

RULES OF PROCEDURE

RULES OF PROCEDURE OF THE OLAF SUPERVISORY COMMITTEE

TITLE I

ROLE AND RESPONSIBILITIES OF THE OLAF SUPERVISORY COMMITTEE

Article 1

Tasks

1. The Supervisory Committee of the European Anti-Fraud Office (OLAF) ('the Committee'), shall carry out the tasks laid down in Regulation (EU, Euratom) No 883/2013, and in Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing OLAF⁽¹⁾, to strengthen OLAF's independence in performing its tasks, both in relation to any government, institution, body or agency and to ensure the proper exercise of OLAF's competences.

2. To that end, the Committee shall regularly monitor OLAF's implementation of its investigative function and strengthen the independence of the Director-General of OLAF in the exercise of the powers conferred on him or her by Regulation (EU, Euratom) No 883/2013 and by Commission Decision 1999/352 of 28 April 1999. It shall also assist the Director-General in the discharge of his or her responsibilities.

3. The Committee shall monitor OLAF's proper discharge of its investigative competences in compliance with the procedural guarantees applicable to the legal framework of OLAF and with those established in the Charter of Fundamental Rights of the EU, and in accordance with the EU treaties and secondary legislation, including the Protocol on the Privileges and Immunities of the EU and the Staff Regulations of EU officials.

Article 2

Powers and procedures

In the exercise of its powers, the Committee shall monitor OLAF's investigative activities in accordance with the following procedures:

- a) the Committee shall be granted access to all the information and documents it considers necessary to perform its functions, including reports and recommendations on closed investigations and cases dismissed, without however interfering with the conduct of investigations in progress, and on the requirements of confidentiality and data protection;
- b) the Committee may, in conjunction with OLAF, establish working arrangements setting out rules on the regular monitoring of the implementation of OLAF's investigative function and access to information.

TITLE II

COMPOSITION AND OPERATION

Article 3

Composition

1. The composition, the method of appointment, and the term of office of Committee members are laid down in Regulation (EU, Euratom) No 883/2013.

⁽¹⁾ Amendments to the OLAF Regulation by Regulation (EU, Euratom) 2016/2030 and Regulation (EU, Euratom) 2020/2223. Amendments of Commission Decision establishing OLAF by Commission Decision 2013/478/EU of 27 September 2013, Commission Decision (EU) 2015/512 of 25 March 2015 and Commission Decision 2015/2418 of 18 December 2015.

2. On expiry of their term, Committee members shall remain in office until they have been replaced.
3. Where a Committee member is prevented from serving on the Committee or resigns their seat, they shall notify without delay the Committee chair and the Commissioner concerned so that appropriate measures to replace him or her, and to ensure the continuity of the Committee's work, can be taken.

Article 4

Ethics

1. Under Article 15(7) of Regulation (EU, Euratom) No 883/2013, in carrying out their duties, the Committee members shall act independently and shall neither seek nor take instructions from any government or any institution, body, office or agency. During their mandate, members shall refrain from seeking or accepting any office or responsibility, in particular from the EU institutions, which might create a conflict of interests.
2. Likewise, as stated in the Decision on their appointment and in the Code of Conduct adopted by the Committee^(?), members shall not deal with a matter in which, directly or indirectly, they have any personal interest, in particular any family or financial interests, such as to impair their independence.
3. Members shall be bound by professional secrecy as laid down in Article 339 of the Treaty on the Functioning of the European Union ('TFEU'). They shall continue to be bound by the secrecy obligation even after the end of their mandate. They shall treat the files submitted to them and their deliberations concerning them in strict secrecy.
4. Members shall inform the Committee of any situation liable to compromise any of the principles governing its activity as referred to in paragraphs 1 and 2 so that the Committee may take appropriate measures, including informing the appointing institutions.

Article 5

Chair

1. The Committee shall elect a chair from among its members by a majority of its members.
2. The chair shall be elected for a term of one year and may be re-elected. The election shall be held at the last meeting chaired by the outgoing chair.
3. Where the chair is prevented for any reason from performing his or her duties over a long period, he or she shall inform the Committee members of the situation. In that event, a new chair shall be elected under the procedure set out in paragraph 1.
4. The chair shall represent the Committee and chair its meetings. The chair shall ensure that its proceedings are properly conducted. The chair, having consulted the Head of the Secretariat, shall convene meetings and determine where, on what date and at what time they shall take place. The chair shall draw up the draft agenda and ensure that the Committee's decisions are implemented.
5. Where the chair is temporarily unable to perform his or her duties, he or she may request a Committee member to deputise.
6. If the chair is absent and the procedure referred to in paragraph 5 has not been followed, the tasks of the chair shall be exercised by the oldest member.

