted for a formal opinion to the Commission's Legal Service as they may be challenged by the applicant before the Court. In spite of all efforts, OLAF is not in a position to ensure timely replies from the Legal Service to these consultations. Also, at the same time, the statistics cannot take into account instances where OLAF sends a holding reply in accordance with the Regulations, but its justification is contested by the applicant.

<sup>17</sup>The requests included are individual complaints, requests by the EDPS and requests from the Ombudsman.

Result Indicator 3.2: Timely replies to requests on access to documents and personal data <sup>18</sup>		
Source: CMS/Unit C.4		
Baseline 2016	Current situation	Target 2020
94%	91%	100% of replies within the timeframe foreseen by the relevant Regulations

## **C. Anti-fraud policy, including fraud prevention**

In relation to **Specific objective 4, protection of the financial interests of the EU by developing anti-fraud policy, legislation and enhancing the cooperation with the Member States and other partners** OLAF made progress to ensure more consistent reporting of fraudulent irregularities by Member States. A more efficient and swift reporting of irregularities by national authorities will lead to a better protection of EU funding. With this aim, OLAF organised numerous training sessions for Member States, candidate countries, third countries and Commission services. The **"Handbook on Reporting of irregularities in shared management 2017"** was endorsed by the Advisory Committee for Coordination of Fraud Prevention (COCOLAF) and made available to the Member States in November 2017. In this respect, OLAF has supported national authorities improve their fraud detection and prevention capabilities. On 20 July 2017, the Commission adopted the **2016 annual report on the Protection of the European Union's Financial Interests (PIF Report)** on the basis of Article 325 (5) TFEU. The Treaty requires the Commission, in cooperation with Member States, to submit every year to the European Parliament and the Council a report on the measures implemented to combat fraud and other illegal activities detrimental to the financial interests of the Union. The report was also presented to the Council Working Group on Combatting Fraud and to the Budgetary Control Committee of the European Parliament. This Committee will adopt their own initiative report on the Commission's 2016 PIF Report by the end of March 2018.

As an element of preparations for the coming Multiannual Financial Framework (MFF) after 2020 and related spending programmes, OLAF is preparing the **update of the Commission Anti-Fraud Strategy (CAFS)**. The CAFS, adopted in 2011, provides a policy framework for the prevention, detection, investigation and reparation of fraud at the level of the Commission and for the good functioning of the Commission services in their management responsibilities for the protection of the financial interests of the EU. The preparation of the next MFF provides the Commission with the opportunity to examine anti-fraud approaches across different EU policies and to reinforce anti-fraud measures where appropriate.

OLAF performed recurrent fraud-prevention activities such as fraud-proofing of legislative proposals and legal agreements, fraud prevention training and contributing to the **Early Detection and Exclusion System (EDES)**. The EDES, introduced by the 2015 revision of the Financial Regulation<sup>19</sup>, ensures the early detection of economic operators which represent risks to the EU's financial interests, the exclusion of unreliable economic operators from obtaining EU funds and/or the imposition of a financial penalty. OLAF investigations are an important source of information for operating the EDES. OLAF also provides advice to other Commission services and to the independent EDES panel, which plays a key role in the exclusion of economic operators.

<sup>18</sup>The requests included are requests for access to documents, confirmatory applications for access to documents and requests on personal data. The figures take into account holding replies for requests falling under Regulation 1049/2001.

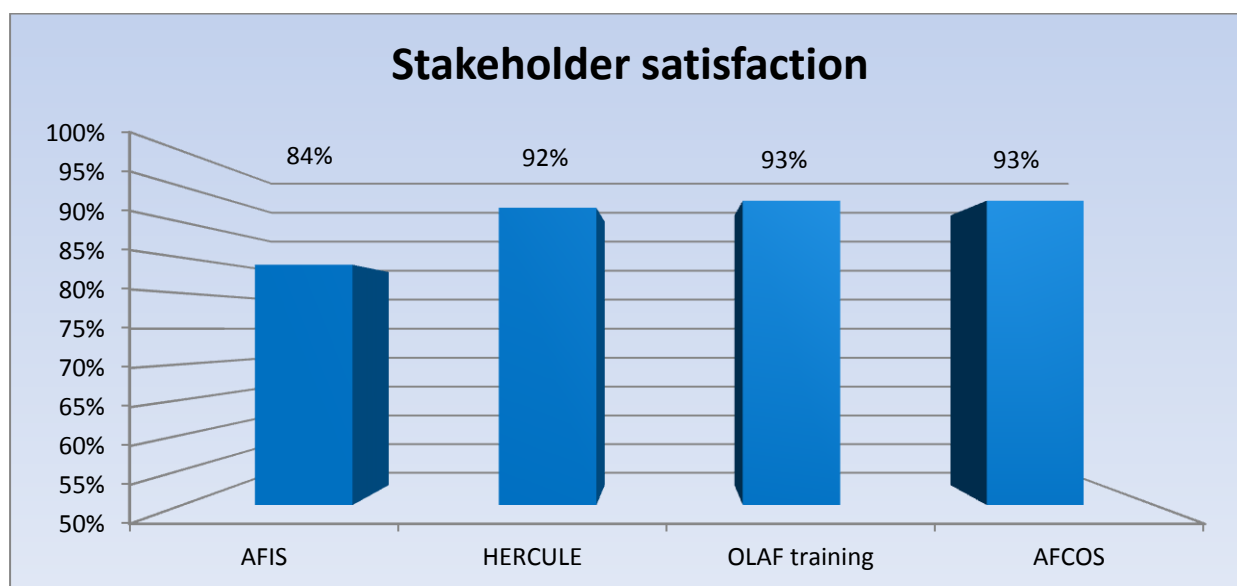
<sup>19</sup>Regulation (EU, Euratom) No 2015/1929 of the European Parliament and of the Council of 28 October 2015, OJ L 286, 30.10.2015, p. 1.



Within the context of enhanced cooperation with Member States and other partners, OLAF signs so-called **Administrative Cooperation Arrangements (ACAs)** with its investigative partners to clarify the practicalities of cooperation. Over the years since the establishment of OLAF, around 65 such arrangements have been concluded, of which 6 in 2017. The signature of working arrangements between OLAF and Europol, however, has been postponed, at Europol's request, awaiting a decision of the Europol Management Board with respect to bilateral arrangements implementing the new Europol Regulation. OLAF remains ready to resume discussions with Europol, once the latter is in a position to do so.

On 2 October 2017, the Commission adopted the **evaluation report of the application of Regulation 883/2013**. The evaluation was a legal obligation, required by Regulation 883/2013 itself, and was based on approximately three years of application of the regulation. It concluded that the Regulation has allowed OLAF to deliver concrete results in the protection of the Union's financial interests. The added value of OLAF investigations and the continued relevance of the objectives in the context of the establishment of the EPPO were also confirmed by the evaluation (more details are provided under point 2.2.2).

In order to measure the **influence and added value of OLAF's policy activities** for its stakeholders, OLAF makes use of surveys or feedback. Overall, OLAF's stakeholders are satisfied with the added value of OLAF's policy activities as their appreciation overreached the 2017 target (60%). Given the different nature of these activities, four categories were designed for measurement purpose.



Category (i) covers the AFIS users. The latest results, dating back to 2015 show that 84% of the users who replied were satisfied. The next survey will be run in 2018.

Categories (ii) and (iii) cover the beneficiaries of Hercule funds either through conferences and training events (ii) or through technical assistance (iii). In 2017 OLAF received 17 final reports of Hercule-funded conferences and training events: 15 concerned anti-fraud training actions; 2 covered legal training actions (other legal training actions took place such as publications, research, but the indicator currently measured cannot cover such actions). In total, these activities reached out to more than 2.000 participants; 83% of them responded to the feedback form and 92% stated that these activities were of added value to their professional duties. As regards technical assistance (iii), the feedback-question was only introduced in the grant agreements in 2017, which are currently being implemented.

Category (iv) covers the conferences and training events organised by OLAF, as well as the Anti-Fraud Coordination Services (AFCOS) meeting. For 2017, both the AFCOS seminar and the meeting with African stakeholders (the "Pilot Group") were measured. There were around 70 participants at the AFCOS seminar where 70% gave feedback.

For the Pilot Group, out of 39 participants, more than 70% replied to the feedback questionnaire. In both cases, some 93% of the stakeholders replied being satisfied with the activities.

**Specific objective 4: Protection of the financial interests of the EU by developing anti-fraud policy, legislation and enhancing the cooperation with the Member States and other partners**

☒ No spending programme

**Result indicator 4.1: Compliance of Member States with obligations for reporting of fraudulent irregularities**

**Definition:** Legal bases for the reporting are the sectoral provisions and the supplementing Commission Regulations or Commission Delegated and Implementing Regulations applicable for the programming periods from 1989 to 2020.

The analysis of fraudulent and non-fraudulent irregularities reported via IMS still shows significant differences in the level of reporting among and within Member States. These differences can be partly explained by different interpretations of the basic concepts concerning the obligation to report.

