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**OLAF's preliminary draft budget for 2024**

**May 2023**

# SUPERVISORY COMMITTEE



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## Introduction

1. Under Regulation (EU) No 883/2013<sup>1</sup> (the “OLAF Regulation”) and Article 3 of Commission Decision 1999/352/EC, ECSC, Euratom<sup>2</sup>, 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 section<sup>3</sup>.
3. The Supervisory Committee regularly monitors the implementation by OLAF of its investigative function, in order to reinforce its independence<sup>4</sup>. In that context, the Committee addresses opinions to the Director-General, including where appropriate, recommendations on, *inter alia*, the resources needed to carry out the investigative function of OLAF (Article 15.1 of the OLAF Regulation).

## The powers of the Supervisory Committee

4. After consultation with OLAF, the OLAF Supervisory Committee adopts an opinion on OLAF’s preliminary draft budget for the coming year (“PDB”) to give assurance to the EU institutions that the draft budget takes into account the independence of OLAF’s investigative function. More particularly, the Committee’s opinion examines whether OLAF has adequate resources to step up the fight against fraud, corruption and any other illegal activity.
5. The Committee addresses its opinions to the EU institutions bodies and agencies. Any recommendations made are addressed to the Director-General of OLAF. More particularly, in issuing an opinion on OLAF’s PDB and especially on the resources needed by OLAF to carry out its investigative function, the Committee contributes to the discharge of the duties of OLAF’s Director-General.

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<sup>1</sup> 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.

<sup>2</sup> 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.

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

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

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## OLAF's PDB 2024

6. OLAF's PDB has been prepared against the backdrop of the current multiannual financial framework (MFFs) for 2021-2027, and the Commission's ongoing rigorous scrutiny of all administrative expenditures<sup>5</sup>.
7. More particularly, as far as the Commission's budget for 2024 is concerned, every Commission service, including OLAF, has been asked to limit any increase of non-salary-related expenditure to a maximum of 2%, including for expenditure subject to automatic indexation, such as rent. As far as missions are concerned, following last year's reduction of the relevant budgetary line across the whole Commissions, and taking into account the need to comply with the objectives set out in the Commission's Communication on "Greening the Commission"<sup>6</sup>, next year's expenditure for missions will be frozen at the 2023 level. The expenditure for meetings and committees will have to be reduced by 15% compared to the 2023 budget. Finally, increases in staffing will only be possible by reductions elsewhere, with the emphasis on reallocation and redeployment, both within and between each Commission's service.
8. On 27 March 2023, the Director General of OLAF forwarded to the Committee OLAF's initial PDB proposal for 2024. After subsequent discussions between OLAF and DG Budget, the proposed PDB was modified and the total budget set at 67.043.650 EUR, a net increase of 5.65% compared to the budget for 2023 (63.457.650 EUR). This net increase was due to a large extent to OLAF's request for 16 additional posts.
9. Leaving aside the budgetary implications of the 16 additional requested posts, OLAF's proposed PDB does not depart from the Commission's above mentioned budgetary orientations for 2024. Thus, for instance, OLAF's budget line for "other management expenditure", which concerns essentially OLAF's budget for the organisation of meetings, in general, is reduced by 8.45% (from 1.160.000 EUR in 2023 to 1.062.000 EUR in 2024), as is the budget for "Documentation and library expenditure", (50%, from 10.000 EUR to 5.000 EUR), and the budget for "Equipment and furniture (19.3%, from 145.000 EUR to 117.000 EUR). For the rest, the proposed PDB only includes an increase in OLAF's "Investigation budget line" from 800 000 EUR in 2023 to 1.100.000 EUR for 2024, and increases that relate to the automatic salary adjustments of its staff for which OLAF has no influence or direct control, including increases to cover for the indexation for the rent of its building. Two budget lines remain unchanged compared to 2023, the budget line for "Security and control expenditure" and the budget line for "Information and Communication Technology", the latter being centralised within the Commission's general budget since 2021.
10. The next step is the consolidation by the Commission of all the budgetary estimates of each EU institution, and the establishment of its annual 'draft budget', which will then be submitted to the Council and the European Parliament no later than 1 September (Article 314.2 TFEU). In practice, the Commission endeavours to adopt and present the draft EU Budget in early June (7 June)<sup>7</sup>.