^(?) Code of Conduct adopted by the Supervisory Committee on 9 October 2013 and Explanatory Memorandum: safeguards of impartiality and risks of conflict of interests. See Section 4 'Procedure for dealing with conflict of interests situations', Point 29 'This Code of Conduct will be incorporated in the Rules of Procedure which require further amendment following the entry into force of Regulation (EU, Euratom) No 883/2013.'

7. The chair shall send or reply to letters concerning the Committee's activities. The chair shall inform Committee members and the Head of the Secretariat of all correspondence sent or received.

8. The chair shall ensure that all Committee members are regularly informed of the work done by the Secretariat and its Head in order to periodically check that it is functioning properly.

Article 6

Meetings

1. The Committee shall exercise its powers when meeting as a body. It shall meet at least 10 times per year. It shall be quorate only if the majority of its members are present. It shall also meet on the initiative of the chair or at the request of a majority of its members. The Committee shall adopt its calendar for the monthly plenary meetings at the end of each year.

2. The Committee may decide, when necessary, to hold a plenary meeting online. Each member shall be provided with the appropriate IT tools to participate in online meetings in a secure environment.

3. Except for cases that the chair considers urgent, meeting notices shall be sent to reach the recipients at least one week before the meeting in question. The notice shall include the draft agenda and the documents required for the meeting, unless the nature of the documents is such that they cannot be attached. The final agenda shall be adopted at the beginning of each meeting.

4. Any member may request the chair to add items to the draft agenda.

5. At the request of the Director-General of OLAF, the chair may convene the Committee or add items on the agenda. The proposals of the Director-General shall be accompanied by the necessary documents.

6. The Committee may invite the Director-General of OLAF to take part in meetings and activities connected with its work. Other members of OLAF may be invited to take part in a Committee meeting if their presence is deemed necessary. Such invitations shall be made through the Director-General of OLAF.

The Director-General of OLAF shall be informed of any agenda item relating to participation by the persons referred to in the first subparagraph.

7. Any representative of the institutions, bodies, offices, or agencies of the EU, Member States, or associated countries may be invited to participate in the Committee's work relating to a particular item on the meeting's agenda.

Article 7

Exchange of views

The Committee shall decide how it will be represented in the exchange of views with the European Parliament, the Council and the Commission organised under Article 16 of Regulation (EU, Euratom) No 883/2013.

Article 8

Working methods

1. Committee meetings shall not be held in public. The Committee's proceedings and the internal documents on which they are based shall be confidential, unless the Committee decides otherwise.

Documents and information submitted by the Director-General of OLAF shall be subject to Article 339 of the TFEU on the protection of confidentiality and Article 10 of Regulation (EU, Euratom) No 883/2013.

2. The Committee shall decide on the use of a maximum of three working languages. Documents and draft opinions, reports or decisions shall be drawn up in the working languages adopted by the Committee. Where necessary, a member may request that any document be translated into his or her own language.
3. In its first plenary meeting of each year, the Committee shall adopt its annual work plan. Opinions, reports, and decisions shall be adopted at Committee meetings in plenary session.
4. By way of exception to Article 8(3), certain decisions may be taken by written procedure where the Committee has approved the use of such a procedure at an earlier meeting.
5. In urgent cases, the chair may consult Committee members in writing.
6. In the circumstances referred to in paragraphs 4 and 5, the chair shall forward a draft decision to the Committee members.
7. If the members raise no objections to the draft decision within a time limit set by the chair, the proposal shall be deemed to have been adopted.
8. If, within the period set by the chair, a member requests that the matter be discussed by the Committee, the written procedure shall be suspended.
9. Unless otherwise decided, the Committee will publish its opinions on its webpage.

Article 9

Rapporteurs

1. To prepare for its discussions or proceedings, the Committee, on a proposal by the chair, may appoint one or more rapporteurs from among its members. When appointing a rapporteur, the Committee shall give due consideration to the member's remaining period in office.
2. If the matter to be dealt with is urgent, the chair may make the appointment on his or her own initiative. In that event, he or she shall immediately inform the Committee members.
3. The rapporteur shall consider matters entrusted to his or her responsibility and submit a draft opinion, report or note to the Committee. Where necessary, he or she shall be assisted by the Committee Secretariat.