**Source:** AFIS/IMS modules

Baseline 2016	Current situation	Target 2020
<p>IMS manual revised and updated.</p> <p>A training session for potential Candidate Countries took place in October 2016. A hands-on session for Serbian IMS liaison officers took place in December 2016.</p>	<p>Guidelines on reporting of fraudulent and non-fraudulent irregularities available via IMS based on the new legal framework.</p> <p>Handbook on irregularities reporting has been finalised and distributed to Member States.</p> <p>Presentations on IMS have been given to Member States, candidate countries, third countries and Commission services. Access to the system was given or solicited. Candidate Countries have been trained and are equipped to use IMS.</p>	<p>A more consistent reporting from Member States and an overall increase in the fraudulent irregularities reporting.</p>

**Result indicator 4.2: Developing databases as a tool bringing added-value to customs investigations at national and European level, leading to additional investigations**

**Source:** Databases falling under Council Regulation (EC) No 515/97 as amended by Regulation (EC) No 2015/1525, Council Decision 2009/917/JHA, Decision on the use of information technology for customs purposes

Baseline 2016	Current situation	Target 2020
<p>Delegated and Implementing Acts adopted in February and March 2016, respectively.</p> <p>CSM (Container States Messages) directory and IET (Import, Export and Transit) directory are operational since 1 September 2016</p>	<p>CSM:</p> <ul style="list-style-type: none"> <li>820 million CSMs received since 9/2017</li> <li>1 595 users</li> </ul> <p>IET:</p> <ul style="list-style-type: none"> <li>45.8 million Transit and 7.5 million Export messages received since 9/2017</li> <li>716 users</li> </ul>	<p>Further develop CSM and IET directories in line with the objectives of Council Regulation (EC) No 515/97 as amended, based on stakeholders' experiences.</p> <p>Directories offer tangible benefits for national and European investigations.</p>

**Result indicator 4.3: Number of Joint Customs Operations (JCOs) (including EU wide and regional operations) supported/year**

**Source:** Databases falling under Council Regulation (EC) No 515/97 as amended by Regulation (EC) No 2015/1525, Council Decision 2009/917/JHA, Decision on the use of information technology for customs purposes

Baseline 2014	Current situation	Target 2016-2020
0 JCOs led by OLAF in 2016  Because 4 JCOs were co-organised by a Member State and OLAF, there was no need for an OLAF-led operation.	1 JCO led by OLAF in the ASEM framework  10 JCOs supported by VOCU	2 JCOs per year led by OLAF

**Result indicator 4.4: Satisfaction by stakeholders with OLAF's support in the area of anti-fraud policy**

**Definition:** Level of satisfaction expressed by respondents, covering four categories of beneficiaries: (i) users of AFIS IT-applications; (ii) Hercule-funded conferences and training events; (iii) beneficiaries of Hercule-funded technical assistance; (iv) participants of conferences/training events organised by OLAF as well as of the AFCOS annual meeting.

**Source of data:** Satisfaction surveys / feedback forms / evaluation forms

Baseline 2016	Current situation	Target 2020
Reporting to start in 2017	<u>Category (i):</u> 84% of the stakeholders replied positively  <u>Category (ii):</u> 92% of the stakeholders replied positively  <u>Category (iii):</u> 93% of the stakeholders replied positively  <u>Category (iv):</u> 93% of the stakeholders replied positively	At least 70% of respondents reply positively to OLAF's support in the area of anti-fraud policy.

**Main outputs in 2017:**

Description	Indicator	Current situation	Target
Establish new working arrangements with Europol	Signature	Awaiting Europol's decision to resume discussions	2017
Revise working arrangements with the Supervisory Committee (SC)	Signature	Working Arrangements with SC have been terminated by the SC. The SC expressed its wish to wait for the new OLAF Director-General to take office to start discussions on new Working Arrangements.	2017
Administrative cooperation arrangements (ACAs) set out practical details for the cooperation between OLAF and other entities, in particular in connection with investigations.	Number of newly established and revised ACAs	6 ACAs signed in 2017 (Committee of the Regions, Council, The National Anti-Mafia Bureau DNA (Italy), Carabinieri (Italy), General Control of Finances (Tunisia) and Kosovo Police).	5 ACAs

Organise AFCOS seminar	AFCOS seminar has taken place	AFCOS Seminar took place on 7-9 June 2017.	2017
Organise AFCOS group meeting	AFCOS group meeting has taken place	AFCOS Group Meeting took place on 26 October 2017.	2017
Update of the Commission Anti-Fraud Strategy (CAFS)	Adoption of the CAFSII by the College	Due to an audit performed by the European Court of Auditors on the Commission's fraud risks management, which is expected to provide valuable input for the CAFS II, the adoption is planned for 2018.	3rd quarter 2017
Replying to consultations by other Commission services on early detection cases.	Proportion of consultations for which deadlines were met	86%	Meet deadlines in 75% of consultations
Annual Report (under Article 325(5) of TFEU) by the Commission to the EP and Council on the Protection of the EU's financial interests	Adoption Decide planning reference number: PLAN/2016/420	Adopted on 20 July 2017 (COM)383 final	3rd quarter 2017
Guidelines to Pre-Accession Countries on irregularities reporting	Adoption	The adoption of the guidelines to Pre-Accession Countries for irregularities reporting was planned to follow the handbook on irregularities reporting (which had the priority) and which was finalised in November 2017. The document is currently under preparation.	2017
Supporting the Commission's Exclusion Panel, in OLAF's role as observer, by providing case-related information and advice	Proportion of panel cases based on OLAF investigations for which deadlines for OLAF's written and oral contributions to the work of the panel were met	90%	Meet deadlines in 75% of cases
Guidelines for OLAF's investigation and policy directorates' cooperation on EDES	Adoption	The IAS has started an audit on the EDES system. The new OLAF internal EDES guidelines will be adopted once the result of this audit is known (2018-2019).	2nd quarter of 2017

## Anti-Fraud Information System (AFIS)

AFIS is an umbrella term for a set of anti-fraud IT applications operated by the European Commission (OLAF). These ensure the timely and secure exchange of fraud-related information between national and EU competent administrations. The AFIS Project encompasses two major areas: Mutual Assistance in Customs Matters and Irregularities Management.

The AFIS Portal is a single and common infrastructure for the delivery of these services to more than 8 000 registered end-users in more than 1 200 competent services from Member States, partner third countries, international organisations, Commission services and other EU institutions. The AFIS Portal enables substantial economies of scale and synergies in the development, maintenance and operations of such a wide and diverse set of IT services and tools<sup>20</sup>.

By training and giving advice to the Member States' authorities and those in Candidate Countries in how to use the Irregularity Monitoring System and its new modules, OLAF aims to achieve compliance, by those authorities, with their obligations to report fraudulent and non-fraudulent irregularities. This will increase the protection of the EU's financial interests, as the potential fraud will be followed-up by OLAF or the relevant national authorities.

In 2017, AFIS supported mutual assistance activities including Joint Customs Operations (JCOs) co-organised by OLAF and Member States, or organised by Member States or the World Customs Organisation with the support of OLAF. Throughout 2017, 11 Joint JCOs were co-organised or supported by OLAF.

The Virtual Operations Coordination Unit (VOCU) module of AFIS was used for the secure exchange of information in all of these JCOs. Two JCOs also used the Permanent Operational Coordination Unit (POCU) in OLAF. One JCO was organised by OLAF under the ASEM (Asia-Europe Meeting) framework. Three of the JCOs organised in cooperation with Member States (Estonia and France) were financed by OLAF. The number of active customs fraud cases for which information is available in the Mutual Assistance databases of AFIS in 2017 was 16 324, an increase of 2 524 cases in comparison to the previous year.

Main outputs in 2017:			
Description	Indicator	Current situation	Target
Support mutual assistance in customs matters through the provision of secure information exchange tools for specific customs anti-fraud information exchange modules and databases such as the CIS	Number of active customs fraud cases for which information is available in the mutual assistance databases	16 324	17 000
Launch of a stakeholder discussion on strategic data analysis	Meeting with stakeholders	An initial discussion took place in December 2017 at the Expert Group on mutual assistance in customs matters. Further discussion with stakeholders is planned in two dedicated workshops in 2018 under a	2 <sup>nd</sup> half 2017

<sup>20</sup> The Programme Statements provide more details on the resources dedicated to each spending programme, including AFIS. Draft General Budget of the European Union for the financial year 2018, COM(2017) 400, Part I: Programme Statements of operational expenditure, pages 160 -164.

		project concluded with the JRC in December 2017.	
Support mutual assistance in customs matters through the provision of secure information exchange tools for Joint Customs Operations	Number of JCOs led by OLAF	1 JCO in the ASEM framework	2 JCOs
	Number of JCOs supported by OLAF	10 JCOs supported by VOCU	3 JCOs
IMS reporting	Number of communications exchanged between the Member States and the Candidate Countries via IMS to fulfil their irregularities reporting obligations under the different regulations	The total number of communications received by the Commission is 88 347. These concern requests for new cases or update of old cases created by reporting authorities and by OLAF staff on behalf of Member States or Candidate Countries.	22 500
IMS training for OLAF units and Shared Management DGs	Number of training sessions organised	One training for OLAF-staff (12 participants)	5 sessions
	Number of staff trained on how to use and exploit the information stored in the IMS system	One training for Commission staff (10 participants)	30 from OLAF and 50 from other DGs

## Reduction of illicit trade in tobacco products

**Specific objective 5: *Reduction of illicit trade in tobacco products*.** OLAF has also performed well in its fight against illicit tobacco trade, in line with the efforts it made in the last years. On 12 May 2017, the Commission published a Progress report on the implementation of the 2013 Commission Communication "Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products". The progress report highlights that the accompanying Action Plan to the 2013 Communication has largely been completed or implementation was ongoing. Member States welcomed this report in Council Conclusions adopted in December 2017. Based on the analysis contained in the report, the Commission started reflections on follow-up initiatives for 2018. OLAF will continue to boost its enforcement action to detect and investigate any allegations of tobacco smuggling or counterfeiting.