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<sup>5</sup> See [https://commission.europa.eu/publications/multiannual-financial-framework-2021-2027-commitments\\_en](https://commission.europa.eu/publications/multiannual-financial-framework-2021-2027-commitments_en)

<sup>6</sup> [https://commission.europa.eu/system/files/2022-04/c\\_2022\\_2230\\_2\\_en\\_act\\_part1\\_v11.pdf](https://commission.europa.eu/system/files/2022-04/c_2022_2230_2_en_act_part1_v11.pdf)

<sup>7</sup> The Commission may modify the draft budget at a later stage to take account of any new developments, but no later than the point at which the Conciliation Committee is convened (see Article 314.5 TFEU).

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11. Based on the PDB proposal sent by the Director General of OLAF to the Committee on 27 March 2023, as subsequently modified following the discussions of OLAF with DG Budget<sup>8</sup>, the Committee issues this Opinion with a view to informing the Commission and the budgetary authority of its position on OLAF's PDB, and in particular on OLAF's request for additional resources.
12. The Committee is aware of the Commission's stated aim to cope with the increasing challenges faced by the EU with stable, even reduced resources, through efficiency gains and redeployment.<sup>9</sup> However, the Committee would reiterate its consistent view that, as a matter of principle, any reduction in OLAF's budget should not adversely affect the fight against fraud or irregular activities causing prejudice to the EU's financial interests.
13. In fact, it is of paramount importance that OLAF has adequate human resources in its disposal in order to maintain a high level of performance. This is especially true with regard to the new tasks that OLAF has been asked to carry out in relation to a number of strategic initiatives for the European Commission, such as investigations and operational support to Member States concerning the Recovery and Resilience Facility ("RRF"), the operational cooperation with the EPPO, the handling of complaints submitted to the Controller of procedural guarantees, and OLAF's foreseen involvement in the long-term reconstruction effort to rebuild Ukraine (see more details below)<sup>10</sup>.

## OLAF's human resources

14. As a preliminary point, **the Committee finds that the situation of OLAF's human resources continues to raise concerns.**
15. As already recalled in its previous Opinions on OLAF's PDB<sup>11</sup> since Member States had agreed to a zero financial impact for the setting up of EPPO, it is OLAF which had to bear most of the adverse financial impact in terms of human resources. With a final transfer in 2023 of 16 posts to the EPPO, **a total of 45 posts have been contributed by OLAF to the establishment of the EPPO.**
16. In fact, the total number of staff of OLAF (establishment posts occupied, vacant posts, external staff) has been decreasing constantly over the last years, from 422 posts in 2015 to a total of 370 in 2022<sup>12</sup>.
17. Moreover, the **creation of the EPPO has not led to a reduction of OLAF's workload and investigative activities.** In fact, since 2017, the number of cases opened each year by OLAF remains stable, if not slightly increased (222 cases opened in 2017, 226 in 2019, 237 in 2021 and 226 in 2022)<sup>13</sup>. OLAF appears therefore to maintain the same workload having

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<sup>8</sup> On 3 and 17 May 2023, OLAF informed the Secretariat of the Supervisory Committee of the latest and final amendments to its PDB following the outcome of the budget hearings with DG Budget.

<sup>9</sup> See, Commission's Draft Annual budget for the financial year 2023 – General Introduction, at <https://eur-lex.europa.eu/budget/data/DB/2023/en/SEC00.pdf>

<sup>10</sup> See, Commission's Communication on Ukraine relief and reconstruction, COM(2022) 233, 18.5.2022, at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022DC0233>

<sup>11</sup> See, [https://supervisory-committee-olaf.europa.eu/supervisory-committee-olaf/opinions-and-reports\\_en](https://supervisory-committee-olaf.europa.eu/supervisory-committee-olaf/opinions-and-reports_en)

<sup>12</sup> See "The OLAF Report 2021", at p 63, [https://anti-fraud.ec.europa.eu/system/files/2022-09/olaf-report-2021\\_en.pdf](https://anti-fraud.ec.europa.eu/system/files/2022-09/olaf-report-2021_en.pdf) and OLAF's further information provided to the Committee

<sup>13</sup> The number of opened cases for 2022, comprises investigations opened, complementary investigations and support cases.