Article 10

Voting procedure

1. Decisions shall be taken by a majority of the Committee members (on a proposal by the chair).
2. At the request of a member, the voting result shall be recorded in the minutes.
3. On a proposal by a member, a vote may be taken by secret ballot.

Article 11

Minutes and agenda

1. Minutes shall be taken of every Committee meeting. They shall be drawn up in the Committee's working languages and shall contain the decisions adopted under each agenda item.
2. The draft minutes shall be drawn up by the Secretariat under the supervision of the chair and submitted to the Committee members for adoption at the next meeting.
3. At the time of adoption, any member may propose that the draft minutes be amended. Members may also request that any written statements or documents deemed useful be attached to the minutes.

4. The minutes and the agenda may be made public if the Committee so decides.

Article 12

Secretariat

1. Under Article 15(8) of Regulation (EU, Euratom) No 883/2013, the Committee shall have a Secretariat to assist it in the performance of its duties. The Secretariat, working in full independence under the chair of the Committee and its members, shall ensure that the Committee's work is carried out properly. In carrying out their monitoring functions, the members of the Secretariat shall neither seek nor take instructions from any government or any institution, body, office or agency.

2. To preserve its independence, the Secretariat is provided by the European Commission in close cooperation with the Committee. The Committee shall inform the Commission of the secretariat's needs as regards suitable staff and resources to enable the Committee to perform its duties and to guarantee the continuity of its work.

3. Before the appointment of any staff to the Secretariat, the Supervisory Committee shall be consulted and its views shall be taken into account. This shall be done through the participation as an observer of a designated member of the Committee to the panel organised by the Commission for the recruitment of a member of staff of the Secretariat.

4. The Head of the Secretariat shall report to the chair of the Committee. The Head coordinates the Secretariat's work and is responsible for the administrative and budgetary management of the Committee and its Secretariat.

The Committee shall appoint from its members those who are to participate in the selection process for selecting the Head of the Secretariat. The selected Committee members shall inform the Committee, in plenary session, of the work carried out by the selection boards and of the outcome.

5. The Committee shall periodically evaluate the work of the Head of the Secretariat and its members.

6. Secretariat staff shall be required to treat information in their possession confidentially and shall refrain from any unauthorised disclosure of information received in the exercise of their duties. They shall remain bound by that obligation after leaving the service. If the Committee becomes aware that a member of the Secretariat has breached the obligation to comply with confidentiality rules, the Committee chair shall notify the Commission so that appropriate action may be taken.

7. The Secretariat shall contribute to the efficient performance of Committee tasks to strengthen OLAF's independence, in particular its monitoring function. To this end, the Secretariat shall assist the chair in the preparation and conduct of meetings. It shall prepare a draft agenda for each meeting, prepare draft minutes of meetings, supply Committee members with information and documents relating to all their activities, assist, under the chair's responsibility, in the drafting of texts, and assist Committee members generally, especially when they act as rapporteurs. For that purpose, members of the Secretariat shall, as necessary, attend meetings with rapporteurs to carry out those tasks.

TITLE III

EXERCISE OF POWERS

Article 13

Monitoring activities of the Supervisory Committee

1. The Committee shall examine the information sent to it regularly by the Director-General of OLAF concerning OLAF's activities. It shall also deliver opinions on that information, acting on its own initiative or at the request of the Director-General in compliance with the second subparagraph of Article 15(1) of Regulation (EU, Euratom) No 883/2013.

2. Under Article 17(5) of Regulation (EU, Euratom) No 883/2013, the Committee shall be kept periodically informed of OLAF's activities, the results thereof and the action taken on them. The Committee may make appropriate comments without, however, interfering in the conduct of investigations in progress.

3. The Committee shall examine the duration of OLAF investigations and the reasons why it has not been possible to wind up an investigation that has been in progress for more than 12 months, and every six months thereafter. It shall also examine OLAF's proposed reasons and remedial measures to speed up investigations and shall pay particular attention to this matter when delivering opinions to the Director-General of OLAF.

4. The Committee shall examine cases where an institution, body, office or agency has failed to act on the recommendations made by the Director-General. It shall at the same time consider situations in which the work of OLAF investigators has been obstructed, delayed or prevented, with a view to taking appropriate action.

