



OLAF Supervisory Committee

Opinion No. 2/2005

on the preliminary draft budget for OLAF

for 2006

Luxembourg, 22 March 2005

The preliminary draft budget for OLAF for 2006 submitted to the Supervisory Committee on 21 February 2005 is not fundamentally different from those submitted for the previous years. Insofar as it contains estimates of OLAF's operational requirements, based on a description of the Office's functions as understood and put into practice up to now, the Supervisory Committee considers that it can endorse it. However, as for the previous years, it reflects the problems posed by the "hybrid status" of the Office and this endorsement is qualified by a number of comments on the static nature and lack of perspective of the document submitted. The Committee would also emphasise the somewhat unreliable nature of these estimates which, as highlighted by OLAF¹, ignore the possible impact of the amendments to Regulation 1073/1999 which could enter into force in 2006. This preliminary draft budget shows the unwillingness to innovate. However, OLAF is submitting requests for new posts which go beyond a "prudent and conservative" approach and which in some cases imply a shift in operational activity both because the activity concerned is new and because of the scale of the requests.

Problems posed by the "hybrid status" of the Office

The Committee has repeatedly underlined² the difficulty of using the same procedure to deal with requests and budgetary estimates for independent activities and activities carried out by the Office as a Commission service. Nevertheless, in the procedure outlined in the preliminary draft budget for 2006, OLAF has asked that requests for appropriations and additional posts for operational activities carried out by the Office "as an independent investigative function" should be dealt with separately. Prioritising and allocating additional resources for such activities should not come under the Commission's general procedures.

¹ P.4 of the working document: "the uncertainty surrounding the future role of the Office is reason enough for a prudent and conservative approach to OLAF's existing structures. OLAF is due to be restructured in 2006".

² Most recently in its Activity Report 2003-2004, chapter I.B.

Nevertheless, beyond questions of principle concerning the programme of activities, in actual practice, since the administrative organisation of OLAF does not allow a breakdown of posts by their nature, it is very difficult to deal with them separately or, indeed, to monitor their use; furthermore, certain activities, particularly administrative and budgetary, involve both categories. Only in the budgetary requests do OLAF's budgetary and administrative documents show whether posts are allocated to independent activities or not.

The advantage of having a single procedure covering both categories of activities is that the authorities responsible for the budget decision have the necessary overview and, in particular, can evaluate the coordination, and as appropriate, the synergy of independent activities and activities carried out as a Commission service.

This approach of dealing separately with each category of activities is particularly problematic when there are doubts about the nature of activities for which additional resources are requested.

Of the 25 new posts requested by OLAF for 2006, 15 are intended for the administration and monitoring of the Agreement between the Community (and 10 Member States) and the cigarette manufacturer, Philip Morris International. This constitutes a significant increase in staff for the sector concerned and OLAF believes that it should carry out these monitoring and administrative tasks as independent operational investigation activities. However, the Committee would emphasise that the activities entrusted to OLAF by the Agreement under the certification procedure, and carried out under the Commission's supervision in accordance with the Agreement, as well as the actions coordinated by the national authorities do not constitute independent investigations and, in its opinion, should come under Article 1(2) of Regulation 1073/1999. Decisions on these requests should therefore be taken by the Commission.

The static nature of the preliminary draft budget

This preliminary draft budget submitted by OLAF reflects a “prudent and conservative approach to existing structures” because of the uncertainty surrounding the planned restructuring of the Office in 2006, although it is ultimately requesting 25 new posts. This static nature also exists because the programming of operational activities provided for in Article 11(7) of the Regulation has yet to produce concrete effects; OLAF points out that it expects in the future to be able to effectively address the priorities identified by the risk analysis and that the current priorities are in line with the Office’s existing structures.

The requests concerning the establishment plan are not based on a proactive approach, which is envisaged for the future, but in reaction to events and developments occurring outside a programme produced as part of a comprehensive policy.

As regards the structure of the organisation chart, the preliminary draft submitted does not reveal any attempt to adapt the organisation according to strategic objectives. In particular, OLAF does not appear to have redeployed staff from low-priority sectors to higher-priority sectors³. The Committee noted, for example, that the relationship between investigative and monitoring activity had been completely modified in some sectors of external activities, without having any apparent consequences in terms of organisation.

On the other hand, and although there may be a link between the two phenomena, the preliminary draft budget contains a request to convert 20 temporary A posts into permanent posts to stabilise the administrative structure and the career of the staff concerned. This clearly signals the beginning of substantial developments affecting

³ Nor does the Committee have any information on the possible impact of delays in filling the posts granted by the budgetary authority on the effectiveness of operational activity.

the nature and role of the Office. The responsible authorities should only take this decision if they have all the necessary information. OLAF highlights, however, that the current preliminary draft is submitted in a climate of uncertainty surrounding its future role and it recommends a "prudent and conservative approach" pending, in particular, the conclusions of the management audit carried out of by Court of Auditors and the discussions in the institutions about the reform of Regulation 1073/1999. The Committee is bound to support this recommendation for prudence.