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however to perform its tasks with 45 posts less, transferred to the EPPO. Since 2021, OLAF remains the only body entrusted with carrying out administrative investigations for the expending departments in all EU institutions bodies and agencies, while also providing support to the EPPO and carrying out complementary investigations to those of the EPPO. At the same time, OLAF is now involved in a number of new strategic initiatives for the European Commission, such as investigations and operational support to Member States concerning the RRF, and activities linked to the creation of the Controller of procedural guarantees and the handling of complaints under the Complaints mechanism of Article 9b of the OLAF Regulation.

18. Faced with these challenges, OLAF has requested 16 additional full time equivalent posts (FTE - 12 temporary and 4 permanent) to be allocated as follows (discussed in more detail below):
  - a) Support to Ukraine: 5 temporary FTE
  - b) Ethics and serious breaches of the Staff Rules: 3 permanent FTE
  - c) RRF and fraud prevention: 4 temporary FTE
  - d) EPPO-related procedures: 3 temporary FTE
  - e) Controller of procedural guarantees: 1 permanent FTE
19. The Committee takes note of the fact that OLAF's request for 16 additional posts does not exceed the 16 posts that were transferred to EPPO in 2023; in that sense OLAF's request should be seen more as a mitigating factor of its declining resources than as a net increase of them.
20. As far as the support to Ukraine is concerned [point 17 (a)], since the adoption of OLAF's Budget for 2023, the Union has pledged major financial support to assist Ukraine in its reconstruction efforts and has imposed an array of unprecedented economic sanctions against Russia in response to the war of aggression against Ukraine. In particular, the EU has imposed several import and export restrictions on Russia which are implemented by the EU's customs authorities<sup>14</sup>. The Director-General of OLAF has already informed the Committee of the important role that OLAF will have to assume in the near future in monitoring the use of EU funds provided to Ukraine and the implementation/non avoidance of the sanctions imposed against Russia. In particular, OLAF has explained that current estimates of the costs of the reconstruction and recovery in Ukraine amount to 349 € billion. In that regard, the EU is considering setting up a 'Rebuild Ukraine' Facility, and OLAF expects to have to play an important role in ensuring the proper disbursement of EU funds and investigating cases of fraud in relation to the financial support provided by the Union. OLAF is expected to be heavily involved in the design of the anti-fraud and anti-corruption prevention measures, control plans, and reporting mechanisms that will accompany the disbursement of EU funds, and thus it will have to reinforce its investigative capacity to be able to address the challenges of increased financial support to Ukraine.
21. Furthermore, OLAF will have to monitor the enforcement of the ten packages of EU sanctions against Russia and Belarus that have been adopted so far, targeting the Russian

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<sup>14</sup> According to the European Commission, since February 2022, the EU has banned over €43.9 billion in exported goods to Russia and €91.2 billion in imported goods. This means that 49% of exports and 58% of imports are currently sanctioned, compared to 2021, see, [https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/#:~:text=As%20part%20of%20the%20economic,the%20EU%20\(import%20restrictions\).](https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/#:~:text=As%20part%20of%20the%20economic,the%20EU%20(import%20restrictions).)

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military-industrial, financial, energy and transport sectors as well as state-owned enterprises<sup>15</sup>. OLAF will have a crucial role to play in providing targeted support and analysis to Member States, focusing in particular on suspicious trade flows that provide for the circumvention of the sanctions imposed.