The Framework Convention on Tobacco Control (FCTC) Protocol is the first international treaty designed to tackle international tobacco smuggling. The Protocol has become a central pillar of OLAF's policy to fight the illicit tobacco trade at the international level. It sets out measures to secure the supply chain through the gradual creation of a global tracking and tracing system, licensing, due diligence and other record keeping requirements. It also foresees international cooperation through mutual assistance between authorities and increased sanctions. After the EU ratification of the FCTC Protocol in June 2016, the Commission has continued the promotion of the Protocol in Member States as well as in third countries, notably in our Eastern neighbourhood and in key source and transit countries.

**Specific objective 5: Reduction of illicit trade in tobacco products**
☒ No spending programme

**Result indicator 5.1: Implementation of the Strategy to step up the fight against cigarette smuggling and other forms of illicit trade in tobacco products and its Action Plan**

**Definition:** The Action Plan contains 50 actions that must be completed by a certain date, or in the “short”, “mid-” or “long-term”.

**Source:** COM (2013) 324 final, SWD (2013) 193 final

Baseline 2013	Current situation	Target 2018
Council adopted Conclusions concerning the Communication in December 2013.	Most actions mentioned in the Communication have been finalised, while a few are still ongoing, as reported in the Commission's Implementation Report of May 2017.	Adoption of the Second Action Plan on combating illicit trade in tobacco products

**Result indicator 5.2: Increased coverage and use of IT tools to draw statistical information relating to illicit trade in cigarettes**

**Definition:** Expand coverage and use of IT tools on the illicit trade in cigarettes in order to promote use of IT applications by MS and OLAF and improve the availability of reliable statistics.

**Source:** ToSMA, CigINFO

Baseline 2014	Current situation	Target 2020
ToSMA (Tobacco Seizure Management Application) was launched in 2014.	ToSMA is fully operational, including historical data, and full coverage of the qualifying seizures was achieved.	Coverage of all qualifying seizures in ToSMA (100%).
CigINFO (Cigarette Information): Number of entries: less than 2000	CigINFO: 1 402 entries made by Member States; a drop in reporting from some Member States can in part be attributed to focusing reporting on larger cases.	Increase number of entries in CigINFO by another 5% (annually).

**Main outputs in 2017:**

Description	Indicator	Current situation	Target
Operation of the new laboratory facility for the analysis of seized cigarettes	Number of seizure analyses	92	100 tests in 2017
Report on implementing the Strategy to step up the fight against cigarette smuggling and other forms of illicit trade in tobacco products, including policy orientations for the future	Adoption Decide planning reference number: 2016/OLAF001	Adopted on 12 May 2017 (COM(2017) 235 final)	1st quarter 2017
Impact assessment of the FCTC Protocol implementation	Tender study	Relevant measures to implement the FCTC Protocol in the EU are under preparation. An impact assessment will be made depending on the nature of the initiatives to be proposed by the Commission.	2 <sup>nd</sup> half 2017



## Promoting activities in the field of the protection of the European Union's financial interests (Hercule III)

OLAF is responsible for the management of the Hercule III Programme<sup>21</sup>, which supports actions and projects that aim to protect the financial interests of the European Union. The general objective of the programme corresponds to OLAF's **Specific objective 6: To prevent and combat fraud, corruption and any other illegal activities affecting the Union's financial interests**. The Programme has a budget of EUR 104.9 million for the period 2014-2020. It is implemented on the basis of annual work programmes setting out the budget and the funding priorities for a given calendar year. The annual work programme<sup>22</sup> for 2017 made available a budget of EUR 14.95 million for the purchase of, for example, specialised technical equipment by law enforcement agencies in the Member States, such as customs or police forces<sup>23</sup>. The financial support was used for the purchase of a wide range of equipment, such as scanners used in harbours or airports, digital forensic soft - and hardware, systems to track vehicles or the purchase and training of sniffer dogs. The Hercule III Programme also supported conferences, seminars and training events attended by staff of national administrations, law enforcement agencies and NGO's in order to strengthen mutual cooperation, staff exchanges or the exchange of best practices in the protection of the Union's financial interests. The Programme funded digital forensic training sessions aimed at improving the skills of its participants to secure evidence from digital devices in a rapidly evolving technological environment and helping them to stay in the forefront of the fight against fraud.

The results of these activities<sup>24</sup> demonstrate the contribution to the protection of the Union's financial interests brought thanks to the Programme's financial support.

The Commission adopted the report on the mid-term evaluation of Hercule III Programme and transmitted it to the European Parliament and the Council on 10 January 2018. As Regulation 250/2014<sup>25</sup> requires an independent assessment, the report was supported by a study carried out by an external contractor (more details are provided under point 2.2.2).

**Specific objective 6: To prevent and combat fraud, corruption and any other illegal activities affecting the Union's financial interests**

☒ Spending programme

**Result indicator 6.1: The added value and effective use of co-financed technical equipment, as reflected by the users of the equipment in their final technical report and final implementation report of the action who expressed the opinion that the supported action was only made possible as the result of the Hercule grant.**

**Source of data:** final technical reports and final implementation reports

<sup>21</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 of 20 March 2014, p. 6-13.

<sup>22</sup>Adopted by Commission Decision C(2017) 1120 final of 22 February 2017

<sup>23</sup>The Programme Statement provides more details on the resources dedicated to each spending programme, including Hercule III. Draft General Budget of the European Union for the financial year 2018, COM(2017) 400, Part I: Programme Statements of operational expenditure, pages 152 -155.

<sup>24</sup>The Commission transmits every year to the European Parliament and to the Council a report with an overview of the main results achieved in the framework of the Hercule III programme. In addition, the Commission publishes, inasmuch as these results do not endanger on-going operations, information on its website on seizures of smuggled cigarettes and tobacco or counterfeited products. The reports can be found on: [https://ec.europa.eu/anti-fraud/policy/hercule-programmes/hercule-ii-reports\\_en](https://ec.europa.eu/anti-fraud/policy/hercule-programmes/hercule-ii-reports_en)

<sup>25</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 of 20 March 2014.



Baseline 2014	Current situation	Target 2020
N/A – New indicator	96%	More than 90%

Main outputs in 2017			
Description	Indicator	Current situation	Target
Annual overview with information on the results of the Hercule III Programme in 2016	Commission Staff Working Document accompanying the PIF report 2016	The PIF report <sup>26</sup> , including the Commission Staff Working Document <sup>27</sup> was adopted on 20 July 2017.	2017

## European Public Prosecutor's Office and PIF Directive

President Juncker's **political priority *An Area of Justice and Fundamental Rights Based on Mutual Trust*** specifically mentions the need to "progress on new tools such as the European Public Prosecutor's Office (EPPO) which is designed to tackle criminal fraud which damages the EU budget". OLAF progressed on **Specific objective 7: Strengthened legal framework for protection of the financial interests of the EU**, as co-responsible service in the continued legislative negotiations throughout 2017 on the EPPO and on a Directive on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive).

**Both legal acts were adopted in 2017.** The PIF Directive was adopted by the Council and the Parliament on 5 July 2017. The transposition period runs until 6 July 2019. The EPPO Regulation was adopted on 12 October 2017, under enhanced cooperation between 20 Member States, and entered into force on 20 November 2017. The entry into force of the Regulation kicks off the setting up phase, at the end of which the EPPO will be able to begin its operations. The EPPO will investigate, prosecute and bring to judgment the perpetrators of offences affecting the Union's financial interests. This will be an important qualitative step towards a more effective fight against offences affecting the Union's budget.

General objective 2: An Area of Justice and Fundamental Rights Based on Mutual Trust		
Specific objective 7: Strengthened legal framework for protection of the financial interests of the EU.		<input checked="" type="checkbox"/> No spending programme
<b>Result indicator 7.1:</b> Strengthened legal framework for protection of the financial interests of the EU. <b>Definition:</b> The PIF Directive aims at establishing minimum penalties and common definitions for crimes against the EU budget in all EU countries. The EPPO would investigate, prosecute and bring to judgment the perpetrators of offences affecting the Union's financial interests. <b>Source of the data:</b> The Commission report assessing the compliance of the Member States following the adoption of the PIF Directive and first activity reports by the EPPO.		
Baseline 2012-2013	Current situation	Target
The PIF Directive proposed in July 2012	The PIF Directive was adopted on 5 July 2017	2017
The EPPO Regulation proposed in July 2013	The EPPO Regulation was adopted on 12 October 2017	2017

<sup>26</sup> COM(2017) 383 final

<sup>27</sup> SWD(2017) 269 final

## **2. ORGANISATIONAL MANAGEMENT AND INTERNAL CONTROL**

This section answers the question *how* the achievements described in the previous section were delivered by the DG. This section is divided in two subsections.

The first subsection reports the control results and all other relevant information that support management's assurance on the achievement of the financial management and internal control objectives. It includes any additional information necessary to establish that the available evidence is reliable, complete and comprehensive; appropriately covering all activities, programmes and management modes relevant for the DG.

The second subsection deals with the other components of organisational management: human resources, better regulation principles, information management and external communication.

### **2.1 Financial management and internal control**

Assurance is an objective examination of evidence for the purpose of providing an assessment of the effectiveness of risk management, control and governance processes.

This examination is carried out by management, which monitors the functioning of the internal control systems on a continuous basis, and by internal and external auditors. Its results are explicitly documented and reported to the Director-General. The reports produced are:

- the reports from Authorising Officers in other DGs managing budget appropriations in cross-delegation
- the contribution of the Internal Control Coordinator, including the results of internal control monitoring at the DG level;
- the reports of the ex-post supervision or audit;
- the opinion of the internal auditor on the state of control, and the observations and recommendations reported by the Internal Audit Service;
- the observations and the recommendations reported by the European Court of Auditors.