5. The Committee shall examine cases where information was sent to the judicial authorities of the Member States or to the European Public Prosecutor's Office and monitor the follow-up of the recommendations made by the Director-General of OLAF. The Committee may deliver opinions on these matters to the Director-General of OLAF.

6. While assisting the Director-General of OLAF in discharging his or her responsibilities, the Committee may deliver opinions on OLAF's contribution to the design and development of methods to fight fraud and other illegal activity affecting the financial interests of the EU.

7. The Committee shall deliver an opinion on the Guidelines on Investigation Procedures to be adopted by the Director-General of OLAF and on any subsequent modification.

8. The Committee shall deliver an opinion on the working arrangements between OLAF and the European Public Prosecutor's Office and on any modification to those arrangements.

9. The Committee may deliver an opinion on instances where the Director-General of OLAF decides to defer informing the person concerned about the opening of an OLAF investigation under Article 9(3) Regulation (EU, Euratom) No 883/2013.

10. The Committee may deliver any other opinion it deems necessary to comply with its remit under Regulation (EU, Euratom) No 883/2013.

11. In all these cases, and to comply with its monitoring tasks, the Committee chair, based on predefined criteria, and in agreement with the appointed rapporteur, shall indicate to the Head of the Secretariat the OLAF case files to which, under Article 15(1) of Regulation (EU, Euratom) No 883/2013, access is to be granted.

Article 14

Access to case-related information

1. Within the scope of its powers, the Committee shall have direct access to the case-related information and documents it considers necessary for the performance of its tasks. This access shall be by means of direct access to the OLAF case management system, whether electronic or otherwise, and under the same conditions as for OLAF. The specific form of direct access shall be defined in Working Arrangements agreed with the Director-General of OLAF.

2. Whenever the Committee has direct access to the OLAF case management system, it shall do so without interfering with the conduct of ongoing OLAF investigations and in full compliance with the principles of necessity and proportionality and the requirements of confidentiality and data protection.

3. Committee members and the authorised Secretariat staff will access the OLAF case management system after having carried out an assessment of the necessity of its access based on the data reported by OLAF. Decisions to access the OLAF case management system shall be recorded and notified to OLAF.

Article 15

Direct access to the OLAF case management system

1. For the purpose of Article 14, the chair of the Committee and/or the Head of the Secretariat shall have administration rights, under rules agreed with OLAF, for access to OLAF's case management system.
2. The chair of the Committee and/or the Head of the Secretariat may grant access to OLAF's case management system, on a case-by-case basis, to the following persons:
 - a) a Committee member acting as a rapporteur;
 - b) one or more staff of the Secretariat entrusted to assist and advise the rapporteur in his/her task;
 - c) a member of the Secretariat staff who will administratively assist the rapporteur.

Article 16

Additional information

Whenever the Committee considers it necessary for the performance of its tasks, it shall request additional information from OLAF.

Article 17

Checks, studies, and expert advice

1. Within the scope of its powers, the Committee may carry out appropriate checks, conduct any study, and obtain the necessary expert advice. It may also request the assistance of officials or other agents of OLAF or of the institutions, bodies, offices and agencies of the EU and its Member States. In doing so, the Committee will not grant to those persons access to case-related information and documents stored in OLAF's case management system.
2. Concerning the information received under Article 22a of the Staff Regulations of EU officials, the Committee chair shall report to the Committee so that the information provided can be studied. Once this preliminary analysis has been conducted, the Committee shall, if necessary, send the information to the relevant service.

Article 18

Activity report

1. Under Article 15(9) of Regulation (EU, Euratom) No 883/2013, the Committee shall adopt at least one Activity report annually and send it to the EU institutions.
2. The Activity report shall cover the activities pursued in the exercise of the Committee's powers and contain an assessment of OLAF's activities and the implementation of its annual programme, in particular the assessment of OLAF's independence, the application of procedural guarantees; and the duration of investigations.
3. In principle, the Activity report shall be drawn up during the first half of each year covering the preceding year and shall be submitted to the Committee by one or more rapporteurs.
4. The Committee shall take the necessary steps to publish its Activity report in the *Official Journal of the European Union*, after sending it to the European Parliament, the Council the Commission and the Court of Auditors.