22. On 5 May 2023, OLAF informed the Committee that on 26 April 2023, the Corporate Management Board of the Commission (CMB) discussed OLAF's request for additional posts. Although it did not reach any definitive decision on it, the CMB proposed that OLAF get 2 additional posts for external staff ("seconded national experts" or contract agents) for its anticipated involvement and role in the support for Ukraine. The Committee takes note of the Commission's intention to provide OLAF 2 temporary posts for the activities linked to the support to Ukraine. The Committee considers that more posts will be needed if OLAF is to effectively assume the new monitoring tasks regarding the financial support given by the EU to Ukraine and the circumvention of the sanctions so far imposed against Russia. For that reason, the Committee will invite the Commission to increase the number of posts given to OLAF for these new tasks, which in any event are temporary, not permanent.
23. Concerning OLAF's request for 3 permanent posts to reinforce its internal investigations of serious matters relating to the discharge of professional duties of staff and Members of the EU institutions, bodies and agencies [point 17 (b)], the Committee notes that the conduct of such investigations by OLAF can only strengthen further the Union's current drive to ensure that the highest standards and principles of ethics, integrity and transparency are fully upheld by all European institutions and by their Members. It is the Committee's view therefore that at least one permanent post should be given to OLAF for the purposes of such investigative activities.
24. Regarding the 4 temporary posts requested for the implementation of the RRF and fraud prevention, in general [point.17 (c)], the Committee considers OLAF's request fully justified. The RRF is a temporary recovery instrument that makes available €723.8 billion (in current prices) in loans (€385.8 billion) and grants (€338 billion) to help Member States implement reforms and investments that are in line with the EU's priorities. It finances reforms and investments in Member States from the start of the pandemic in February 2020 until 31 December 2026. The scale, size and challenges created by the proper implementation of this Facility fully justifies providing OLAF with the requested additional human resources which are also temporary in nature, a reflexion of the limited lifespan of the RRF itself.
25. Concerning OLAF's request for 3 additional temporary posts to reinforce its activities that relate to its cooperation with EPPO [point. 17 (d)], the Committee notes that the large number of investigations opened by EPPO<sup>16</sup> also has an impact on the number of support and complementary investigations carried out by OLAF (42 so far). OLAF has asked one post for its complementary investigations, one post for the detection and analysis of fraud, and one post for the unit in charge of cooperation with EPPO. For the Committee, it is crucial that OLAF has the ability to provide effective support to the EPPO (Article 12e of

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<sup>15</sup> <https://www.consilium.europa.eu/en/policies/eu-response-ukraine-invasion/>. On 28 November 2022, the Council adopted a decision to add the violation of restrictive measures to the list of 'EU crimes included in Article 83(1), second subparagraph of the TFEU.

<sup>16</sup> According to the Annual Report of EPPO for 2022, by the end of 2022, the EPPO had 1117 active investigations with overall estimated damages of €14.1 billion, nearly half of which (47%) resulted from VAT fraud. See, [https://www.epppo.europa.eu/sites/default/files/2023-02/EPPO\\_2022\\_Annual\\_Report\\_EN\\_WEB.pdf](https://www.epppo.europa.eu/sites/default/files/2023-02/EPPO_2022_Annual_Report_EN_WEB.pdf).



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the OLAF Regulation) and carry out, where necessary, complementary investigation (Article 12f of the OLAF Regulation). Given that, as OLAF has pointed out, its workload has not been reduced following the initial transfer of cases to EPPO, and the fact that these posts are temporary and will have to be reassessed in three years' time, the Committee finds that OLAF's request for 3 *temporary* posts is justified.

26. Finally, the Committee also supports OLAF's request for one permanent post to reinforce its Legal Advice unit dealing with the complaints submitted to the Controller of procedural guarantees (Article 9b of the OLAF Regulation). Since her appointment in September 2022, the Controller has dealt with more than 14 complaints under the very strict statutory deadlines of the OLAF Regulation. It is essential that OLAF's Legal Advice unit has the necessary resources to deal with the additional workload resulting from the handling of complaints to the Controller.

## Conclusions

The Committee:

- A. considers that OLAF's PDB for 2024 is in line with its reported needs for human resources
- B. fully supports OLAF's request for additional posts.