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Opinion No 4/2021

**OLAF's preliminary draft budget
for 2022**

October 2021

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SUPERVISORY COMMITTEE



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Introduction

1. Under Regulation (EU) No 883/2013¹ (the “OLAF Regulation”) and Article 3 of Commission Decision 1999/352/EC, ECSC, Euratom², the European Anti-Fraud Office (OLAF) has full independence to exercise its investigative function in all EU institutions, bodies, offices and agencies established by or on the basis of the Treaty on the European Union (TEU), the Treaty on the Functioning of the European Union (TFEU) and the Euratom Treaty.
2. To ensure that OLAF can run efficiently and effectively and contribute in the best possible way to the EU’s objectives on fighting fraud (Article 325 of the TFEU), the total budgetary appropriations for OLAF are to be entered under a specific budget line within the section of the general budget of the EU relating to the Commission and set out in detail in an annex to that section³.
3. One of the Supervisory Committee’s objectives is to regularly monitor OLAF in order to strengthen its independence⁴. The Committee’s duties also include assisting the Director-General of OLAF in discharging his responsibilities. In that context, the Committee addresses opinions to the Director-General, and recommendations where appropriate, on matters such as the resources needed to carry out the investigative function of OLAF (Article 15.1 of the OLAF Regulation).
4. After consultation with OLAF, the OLAF Supervisory Committee adopts an opinion on OLAF’s preliminary draft budget (“PDB”) to give assurance to the EU institutions that the draft budget takes into account the independence of OLAF’s investigative function. The opinion further provides assurance that OLAF has adequate resources to provide an effective and efficient inter-institutional fraud fighting service. The Director-General of OLAF can then use this opinion with respect to the budgetary and the discharge authorities of the EU.

The powers of the Supervisory Committee

5. Providing an informed opinion on OLAF’s PDB is one of the Committee’s core tasks. The Committee’s practice is to discuss its opinion bilaterally with the OLAF Director-General before the hearings and negotiations with the Directorate-General for Budget.
6. An important feature of OLAF’s budget is its *interconnected* structure, in that OLAF can transfer resources among its different budget lines according to its needs, a power that

¹ Regulation (EU) 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, *OJ L 248, 18.9.2013, p.1*, as amended by Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU) No 883/2013, as regards cooperation with the European Public Prosecutor’s Office and the effectiveness of the European Anti-Fraud Office investigations, *OJ L 437, 28.12.2020, p. 49*.

² 1999/352/EC, ECSC, Euratom: Commission Decision of 28 April 1999 establishing the European Anti-Fraud Office (OLAF), *OJ L 136, 31.5.1999, p. 20-22, amended by Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-Fraud Office, OJ L 257, 28.9.2013, p. 19-20*.

³ Article 18 of Regulation (EU) No 883/2013.

⁴ Article 15(1) and Recital 37 of Regulation (EU) No 883/2013.

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the Committee fully supports. In essence, OLAF can make “internal” budgetary transfers without requesting the permission of the EU budgetary authority. In that regard, the Committee is empowered to receive information on any part of OLAF’s budget to enable it to monitor and supervise the efficient use of OLAF’s resources.

7. The Committee addresses its opinions to the EU institutions bodies and agencies. Any recommendations made are addressed to the Director-General of OLAF. In assessing how public funds are used for investigative activities, the Committee contributes to the duties of OLAF’s Director-General.

OLAF’s PDB 2022

8. OLAF’s budgetary independence has a direct impact on its investigations and operations. Therefore, an appropriate budget and a comprehensive human resources strategy should be among its Director-General’s priorities.
9. The Committee notes that like in previous years, the Commission’s draft budget was subject to saving measures, and the annual increase in the budget has consistently been reduced. In line with this trend, compared to the previous year, OLAF’s budget increased by 1.7% compared to 3.42% the year before.
10. The Committee reiterates its view is that this reduction should not adversely affect the fight against fraud or irregular activities causing prejudice to the EU’s financial interests. The Committee is in particular concerned that, as far as OLAF’s human resources are concerned, cuts in its human resources may deprive OLAF from continuing hiring highly qualified and specialized staff in the field of investigations and assets recovery. In particular, as the Committee highlighted in its last years’ opinion on the PDB for 2021, it is important that OLAF has adequate human resources in its disposal especially with regard to OLAF’s nascent working relations with the EPPO.
11. As was the case in the past, for the purposes of this opinion the Committee in examining OLAF’s PDB for 2022 focused particularly on:
 - OLAF’s human resources strategy, taking also into account the impact on such resources from the establishment of EPPO; and
 - the financial and operational impact of implementing OLAF’s case management system, (the “OCM”),
12. The flow and sharing of information to the Supervisory Committee on OLAF’s PDB for 2022 has not been as smooth and timely as expected. The Committee invites OLAF to ensure an as early as possible exchange of information with the Committee so that the latter can play a meaningful role as the discussions of OLAF with the budgetary authority take shape.