Article 19

Opinion on the procedure to appoint the Director-General of OLAF

1. The Committee shall examine the procedure for the appointment of the Director-General of OLAF.
2. The Committee will appoint the member(s) who will represent the Committee throughout the selection procedure.
3. To provide an opinion on the Commission's selection procedure, the Committee shall participate as observer in the selection process through the member(s) appointed for that purpose at its plenary session.
4. After being consulted on the vacancy notice, the selection criteria applied and the results of the selection process, the Committee shall issue an opinion to the Commission.
5. The opinion shall contain the Committee's assessment on the procedure as provided for by Article 17(2) of Regulation (EU, Euratom) No 883/2013 and shall be sent to the EU institutions.

Article 20

Independence, disciplinary procedure and waiving of immunity applicable to the Director-General of OLAF

1. The Director-General of OLAF shall inform the Committee of any measure, instruction, threat, or promise likely to cast doubt on his or her independence.
2. Acting on its own initiative or on the initiative of the Director-General, the Committee shall deliver an opinion on the matter referred to it.
3. When consulted by the Commission under Article 17(9) of Regulation (EU, Euratom) No 883/2013 on a disciplinary procedure or waiving an immunity on the Director-General of OLAF, the Committee shall issue a reasoned opinion. For this purpose, the Committee shall request all necessary information and documents from the Commission and the Director-General of OLAF.

Article 21

Confidentiality and processing of personal data

1. The Committee members shall be bound by professional secrecy and refrain from any unauthorised disclosure of information received in the exercise of their duties. They shall also continue to be bound by that obligation after leaving the Committee. This paragraph does not apply if the information has already been lawfully made public or is accessible to the public.
2. The Committee shall ensure that Regulation (EU) 2018/1725 (⁽³⁾) is applied. In applying that Regulation, the Committee and the Secretariat shall closely cooperate with the OLAF data protection officer and the Committee Secretariat, and in compliance with the implementing rules adopted on 9 July 2019 (⁽⁴⁾).
3. The Secretariat of the Committee, represented by the Head of the Secretariat, shall act as 'data controller'.

(³) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>

(⁴) Decision of the Director-General of OLAF adopting implementing rules concerning the Data Protection Officer for OLAF and the Secretariat of the Supervisory Committee. ARES(2019)4393452.

4. The Secretariat of the Committee shall publish on its website data protection notices that inform all data subjects of its activities involving processing of their personal data in accordance with Article 16 of Regulation (EU) 2018/1725. The Secretariat shall provide to all data subjects with whom it interacts directly in a framework of a processing activity a privacy notice in accordance with Article 15 of Regulation (EU) 2018/1725.

5. Personal data will be stored for a maximum of 5 years after reception for general inquiries, unless they relate to the Committee's monitoring and follow-up activities when they will be stored for a maximum of 10 years after completing the specific activity.

Article 22

Budget

1. Each year, under Article 6(2) of Commission Decision 1999/352/EC (⁹), the Committee shall deliver an opinion on the preliminary draft budget submitted by the Director-General of OLAF before it is sent to the Commission's Directorate-General for Budget.

2. The Secretariat shall draw up the Committee's annual budget proposals, which shall be sent to the Commission after the Committee has approved them.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS

Article 23

Review and amendment

Any Committee member may propose amendments to the Rules of Procedure at any time and submit them in writing to the chair. Amendments shall be put to the vote at the first meeting following their submission, under the voting procedure set out in Article 9.

Article 24

Relations with the Controller of procedural guarantees

These Rules of Procedure may be reviewed after the appointment of the Controller of procedural guarantees.

When the Controller of procedural guarantees is appointed, the Committee will agree with the Controller any practical arrangements needed to give effect to Regulation (EU, Euratom) No 883/2013 on the complaints mechanism and the reporting obligations of the Controller.

Article 25

Entry into force and publication

These Rules of Procedure shall enter into force on the day following their adoption by the Committee. They replace the former Rules of Procedure published in the *Official Journal of the European Union* in 2011 (⁹).

Once adopted, the Committee shall take the necessary steps to publish them in the *Official Journal of the European Union*.

(⁹) 1999/352/EC, ECSC, Euratom: Commission Decision of 28 April 1999 establishing the European Anti-Fraud Office (OLAF) (notified under document number SEC(1999) 802) (OJ L 136, 31.5.1999, p. 20).

(⁹) OJ L 308, 24.11.2011, p. 114.