These reports result from a systematic analysis of the evidence available. This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a complete coverage of the budget delegated to the Director-General of OLAF.

This section reports the control results and other relevant elements that support management's assurance. It is structured into (a) Control results, (b) Observations and recommendations from audit and other supervisory bodies, (c) Effectiveness of the internal control system, and resulting in (d) Conclusions as regards assurance.

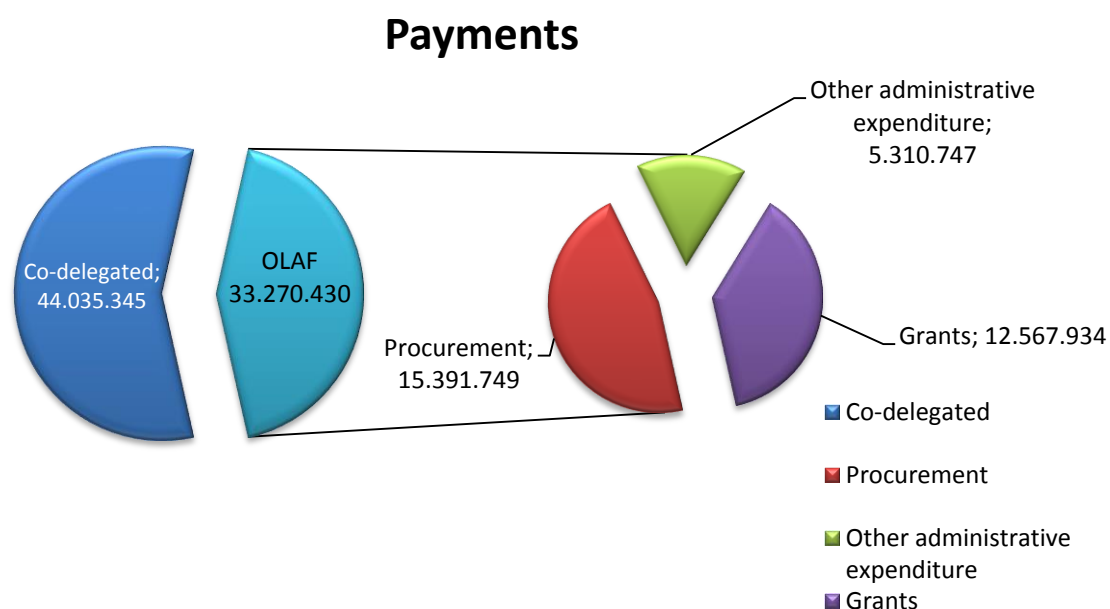
## 2.1.1 Control results

This section reports and assesses the elements identified by management that support the assurance on the achievement of the internal control objectives<sup>28</sup>. The DG's assurance building and materiality criteria are outlined in Annex 4. Annex 5 outlines the main risks together with the control processes aimed to mitigate them and the indicators used to measure the performance of the control systems.

OLAF is a low spending DG in the Commission with a total budget of EUR 82 million (EUR 59.9 million administrative and EUR 22.1 million operational<sup>29</sup>, managed through direct management).

As regards payments, OLAF's expenditure can be broken down between those managed directly by OLAF and those for which a co-delegation exists with other Commission Services.

This means that OLAF implements only part of its expenditure, which is related to procurement (EUR 15,4 million), grants (EUR 12,6 million) and some administrative expenditure (EUR 5.3 million for rent of the OLAF building and the reimbursement of experts) under direct management mode. About EUR 44 million is co-delegated to other Services. The vast majority of this amount relates to salaries of statutory and external staff co-delegated to PMO/HR. The remainder is co-delegated to DIGIT, COMP, DEVCO/EEAS, HR and SG.



<sup>28</sup>Effectiveness, efficiency and economy of operations; reliability of reporting; safeguarding of assets and information; prevention, detection, correction and follow-up of fraud and irregularities; and adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments (FR Art 32).

<sup>29</sup>OLAF's operational budget finances activities in the framework of the Hercule programme, and the operation of AFIS.

## ***Coverage of the Internal Control Objectives and their related main indicators***

- ***Control effectiveness as regards legality and regularity***

OLAF has set up internal control processes aimed to ensure the adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned.

The control objective is to ensure that the estimated error rate does not exceed 2% annually.

The financial circuit applied is a partially decentralised model for all transactions except for the pre-financing transactions where the centralised model is used. The operational units are responsible for the operational verifications. In OLAF, all files are verified by at least three persons (two financial and one operational agent) before they are accepted and processed by the Authorising Officer by Sub-Delegation (AOSD).

Ex-ante controls are carried out by the FVA on every transaction (administrative, grants and procurement files) which requires an approval of the AOSD. During these ex-ante controls the legality and regularity of transactions are checked on the basis of checklists. When errors and/or weaknesses are noted, the checklists are updated in order to cover the risk identified.

The accounts are checked on a monthly basis by the Accounting Correspondent supervised by the AOSD of the Budget Unit.

Following the IAS audit report on procurement and grants issued in July 2016, OLAF further strengthened its procedures. In the course of 2017, the Office updated the internal guidelines and formally introduced the requirement for a needs analysis prior to the launch of a procurement procedure.

A register is kept for all exception and non-compliance events reported (each of them being signed at the appropriate management level). These cases were not of a nature or extent to lead, either to a reservation, or to the identification of a significant weakness in the internal control system, and did not have an impact on the declaration of assurance of the AOD. The qualitative analysis of the registered exceptions and non-compliance events revealed that during the reporting year there were 12 events of non-compliance (compared to 17 in 2016). These non-compliance events had no impact on the legality and regularity of the transactions.

Ex-post controls (desk reviews) were carried out on 2017 expenditures for both grants and procurements. During the ex-post controls the regularity and legality of the transactions were verified. The controls were carried out on the basis of a random sample which is sufficiently representative to draw valid management conclusions and composed of 34 transactions representing a value of EUR 3.7 million (in payments) which corresponds to 2.3% of the number of transactions and 5.7% in value of the total amount under review as of 31 December 2017.

The ex-post controls carried out did not lead to the identification of any financial error. They allow OLAF to conclude that the control objective has been met as regards the control effectiveness on legality and regularity.

In the context of the protection of the EU budget, at the Commission's corporate level, the DG's estimated overall amounts at risk and their estimated future corrections are consolidated.

For OLAF, the estimated overall amount at risk at payment<sup>30</sup> for the 2017 payments made was less than 1% (i.e. less than EUR 332 000). This is the AOD's best, conservative estimation of the amount of *relevant expenditure*<sup>31</sup> during the year (EUR 33.16 million) not in conformity with the applicable contractual and regulatory provisions at the time the payment was made.

This expenditure will be subsequently subject to ex-post controls and a sizeable proportion of the underlying error will be detected and corrected in successive years. The conservatively estimated future corrections<sup>32</sup> for those 2017 payments made are EUR 30 000. This is the amount of errors that the DG conservatively estimates to identify and correct from controls that it will implement in successive years.

The difference between those two amounts leads to the estimated overall amount at risk *at closure*<sup>33</sup> of EUR 302 000.

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<sup>30</sup>In order to calculate the weighted average error rate (AER) for the total *relevant expenditure* in the reporting year, the *detected*, estimated or other equivalent error rates have been used.

<sup>31</sup>"*relevant expenditure*" during the year = payments made, minus new pre-financing paid out, plus previous pre-financing cleared.

<sup>32</sup>Based on the 7 years historic average of recoveries and financial corrections.

<sup>33</sup>For some programmes with no set closure point (e.g. EAGF) and for some multiannual programmes for which corrections are still possible afterwards (e.g. EAFRD and ESIF), all corrections that remain possible are considered for this estimate.

## Estimated overall amount at risk at closure

DG OLAF	"payments made" (FY; m€)	minus new prefinancing  [plus retentions made] (in FY; m€)	plus cleared prefinancing [minus retentions (partially) released and deductions of expenditure made by MS]  (in FY; m€)	relevant expenditure  (for the FY; m€)	Average Error Rate (weighted AER; %)	estimated overall amount at risk at payment (FY;m €)	Average Recoveries and Corrections (adjusted ARC; %)	estimated future corrections  [and deductions] (for FY; m€)	estimated overall amount at risk at closure (€)
-1	-2	-3	-4	-5	-6	-7	-8	-9	-10
<a href="#">24 01[1]</a>	12.35	0	0	12.35		0.124		0.011	0.112
<a href="#">24 02[2]</a>	15.12	7.45	7.34	15.01		0.150		0.014	0.136
<a href="#">24 04[3]</a>	5.8	0	0	5.80		0.058		0.005	0.053
Overall	33.27 mEUR	7.45mEUR	7.34mEUR	33.16mEUR	<1%	0.332mEUR; and max 1% of (5)	0.09%	0.030mEUR and 0.09% of (5)	0.302mEUR and 0.91% of (5)

[\[1\] Administrative expenditure of the "Fight against fraud" policy area](#)

[\[2\] Promoting activities in the field of the protection of the European Union's financial interests \(Hercule III\)](#)

[\[3\] Anti-fraud information system \(AFIS\)](#)

## ***Cost-effectiveness and efficiency***

<b>Indicator: Percentage of budget execution (commitments) with respect to budget appropriations</b>		
	<b>Current situation</b>	<b>Target 2020</b>
Administrative expenditure of the "fight against fraud" policy area	93.77%	More than 98%
Promoting activities in the field of the protection of the EU's financial interests (Hercule III)	99.37%	More than 98%
Anti-fraud information system (AFIS)	99.72%	More than 98%

The lower than expected budget execution rate related to Administrative expenditure can mainly be explained by the high vacancy rate in 2017 and, consequently, a lower outturn on the salaries budget. Following the publication in the last quarter of 2017 of the lists with successful candidates of two OLAF competitions, several recruitments will be finalised in the first quarter of 2018. This should lower the vacancy rate and, subsequently, increase the budget execution in the next year.