OLAF’s human resources

13. As a preliminary point, the Committee finds that the situation of OLAF’s human resources continues to raise concerns.

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14. In particular, on the basis of information provided by OLAF, it transpires that OLAF's total budget for external staff (contract agents, local agents, agency staff, seconded national experts) has decreased from Eur 2 592 000 in 2016 to Eur 2 349 000 in 2022. That translates to a decrease of OLAF's external staff from 59 in 2016 to 45 in 2022.
15. This situation should further be assessed within the overall effects on OLAF's human resources stemming from the creation of EPPO. As Member States have agreed to a zero financial impact for the setting up of EPPO, it is OLAF which essentially has to bear most of the adverse financial impact in terms of human resources. Thus, OLAF is expected to give EPPO 10 of its posts before January 2022 (4 external and 6 permanent posts) and 16 additional posts before January 2023.
16. According to information made available to the Committee, since 2011 OLAF has rendered 62 official posts (from 384 to 322).
17. At present, the Committee has no reason to believe that the creation of EPPO will actually lead to a reduction of OLAF's workload and investigative activities. On the contrary, OLAF not only will still have to support in the near future the activities of EPPO, it will also remain the only body carrying out administrative investigations for the expending departments in all EU institutions bodies and agencies. On top, OLAF is expected to further contribute to the preparation of the Recovery and Resilience Facility (RRF) without however being given any extra resources to do so.
18. In that respect, the Committee's position remains unchanged: OLAF should have adequate and stable human and finance resources, independent from the Commission, to be able to properly fulfil its mission. OLAF must remain independent in three main areas: administrative, financial and investigative. Administrative independence and financial independence means that OLAF's Director-General must have at its disposal the necessary human and financial resources to investigate fraud against the EU budget, corruption and serious misconduct within the European institutions, and develop a meaningful and deterrent anti-fraud policy for the European Commission.
19. For these reasons, the Committee supports OLAF's request for an increase in administrative credits, in particular, more credits for external staff (contract agents, interim and national seconded experts) and for an additional budget for the recruitment of 10 contract agents and 4 seconded national experts, as a means to counter the effects of OLAF's Full Time Equivalents (FTEs) having decreased to 354 FTE as of 10 March 2021, in the context of the general staff reductions and transfers of posts to EPPO.
20. Next, the Committee notes that the Commission intends to apply an across-the-board reduction of 20% to expenditure for missions and meetings, as compared to the 2021 budget, in order to meet its objectives under the European Green Deal.
21. The Committee fully adheres to meeting the new climate and environmental challenges and adjusting EU policies and activities accordingly. Although the COVID-19 restrictions have meant that OLAF's budget for missions has decreased during the pandemic, the fact remains that OLAF missions in other countries are, to a large extent, an essential tool of its investigative activities and collection of evidence that cannot realistically be carried out remotely or online. Thus, the foreseen 20% cut in mission expenses risks having an adverse effect on the efficiency of OLAF investigations, especially with regard to carrying out customs-related investigations to third countries. For these reasons, the Committee's view is that OLAF's mission budget should be maintained at the same level of 2021.

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22. As a concluding remark, the Committee finds somehow counterproductive to assign, on the one hand, every year to OLAF new responsibilities and tasks (EPPO, RRF) and on the other hand, to implement each year a gradual reduction of its human and financial resources.