### **Grants**

#### Cost-effectiveness

OLAF launched three calls for proposals in 2017 and received 106 applications altogether. The success ratio 'value proposals received over budget available' is 268% which illustrates the attractiveness of the programme towards beneficiaries.

The preparation, adoption and publication of the relevant documents (annual work programme, technical specifications, guidelines, forms) as well as the implementation of the new eGrant management system required around EUR 143 000 which corresponds to an average cost of EUR 1 349 per application.

In December 2017, the Commission was able to award 47 grants to the 106 applicants (44%).

The total cost of controls related to grants (i.e. including costs related to financial ex-ante and to ex-post controls) has been estimated at EUR 890 000 which corresponds to 7.1% of the total amount of transactions concerned (for a total of EUR 12.6 million in grants). These controls have also led to the adjustment of 30 cost claims for a value of EUR 221 837 which corresponds to 1,72% (as compared to 1,6% last year) in value of cost claims submitted. The ex-post controls (desk reviews) carried out covered 8 transactions on grants for a value of EUR 2 574 150 (representing 20% of the payments of 2017 for grants) and did not identify any financial error<sup>34</sup> that could have had a negative impact on the assurance.

Programmes ran smoothly in 2017 without any reported litigation cases.

OLAF has assessed its cost of controls as adequate taking into account the atypical position of OLAF as the Office in charge of the fight against fraud, which pleads for a strong control environment.

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<sup>34</sup>No error on the legality and regularity was identified by the ex-post controls on 2017 expenditures.

Indicator: Conclusion reached on cost effectiveness of controls	
Current situation	Target 2020
Yes	Yes
Indicator: Part of the cost of control in proportion of the budget controlled	
Current situation	Target 2020
7.1%	Grants: less than 15%

### Efficiency

The successful applicants were notified of the outcome of the evaluation procedure around 3.5 months after the deadline for submission of applications in August 2017 (as compared to 4.5 months in 2016). The rejected applicants, who could only be notified after the successful applicants had confirmed their interest in receiving a grant, received their notification around 4.5 months after the deadline for submission. Most of the grant agreements with the successful applicants were signed before the end of 2017, which corresponds to around 1 month (2 months in 2016) after the notification on the outcome of the evaluation procedure and is well within the limits set in Article 128 of the Financial Regulation. The Commission informed all rejected applicants via the eGrant system about the scores their application was given by the Evaluation Committee as well as the reasons and justifications given for these scores. Several rejected applicants requested additional information on the Commission's decision and one of the applicants challenged this decision (the re-evaluation procedure is ongoing).

Indicator: Percentage of payments handled within the time limit (Art. 92.1 FR)	
Current situation	Target 2020
84%	More than 90%
Indicator: Percentage of applicants informed of the outcome of the evaluation of their application within the time limit (< 6months, Art. 128.2 FR)	
Current situation	Target 2020
100%	100%
Indicator: Percentage of grant agreements signed with applicants within the time limit (< 3 months, Art. 128.2 FR)	
Current situation	Target 2020
100%	100%

Based on an assessment of the most relevant key indicators on grants and the control results, OLAF has assessed the cost-effectiveness and the efficiency of the control system and reached a positive conclusion.

## **Procurements**

### Cost-effectiveness

In 2017, the procurement payments amounted to EUR 15 391 749.

OLAF launched three tendering procedures<sup>35</sup>, one open procedure with publication in the Official Journal, one negotiated procedure because of technical reasons and exclusive rights and one open tender procedure for which the pre-notification was published in December 2017.

Since 1 October 2017, OLAF also uses the eSubmission module developed by DIGIT for the electronic submission of bids by tenderers.

<sup>35</sup> Tendering procedures for amounts above EUR 15.000



The cost of the controls on procurement procedures related to 2017 was assessed at EUR 244 172 corresponding to 1.59% in value of the budget allocated to procurement.

The ex-post controls (desk reviews) carried out on procurements covered transactions for EUR 1 096 527 (representing 7.4% of the value of the payments made in 2017 for procurements). The ex-post controls did not identify any significant financial error that could have had a negative impact on the assurance.

OLAF has assessed these costs of controls as adequate taking into account the atypical position of OLAF as the Office in charge of the fight against fraud which pleads for a strong control environment.

Indicator: Conclusion reached on cost effectiveness of controls	
Current situation	Target 2020
Yes	Yes
Indicator: Part of the cost of control in proportion of the budget controlled	
Current situation	Target 2020
1.59%	Procurements: less than 5%

### Efficiency

OLAF handled more than 96% of its payments within the time limits and had to pay interest for late payments on only one occasion for an amount of EUR 260.71.

Indicator: Percentage of payments handled within the time limit (Art. 92.1 FR).	
Current situation	Target 2020
97.2%	More than 90%

Based on an assessment of the most relevant key indicators on procurement and the control results, OLAF has assessed the cost-effectiveness and the efficiency of the control system and reached a positive conclusion.

### **Other administrative expenditure**

In 2017, these payments amounted to EUR 5 310 747 related to rent (EUR 5 107 190) and the reimbursement of experts (EUR 203 557). The cost of the controls was assessed at EUR 12 760.

### **Overall conclusions**

Based on an assessment of the most relevant key indicators and control results as well as the objective to avoid reputational damage, OLAF has assessed the cost-effectiveness and the efficiency of the control system and reached a positive conclusion.

Overall, the costs of controls on grants, procurement and other administrative expenditure was assessed at 3.4% over the relevant funds managed.

In view of these results, and in compliance with Article 66.2 of Financial Regulation, OLAF is considering reviewing its financial circuits by the end of 2018 in order to look for possibilities for a leaner control system.

## ***Fraud prevention and detection***

In 2016, OLAF completed the implementation of the action plan stemming from its previously reviewed anti-fraud strategy. The controls aimed at preventing and detecting fraud are not essentially unlike those intended to ensure the legality and regularity of the transactions. Each year, OLAF assesses the risk of fraud in the context of its self-risk assessment exercise. The fraud risks are mitigated by the specific controls implemented. Activities and operation that are at a higher risk of fraud are subjected to more in-depth monitoring and control.

In the second half of 2017, the IAS performed an audit on ethics in OLAF. Overall, the IAS recognises the ongoing efforts made by OLAF to ensure a solid ethics framework. In particular the IAS appreciated OLAF's Ethics Guide, which underlines the importance of ethics in OLAF and which, for the areas of gifts and hospitality, establishes stricter rules (zero tolerance) than the standard for the Commission, to avoid any reputational risk resulting from the appearance of loss of impartiality.

In view of the IAS audit and bearing in mind that ethics is an intergral part of the anti-fraud strategy, it was decided to postpone the update of the OLAF anti-fraud strategy until the beginning of 2018 in order to integrate the IAS' recommendations (the IAS final audit report was received in January 2018).

In 2017, OLAF continued its awareness campaign on ethics amongst staff. This initiative is aimed at ensuring that OLAF's staff lead by example by setting standards of professional conduct in terms of independence, integrity, impartiality and objectivity. This awareness campaign is also aimed at ensuring that OLAF's staff is aware of its rights and obligations in their relations with the public (duty of confidentiality).

With regards to the type of core business of OLAF the fraud prevention and detection system put in place is assessed as sufficient and adequate.

<b>Indicator: Updated anti-fraud strategy of OLAF</b>	
<b>Current situation</b>	<b>Target 2020</b>
Date of the last update 8/12/2015, next update foreseen by first trimester 2018	Update every year, as set out in the AFS
<b>Indicator: Percentage of newcomers trained on Ethic's matters</b>	
<b>Current situation</b>	<b>Target 2020</b>
100%	100% target population reached
<b>Indicator: Regular monitoring of the implementation of the anti-fraud strategy and reporting on its result to management</b>	
<b>Current situation</b>	<b>Target 2020</b>
In June 2017 and December 2017 in the framework of the Management Plan mid-term review and preparation of the next Management Plan.	Twice per year

## ***Other control objectives: safeguarding of assets and information, reliability of reporting (if applicable)***

In the context of the Ethics training sessions a special emphasis is given to the safeguard of information by ensuring that everyone knows the treatment to be given to sensitive information. Moreover, during the welcome session for newcomers a training session is given on the protection of personal data.

As mentioned above, following the full implementation of the 2016 anti-fraud strategy's action plan and the imminent implementation of the recommendations from the IAS' 2017 Audit on Ethics, OLAF considers that the procedures put in place to ensure safeguarding of the information are proportionate and adequate.

## **2.1.2 Observations and recommendations from audit and other supervisory bodies**

### **A. Audit observations and recommendations**

This section reports and assesses the observations, opinions and conclusions reported by auditors in their reports, as well as the limited conclusion of the Internal Auditor on the state of control, which could have a material impact on the achievement of the internal control objectives, and therefore on assurance, together with any management measures taken in response to the audit recommendations.

OLAF is audited by both internal and external independent auditors: its Internal Audit Function (IAF), the Commission Internal Audit Service (IAS) and the European Court of Auditors (ECA).

Furthermore, OLAF's investigative function is regularly monitored by OLAF's Supervisory Committee, in accordance with Article 19 of Regulation 883/2013.

#### **Internal Audit Function**

The Commission decided<sup>36</sup> to centralise the internal audit function in the IAS and that by the end of February 2015, the internal audit function in the individual Directorates-General, Services, Offices and Executive Agencies would cease to exist. As per the specific provisions concerning administrative cooperation between OLAF and the IAS, the scope of IAS audits and consulting services will not cover issues which fall under the Director-General's independence in the execution of his duties with respect to investigations as described by Article 17 of Regulation 883/2013 and Articles 3, 5 and 6 of Commission Decision 1999/352, that the Office is not reporting to the Commission, unless specifically requested by the Director-General of OLAF in writing. In order to cover processes and procedures which are not covered by the IAS, OLAF management decided to appoint a new IAF. The IAS was consulted on the appointment and the Charter for the new IAF. The former OLAF's Internal Audit Capability (IAC) handed over to the IAS the follow-up of IAC previous audits on the management and control systems on which OLAF reports to the Commission.

The audit (compliance and performance) on the use of databases for OLAF investigations was completed in February 2017. This audit included three very important and two important recommendations. All the recommendations were accepted by OLAF management and an action plan was prepared. Two recommendations have been reported as implemented (one very important and one important), and two recommendations as being implemented as per the action plan (one very important and one important). Regarding the third very important recommendation, OLAF management decided that the implementation of the pending action should be postponed until the arrival of the new Director-General and the finalisation of the ongoing amendment of Regulation 883/2013.

Three (important) outstanding recommendations from other previous IAF audits have been reported to the IAF as implemented and ready for review.

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<sup>36</sup> Minutes of the 2104th meeting of the Commission held on Wednesday 5 November 2014.

## **Internal Audit Service**

The IAS' conclusion on the state of internal control is based on all work undertaken by the IAS in the period 2015-2017<sup>37</sup>, namely:

- Audit on the adequacy and effective implementation of DGs' anti-fraud strategies (2015);
- Audit on procurement and grants in DG OLAF (2016);
- Audit on performance and coordination of anti-fraud activities in the traditional own resources area (2016);
- Audit on governance, planning, monitoring and implementation of the budget of the OLAF supervisory committee (2016);
- Audit on ethics in OLAF (2017);
- Audit on IT logical security controls in OLAF (2017).

No 'critical' and/or 'very important' recommendations have been rejected by management during this period.

In order to implement the recommendations made by the IAS, OLAF management has adopted action plans which the IAS considers adequate to address the residual risks identified by the auditors.

The implementation of these plans is monitored through reports by management and follow-up audits by the IAS, which led the IAS to conclude that the internal control systems audited are partially effective since a number of 'very important' recommendations remain to be addressed.

These concern:

- Audit on performance and coordination of anti-fraud activities in the traditional own resources (TOR) area (2016). The implementation of the action plan for two 'very important' recommendations is still ongoing and should be finalised by mid-2018.
- Audit on IT logical security controls in OLAF (2017). Four 'very important' recommendations remain open and will be finalised by June 2018.
- Audit on ethics in OLAF (2017). The IAS audit report was finalised in January 2018 and contained one 'very important' recommendation. A comprehensive action plan has been endorsed by OLAF management and will be implemented by October 2018.

## **European Court of Auditors**

In its annual audit on the reliability of accounts of the Commission for financial year 2016, the ECA concludes that no major findings occurred.

At the date of the finalisation of the AAR no open recommendation was reported.

## **Overall conclusion**

The audit work and opinions by both internal and external auditors reveals that the internal control system in place at OLAF gives reasonable assurance regarding the achievement of the business objectives.

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<sup>37</sup>Final audit reports issued in the period 01/02/2015 – 31/01/2018.

## **B. Recommendations of the OLAF Supervisory Committee (SC)**

The mandate of the SC is to monitor OLAF's investigative function in order to reinforce the Office's independence as outlined in Regulation 883/2013. The SC delivers Opinions, which can include recommendations, to OLAF's Director-General. In July 2016 and January 2017, two and three new members respectively took office, meaning that the entire Committee was renewed in this period of time. The Director-General of OLAF meets and exchanges views with the members of the SC on a regular basis.

During 2017, the Committee transmitted to OLAF three Opinions<sup>38</sup>: Opinion 2/2016 concerned OLAF Annual Activity Report, including three recommendations, Opinion 1/2017 concerned OLAF Preliminary Draft Budget for 2018, including six recommendations. The third one, Opinion 2/2017, accompanied the Commission Evaluation report on the application of Regulation 883/2013 and did not include specific recommendations addressed to OLAF.

OLAF reports yearly to the SC on the implementation of the Committee's recommendations. The latest report of 9 February 2018 shows that OLAF has implemented two out of the nine recommendations issued by the Supervisory Committee in 2017, while the implementation of five recommendations was ongoing. Two recommendations were considered as no longer applicable. OLAF regards this as a satisfactory rate of implementation which, as such, does not have any material negative impact on the achievement of the internal control objectives or on assurance.

OLAF's recent and past reporting on the implementation of the SC recommendations is publicly available on OLAF's website<sup>39</sup>.

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<sup>38</sup> [https://ec.europa.eu/anti-fraud/about-us/supervisory-committee/exchanges-between-olaf-and-its-supervisory-committee\\_en#sc%20opinions](https://ec.europa.eu/anti-fraud/about-us/supervisory-committee/exchanges-between-olaf-and-its-supervisory-committee_en#sc%20opinions)

<sup>39</sup> [https://ec.europa.eu/anti-fraud/about-us/supervisory-committee/exchanges-between-olaf-and-its-supervisory-committee\\_en#sc%20other](https://ec.europa.eu/anti-fraud/about-us/supervisory-committee/exchanges-between-olaf-and-its-supervisory-committee_en#sc%20other)

### 2.1.3 Assessment of the effectiveness of the internal control systems

The Commission has adopted an Internal Control Framework based on international good practice, aimed to ensure the achievement of policy and operational objectives. In addition, as regards financial management, compliance with these standards is a compulsory requirement.

OLAF has put in place the organisational structure and the internal control systems suited to the achievement of the policy and control objectives, in accordance with the standards and having due regard to the risks associated with the environment in which it operates.

OLAF annually assesses the effectiveness of its key internal control systems, including the processes carried out by implementing bodies in accordance with the applicable Commission guidance. The assessment relies on a number of monitoring measures and sources of information including a management risk assessment, monitoring of reported instances of exceptions, non-compliance events and internal control weaknesses related to audit findings.

As regards the exception and non-compliance events reported, it has been confirmed that none of these cases were of a nature or extent to lead either to a reservation, or to the identification of a significant weakness in the internal control system and did not have an impact on the declaration of assurance of the AOD.

OLAF has assessed the internal control system during the reporting year and has concluded that the internal control standards (ICS) are implemented and functioning as intended with the exception of ICS2 for which, following an IAS audit on ethics, a comprehensive action plan was endorsed for implementation by October 2018.

On 19 April 2017, the Commission adopted a revised Internal Control Framework (ICF)<sup>40</sup> which implies that the AOD has to conduct an overall assessment of the presence and functioning of all internal control principles and components. To this end, and in accordance with the Internal Control Principle 16, *"The Commission selects, develops, and performs ongoing and/or separate assessment to ascertain whether the components of internal control are present and functioning"* OLAF has established a set of indicators - for each principle - which is pertinent to the Office's risk environment. Such an internal control indicator is a measurement that indicates whether the internal control principle is present (compliance) and functioning (effectiveness). Reporting against these monitoring criteria, which are an integral part of the 2019 Management Plan, will only be done through the corresponding 2019 Annual Activity Report.

In this context, a senior official in charge of Internal Control and Risk Management was appointed in the last trimester of 2017.

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<sup>40</sup>Communication on the revision of the Internal Control Framework - C(2017)2373

## 2.1.4 Conclusions as regards assurance

This section reviews the assessment of the elements reported above (in Sections 2.1.1, 2.1.2 and 2.1.3) and draws conclusions supporting the declaration of assurance and whether it should be qualified with reservations.

In view of the control results and all other relevant information available, the AOD's best estimation of the risks relating to the legality and regularity for the expenditure authorised during the reporting year (EUR 33.27million) is between 0% and 1%, which implies an amount at risk below EUR 318 000.

The internal control strategy foresees the implementation of further controls during subsequent years aimed to detect and correct these errors. It is not possible to identify the specific errors and amounts which will be effectively corrected in the coming years, yet the implementation of these corrective controls since 2011 have resulted on average in recoveries and financial corrections representing 0.09% of the average payments over the same period. This percentage applied to this year's payments made (resulting in EUR 30 191) provides the best available indication of the corrective capacity of the ex-post controls systems implemented by the DG.

Taking into account the conclusions of the review of the elements supporting assurance and the expected corrective capacity of the controls to be implemented in subsequent years, it is possible to conclude that the internal control systems implemented by OLAF provide sufficient assurance to adequately manage the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes. Furthermore, it is also possible to conclude that the internal control systems provide sufficient assurance with regard to the achievement of the other internal control objectives.

OLAF has sufficient reasonable assurance that a reservation on the declaration is not seen as necessary.