Information communication and technology infrastructure in OLAF

23. To achieve a digitally transformed European Commission, an integrated, corporate IT ecosystem will gradually be designed and implemented across all Commission services, including OLAF. One of the main components of this strategy is the centralisation of all IT expenses within the Commission's departments. For this reason, provisions have been laid down in the Multiannual Financial Framework 2021-2027 to facilitate co-financing from operational programmes of the corporate IT ecosystem of the Commission⁵. As OLAF informed the Committee, five more lines have also been created for centralising all ICT expense. The Committee understands that as OLAF has to comply with this new budget structure, the budget earmarked for the OCM project (including OLAF's forensic team) was transferred to these central budgetary lines, hence OLAF's investigation budget decreased by Eur 900,000 compared to 2020.
24. With regard to the OCM project the Committee notes that OLAF, for the first time since 2012 when the OCM project was conceived, no longer anticipates any further expenses for the development of its case management system. In fact, its ICT PDB remains at the same level as in the previous year (the increase for the PDB 2022 is 0.01%, and amounts to a total of Eur 6 938 000 compared to Eur 6 937 664 in 2021).
25. That said, the fact remains that since 2012 up to date, the budget for the development of the OCM has reached almost Eur 29 000 000. Over the last years, the Committee has consistently expressed serious concerns regarding the escalating costs of the OCM⁶, its never-ending development phases and its significant and constant budgetary overruns. The Committee has been very critical of the fact that the very costly development of the OCM appears to have been based on internal wrong assumptions and decisions⁷ and conceived initially without taking into account the needs of supervision⁸. These concerns have been compounded by the mitigated so far user-satisfaction of OLAF's investigators and the parallel ongoing development by a number of DGs of a new case management system to which OLAF is also a participating service. Thus, during 2021, the Committee raised with the Director-General of OLAF the question whether OLAF should switch to this new case management system developed within the Commission (CASE@EC) and thus do away with the proprietary solution that is the OCM.

⁵ See Communication to the Commission, "European Commission Digital Strategy; A digitally transformed, user-focused and data-driven Commission" C(2018)7118 final at https://ec.europa.eu/info/sites/default/files/strategy/decision-making_process/documents/ec_digitalstrategy_en.pdf.

⁶ See Activity Report 2017, paragraph 23, Activity Report 2018, paragraph 13, Activity Report 2019, paragraph 20, Opinion on OLAF's PDB 2019, paragraph 27, Opinion on OLAF's PDB 2020, paragraph 29, and Opinion on OLAF's PDB 2021, at paragraph 25, all the Opinions and Reports of the Committee can be found at https://europa.eu/supervisory-committee-olaf/our-work/opinions-and-reports_en.

⁷ Already in June 2019, the Commission's Internal Audit Service in its Final audit report on IT project management practices in OLAF identified a number of significant weaknesses in the early stages of the OCM, including the lack of a clear and sustainable project governance structure as well as sufficient control from senior management. OLAF addressed these weaknesses as confirmed in 2020 by the Commission's Internal Audit Service (February 2020).

⁸ See, Supervisory Committee Activity Report 2017, paragraph 25.

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26. In that regard, the above mentioned Commission Digital Strategy, focuses on internal, corporate, IT related actions to support the Commission's departments in their daily work and to develop digital solutions that are legally indispensable for the EU-wide execution of the Commission's policies. Among the principles set out by the Commission to make this happen is that the Commission services, including OLAF, should “design digital solutions to work seamlessly across organisations and respect interoperability and data exchange requirements”. Given that the EPPO has now decided to adopt the CASE@EC as its own case management system, the Committee cannot but invite the Director General to seriously reflect whether it would make sense that OLAF decides to switch in the near future to the CASE@EC, thus ensuring the necessary interoperability with the EPPO and the easy flow of data between the two organisations⁹. The Committee reiterates the view expressed in its last year Opinion on OLAF’s PDB 2021, according to which, given that EPPO and OLAF will be using different case management systems, additional budgetary resources may be required in the future to ensure the necessary interoperability and synergies between the two systems.
27. Therefore, whatever the estimated costs for switching to the CASE@EC might be (direct and indirect), the fact remains that the OCM has been a very costly project that has failed to deliver so far, within a fixed timescale, a robust, and most of all, user-friendly, flexible and efficient case management system. In fact, the Committee is afraid that the OCM budgetary costs will continue increasing in the coming years.
28. The Committee therefore invites the OLAF Director-General to follow closely the development of the CASE@EC and undertake as soon as possible, especially now that the development of the OCM is supposed to be nearing completion, a detailed review of the pros and cons of keeping the OCM or switching to the CASE@EC.

Conclusions and Recommendations

The Committee:

- A. considers that OLAF’s Preliminary Draft Budget for 2022 is in conformity with the resources needed to conduct investigations efficiently.
- B. fully supports OLAF’s request for additional posts.
- C. agrees with OLAF that any further reduction by 20% of its budget for missions could jeopardise its ability to carry out its investigative function.
- D. invites the Director-General to carry out as soon as possible, now that the OCM is said to have been completed, a detailed cost-based analysis of the pros and cons of maintaining the OCM or switching to the CASE@EC case management system developed.

⁹ It should be noted that OLAF has participated in CASE@EC from its inception and plays an active role in its development.