### **Overall Conclusion**

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director-General (acting), in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

## 2.1.5 Declaration of Assurance

# DECLARATION OF ASSURANCE

*I, the undersigned,*

***Director-General (acting) of OLAF***

***In my capacity as authorising officer by delegation***

***Declare that the information contained in this report gives a true and fair view<sup>41</sup>.***

***State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.***

***This reasonable assurance is based on my own judgement and on the information at my disposal, such as the hand-over file established by my predecessor, Mr Giovanni Kessler, for the period covering 1 January until 15 October 2017, the results of the self-assessment, ex-post controls, the limited conclusion of the OLAF Internal Audit Function on the state of control, the observations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.***

***Confirm that I am not aware of anything not reported here which could harm the interests of the institution.***

***Brussels, 28 March 2018***

***(signed)***

***N.J. ILETT***

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<sup>41</sup>True and fair in this context means a reliable, complete and correct view on the state of affairs in OLAF.



## 2.2 Other organisational management dimensions

### 2.2.1 Human resource management

The OLAF vacancy rate in 2017 (7.7%) was above the Commission average. This situation can be explained by the difficulty to find internal candidates within the other Commission services having the required skills, competences and experience to carry out investigations. Several vacancy notices were advertised twice or more times, due to the lack of suitable candidates. For many vacant posts, it was decided to wait until the completion of the two competitions for AD investigators before publishing a vacancy notice again. The two lists of laureates were made available at the end of 2017. Recruitments will continue in the first quarter of 2018, which should lower the vacancy rate in 2018.

The female representation in middle management has significantly increased, from 10.5% in 2013 to 33.3% at the end of 2017. OLAF will continue its efforts to contribute to the Commission's overall target set at 40% by the end of 2019. An internal target of three first appointment of females to middle management positions was set for 2017-2019. In 2017, OLAF appointed two female managers out of the three managers appointed for the first time as Head of Unit. In addition, three female potential managers in OLAF have been selected to participate in the first Female Talent Development Programme developed by DG HR.

In 2017, the sick leave rate has increased by 0.5% compared to 2016, reaching 5.4%. The higher overall sick leave rate is mainly due to the number of staff members on long term sickness leave (more than 120 days in a year).

Ensuring the professionalism of OLAF staff and keeping the investigators up-to-date via continuous learning and development was a key priority also in 2017. Mandatory training sessions were organised for new investigators. The trainers were senior investigators who share their knowledge, good practices and experience. In 2017, two training sessions (interviewing techniques, drafting of reports, on-the-spot checks, etc.) were organised.

OLAF continues to develop the specific learning path for junior and (more) senior investigators per Unit with mandatory and recommended training taking into account the specificities of each entity.

In 2017, 75 training sessions were delivered to OLAF staff with a total of 1 741 participants. These sessions included the training organised for newcomers, lunchtime debates, team events and training delivered by in-house trainers and by external trainers (other DGs or private bodies).

Enhancement of communication at different levels in OLAF is one of the main concerns of staff. To address this, senior and middle management organised in 2017 regular meetings and "questions & answers" sessions with their staff, and celebrated specific events such as the finalisation of important projects. In addition, events such as breakfasts, Christmas party or lunchtime debates were organised by the internal communication team for all staff.

In the framework of the talent management policy developed by DG HR, OLAF participated in the second middle management mobility exercise as well as in the voluntary mobility exercise launched for the first time in 2017. Regular invitations to participate in management trainings have been sent to OLAF managers in order to enhance their managerial competences.

Systematic exit interviews were proposed to staff leaving OLAF due to retirement, end of contract, personal long term leave or mobility. Departing staff shared their experience in OLAF and the potential issues they encountered. In 2017, OLAF HR Business Correspondent team held 22 exit interviews. The feedback received from departing staff provided valuable information on staff engagement issues and job satisfaction levels, as well as on areas for improvement.

A hand-over procedure has been designed in order to ensure effective business continuity. Each staff member leaving the Office is required to submit a hand-over file to his/her line manager.

The results of the 2016 Commission Staff survey were analysed in 2017 and communicated to OLAF staff. Several Directorates involved their staff members in a discussion on possible actions to be taken to improve on the issues identified in the Staff Survey. OLAF HR Business Corespondent team participated actively in these events. Senior and middle managers took actions to improve staff engagement and the working atmosphere. They organised "questions & answers" sessions with their staff, breakfasts with newcomers and encouraged the participation of their staff in events such as VeloMai and the Eikiden Marathon.

### **Examples of initiatives to improve economy and efficiency of financial and non-financial activities of the DG**

In March 2017, OLAF Management decided to use the "Horizon 2020 Participants Portal" for the management of the 2017 calls for proposals for Hercule III. As a result, all the steps of the procedures have been managed via the Participant Portal: information on calls for proposals, proposal submission and the signature of the Grant Agreements, project reporting and amendments of the Grant Agreements. The use of this tool - eGrants - has yielded significant qualitative benefits such as a faster processing of the applications (3.5 months as compared to 4.5 months in 2016), improved support and training services, a convenient user-interface for both internal and external users, more seamless integration with the established IT-assisted business processes and access to corporate reporting.

With respect to eProcurement, during the third quarter of 2017 OLAF deployed the pre-award process 'e-Submission', which offers the possibility to submit and open tenders via the electronic platform. The on-boarding procedure for OLAF in cooperation with DG DIGIT was successful and a first call for tender with eSubmission was launched in December 2017 with an electronic opening foreseen in the beginning of January 2018.

## **2.2.2 Better regulation**

### **Evaluation of Regulation 883/2013**

On 2 October 2017, the Commission adopted the evaluation report of the application of Regulation 883/2013 and transmitted this to the European Parliament and Council.

The evaluation concluded that the Regulation has allowed OLAF to deliver concrete results in the protection of the Union's financial interests. The added value of OLAF investigations and the continued relevance of the objectives in the context of the establishment of the EPPO were also confirmed by the evaluation.

The evaluation has, however, unveiled a number of shortcomings that negatively impact the effectiveness of OLAF investigations. As regards the conduct of investigations, OLAF's investigative powers stem from various acts of Union law, including the Regulation. In various instances these acts make the application of these powers subject to conditions of national law, notably as regards on-the-spot checks and inspections of economic operators and digital forensic operations conducted in the territory of the Member States. It follows from the evaluation that the extent to which Regulation 883/2013 makes national law applicable is not completely clear. Different interpretations of the relevant provisions, and differences in national law, lead to a fragmentation in the exercise of OLAF's investigative powers in the Member States, in some cases even hindering OLAF's ability to successfully conduct investigations and ultimately to contribute to the Treaty objective of an effective and equivalent protection of the financial interests across the Union.

The evaluation pointed to the need to consider certain changes regarding the need for and

the possibility of better access to bank account information under appropriate conditions, which could be central to uncovering many cases of fraud or irregularity. This power is linked also to the possibility to investigate VAT, an area where the evaluation has shown that OLAF's mandate should be clarified and strengthened.

As regards the follow-up to investigations, the most important factor affecting the follow-up to OLAF recommendations identified by the evaluation relates to the rules on the admissibility of OLAF-collected evidence in national judicial proceedings; the evaluation suggests that in some Member States this rule does not sufficiently ensure the effectiveness of OLAF's activities.

The Regulation also provides a legal basis for OLAF to provide the Member States with assistance in organising close and regular cooperation between their competent authorities to coordinate their action for the protection of the EU financial interests. This is a key element of OLAF's mandate to support cross-border cooperation among the Member States. However, the Regulation does not contain more detailed provisions on the modalities of coordination, thus creating uncertainty for OLAF and its national partners.

Finally, the evaluation also identified a number of provisions in the Regulation which could benefit from clarification or simplification in the Regulation or from improved application through implementation measures. In this perspective, the evaluation suggests that divergent views and practices with regard to the provisions on the Supervisory Committee's access to case-related information held by OLAF impacted the work of the Committee and its cooperation with OLAF. Other possible areas of clarification of the Regulation identified in the evaluation include the provisions on digital forensic operations, as well as the cooperation between OLAF and other Union institutions, bodies, offices and agencies concerning the possible early transmission of information where the adoption of precautionary measures might be necessary. Moreover, the rules applicable to internal and external investigations could be further aligned, where divergent rules are not justified, to ensure a more coherent framework for investigations.

As a follow-up to the evaluation and in the context of the establishment of the EPPO, the Commission will prepare an assessment in line with Better Regulation principles which may lead to a legislative proposal for amending the Regulation in the first half of 2018. OLAF would be the Commission lead service for this legislative proposal and its subsequent negotiation with the European Parliament and the Council. The proposed amendments would provide a targeted reform of the Regulation primarily linked to the establishment of the EPPO and additional targeted changes, where necessary, based on the most unambiguous findings of the evaluation aiming at improving effectiveness of OLAF investigations. A more far-reaching process to modernise the framework for OLAF investigations could take place at a later stage as part of a possible second step in the revision of the OLAF Regulation.

### **Mid-term evaluation of Hercule III Programme**

The Commission adopted the report on the mid-term evaluation of Hercule III Programme and transmitted it to the European Parliament and the Council on 10 January 2018. As Regulation 250/2014<sup>42</sup> requires an independent assessment, the report was supported by a study carried out by an external contractor. An Interservice Steering Group was also closely involved in the preparation of the report. The mid-term evaluation has demonstrated that the Hercule III Programme, in its current form and at this stage of its implementation, has largely fulfilled its mission. It has proven relevant, mechanisms are in place to ensure its coherence, and it has been effective and efficient. There is a clear added-value to have such a programme at the level of the EU, and the activities of the programme have been found

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<sup>42</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 of 20 March 2014.

largely sustainable.

During the external evaluation process, some ideas have been tabled of possible new objectives and activities for the programme going forward. These are, in particular, in the areas of cross-border cooperation between Member States, cooperation with non EU partners, as well as new technological developments ideas. Although these ideas are anecdotal in nature (as they have not been tested with the stakeholders consulted during the external evaluation process), they might be explored during the remaining years of the programme. A few specific actions, such as the purchase of services to store and destroy seized cigarettes and other counterfeit goods, or the funding of scientific publications were found to be less relevant to fulfilling their missions in relation to the protection of the EU's financial interests. This finding is largely explained by the fact that these actions target a narrow group of possible participants and, consequently, the bulk of the participants do not see their relevance.

Furthermore, some applicants suggested alleviating the burden generated by the application and reporting processes, for instance by reducing the amount of requested information or increasing the use of IT tools for the application process. Almost all respondents who considered the grant awarding and contracting phase cumbersome suggested what could be done for making the application phases less cumbersome. However, each suggestion was provided by a limited number of consulted stakeholders.

The Commission is in the process of addressing a large part of the issues through the use of the electronic management system for the submission, processing and management of grant applications under the programme. The improvements brought about by the electronic management system involve for instance digitalising the whole application process and introducing the use of digital signatures. The electronic system is expected to noticeably alleviate the administrative burden and related time and resources spent on the applications in particular.

**Objective: Prepare new policy initiatives and manage the EU's acquis in line with better regulation practices to ensure that EU policy objectives are achieved effectively and efficiently.**

**Indicator 1: Percentage of Impact assessments submitted by OLAF to the Regulatory Scrutiny Board that received a favourable opinion on first submission.**

**Explanation:** The opinion of the RSB will take into account the better regulation practices followed for new policy initiatives. Gradual improvement of the percentage of positive opinions on first submission is an indicator of progress made by the DG in applying better regulation practices.

**Source of data: Internal consultations**

Baseline 2015	Milestone 2016	Current situation	Target 2020
N/A – no impact assessments were conducted during 2014-2015	Positive trend compared to DG's 2014 situation.	No impact assessments were conducted in 2017	Positive trend compared to DG's 2016 situation.

**Indicator 2: Percentage of the DG's primary regulatory acquis covered by retrospective evaluation findings and Fitness Checks not older than five years.**

**Explanation:** Better Regulation principles foresee that regulatory acquis is evaluated at regular intervals. As evaluations help to identify any burdens, implementation problems, and the extent to which objectives have been achieved, the availability of performance feedback is a prerequisite to introduce corrective measures allowing the acquis to stay fit for purpose.

**Relevance of Indicator 2:** The application of better regulation practices would progressively lead to the stock of legislative acquis covered by regular evaluations to increase.

**Source of data: Internal consultations**

Baseline 2015	Milestone 2016	Current situation	Target 2020
Percentage of the DG's primary regulatory acquis covered by retrospective evaluations and Fitness Checks' findings not older than five years. 0%	Positive trend compared to baseline	Evaluation of Regulation 883/2013 completed  Mid-term evaluation of Hercule III Programme completed	Positive trend compared to interim milestone

Main outputs in 2017:			
Description	Indicator	Current situation	Target
Finalise the Evaluation of Regulation 883/2013	Evaluation Report submitted to the European Parliament and the Council  Decide planning reference number: 2017/OLAF/001	Commission Report adopted and transmitted to the European Parliament and the Council on 2 October 2017	4 <sup>th</sup> quarter 2017
Finalise the Evaluation of Hercule III Programme	Evaluation Report submitted to the European Parliament and the Council  Decide planning reference number: 2017/OLAF/002	Commission Report adopted and transmitted to the European Parliament and the Council on 10 January 2018	End of 2017
Organise the stakeholder conference on the relation between EPPO and OLAF	Conference has taken place	Conference has taken place on 1-2 March 2017	1 <sup>st</sup> quarter 2017

### 2.2.3 Information management aspects

In 2017, OLAF has further reduced the very low number of unfiled ARES documents. OLAF also kept the positive trend that has been set by increasing the percentage of HAN<sup>43</sup> files readable/accessible by all units in the DG; however there was no development as regards sharing documents with other DGs. The latter indicator remains so far stable which is linked to the particular (investigative) nature of OLAF.

OLAF's performance under the new indicator, which aims at promoting the use of electronic workflow, has started from a promising basis. Out of all Ares documents registered following an e-signatory workflow, 57% were carried out in a full electronic mode (i.e. without paper signatory in circulation).

<sup>43</sup> Suite of tools designed to implement the [e-Domec policy rules](#).

<b>Objective: Information and knowledge in your DG is shared and reusable by other DGs. Important documents are registered, filed and retrievable</b>			
<b>Indicator 1: Percentage of registered documents that are not filed<sup>44</sup> (ratio)</b>			
<b>Source of data:</b> <i>Hermes-Ares-Nomcom (HAN)<sup>45</sup> statistics</i>			
<b>Baseline 2014</b>	<b>Current situation</b>	<b>Target 2020</b>	
1.08%	0.05%	Not more than 1%	
<b>Indicator 2: Percentage of HAN files readable/accessible by all units in the DG</b>			
<b>Source of data:</b> <i>HAN statistics</i>			
<b>Baseline</b>	<b>Current situation</b>	<b>Target 2020</b>	
0.16%	0.39%	Positive trend compared to baseline	
<b>Indicator 3: Percentage of HAN files shared with other DGs</b>			
<b>Source of data:</b> <i>HAN statistics</i>			
<b>Baseline</b>	<b>Current situation</b>	<b>Target 2020</b>	
0%	0%	Positive trend compared to baseline	
<b>Main outputs in 2017:</b>			
<b>Description</b>	<b>Indicator</b>	<b>Current situation</b>	<b>Target</b>
Better use of electronic workflows, to reduce errors caused by the double circulation and to reduce paper storage in eligible cases.	Number of registered documents with a fully approved e-signatory (no paper circulation in parallel).	57.28%	70% of registered documents approved in full electronic mode (without paper signatories circulation).

## 2.2.4 External communication activities

In 2017, the OLAF Press team continued to promote the work of OLAF as a dedicated service that helps ensure European money is not lost to fraud, but is spent in a manner that contributes to growth and job-creation. In practical terms, the Press Office significantly increased its communication output, by doubling the number of press questions it answered, from 377 in 2016 to 753 in 2017. Moreover, the Press Office answered press questions faster than in the previous years, ensuring that OLAF's views were accurately represented in media stories related to its activities.

Among other communication initiatives, the Office published 27 press releases, memos, news items, speeches and articles by senior management, and organised 45 interviews and background discussions with journalists. These actions were geared towards developing and maintaining a positive relationship with journalists in Brussels and beyond, with the end goal of both informing our target audiences on why enforcing a policy of zero tolerance to fraud is essential, and empowering them to take an active stance in fraud prevention and deterrence.

The Press team also participated in a press conference with OLAF's Belgian partners in order to promote the Hercule Programme, and to raise OLAF's profile in the Belgian media. Several visits for journalists working at national level were organised to meet OLAF management and understand OLAF's day-to-day work.

Throughout the year, OLAF became more active on Twitter, which resulted in its account being followed by more than 1600 Twitter users. In 2017, OLAF also organised a successful

<sup>44</sup>Each registered document must be filed in at least one official file of the Chef de file, as required by the e-Domec policy rules and by ICS 11 requirements). The indicator is to be measured via reporting tools available in Ares.

<sup>45</sup>Suite of tools designed to implement the [e-Domec policy rules](#).

social media campaign on the amended customs Regulation 515/97, where it worked together with OLAF Anti-Fraud Communicators Network (OAFCN) members to follow a fictitious container throughout Europe. During the year, the Office strived to present its work in a clearer and more engaging fashion. The goal was to reassure European citizens that EU funds are indeed well-protected, and that any defrauded funds are progressively returned to the EU budget.

**Objective:** Citizens perceive that the EU is working to improve their lives and engage with the EU. They feel that their concerns are taken into consideration in European decision making and they know about their rights in the EU.

**Indicator:** Percentage of EU citizens having a positive image of the EU

*Definition:* Eurobarometer measures the state of public opinion in the EU Member States. This global indicator is influenced by many factors, including the work of other EU institutions and national governments, as well as political and economic factors, not just by the communication actions of the Commission. It is relevant as a proxy for the overall perception of EU citizens. Positive visibility for the EU is the desirable corporate outcome of Commission communication, even if individual DGs' actions may only make a small contribution.

**Source of data:** Standard Eurobarometer (DG COMM budget) [monitored by DG COMM [here](#)].

Baseline: November 2014	Current situation	Target: 2020
Total "Positive": 39% Neutral: 37 % Total "Negative": 22%	Positive image: 40% Neutral image: 37% Negative image: 21%	Positive image of the EU ≥ 50%

**Annual communication spending** (based on estimated commitments):

Baseline 2016:	Target 2017:	Total amount spent	Total number of staff members working on external communication
EUR 77 663	EUR 70 000	EUR 56 151	4

**Objective:** Citizens perceive that the EU is working to improve their lives and engage with the EU. They feel that their concerns are taken into consideration in European decision making and they know about their rights in the EU.

**Main outputs in 2017:**

Description	Indicator	Current situation	Target
Published materials related to OLAF activities and achievements	Number of press releases, news items, speeches and articles authored by OLAF management published on the OLAF website.	27 items	30 items
Press events and organised visits for groups of journalists	Numbers of press events and visits, number of participants	7 events, 145 participants	3 events, 60 participants
Communications with citizens on social media	Number of Twitter followers, engagement rate	1610 followers, 1% engagement rate	1500, 1.2% engagement rate