



# The **OLAF** report **2020**

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# The **OLAF** report **2020**

**Twenty-first report of the  
European Anti-Fraud Office,  
1 January to 31 December 2020**

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OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents these case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.

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<http://olaf.europa.eu>

### Reporting fraud to OLAF

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### Complaining about an OLAF investigation

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# Executive Summary

## **OLAF: DETECT, INVESTIGATE, PROTECT**

2020 was a year dominated by the global coronavirus outbreak, and the work of the European Anti-Fraud Office (OLAF) during the year reflected the new challenges brought by the pandemic. OLAF's work on tackling COVID-19-related fraud focused primarily on counterfeit face masks, hand sanitisers and gels, many of which appeared rapidly on the EU market at the start of the pandemic as fraudsters looked to take advantage of EU countries rushing to increase their stocks. But the virus did not prevent OLAF from continuing with its other work as well throughout 2020, on issues as diverse as conflicts of interest, collusion and manipulation of public procurement procedures, as well as illegal trade in cigarettes or cooling gases.

### **OLAF'S INVESTIGATIVE PERFORMANCE IN 2020:**

- ▶ OLAF concluded 230 investigations, issuing 375 recommendations to the relevant national and EU authorities
- ▶ OLAF recommended the recovery of €293.4 million to the EU budget
- ▶ OLAF opened 290 new investigations, following 1,098 preliminary analyses carried out by OLAF experts

### **TRENDS IN ANTI-FRAUD INVESTIGATIONS:**

In addition to the rapid development of a global market for counterfeit medical goods and personal

protection equipment linked to the COVID-19 pandemic, OLAF's investigators detected a number of other trends in fraudulent activity during 2020. These include:

- ▶ Conflicts of interest & collusion between beneficiaries and contractors, in particular in the area of public procurement
- ▶ False or inflated invoices and corruption targeting agricultural and rural development funding, and associated money laundering
- ▶ Fraud with research funding
- ▶ Cigarette and tobacco smuggling
- ▶ Fraud affecting the environment and biodiversity

### **OLAF'S FIGHT AGAINST SMUGGLING**

In addition to its investigation and coordination cases, in 2020 OLAF co-organised or provided support to a number of joint customs operations, and made significant progress in its efforts to fight the illicit trade in tobacco products, helping national authorities seize nearly 370 million cigarettes.

### **CONTRIBUTION TO EU POLICIES TO FIGHT FRAUD**

OLAF is at the forefront in developing anti-fraud strategies and policies to protect the EU's financial interests and combat corruption. In 2020, OLAF continued to work on the development of the new Commission anti-fraud strategy, as well as taking an active role in the new Recovery and Resilience Facility.





## Foreword

It is with great pleasure that I present the latest edition of the annual report of the European Anti-Fraud Office.

Nobody could have predicted at the start of 2020 that it would become the most challenging and difficult year in living memory, with everyone's lives held hostage by a deadly global pandemic. Many of us have suffered illness and loss as a result of the virus. All of us have been affected by it in some way or other.

Yet despite all the difficulties, OLAF staff have continued to work tirelessly on protecting the interests of the EU and its citizens throughout 2020. This has always been the *raison d'être* of OLAF, but it took on even greater significance during the pandemic. OLAF and its partners quickly found themselves on the front line in the fight against fake and substandard medical products, from face masks to ventilators, which risked flooding the market in the early part of the year as demand grew exponentially.

And as hopes for a rapid vaccine rollout began to grow towards the end of 2020, OLAF used its vast experience to anticipate another major potential fraud risk. Before a single vaccine jab was given, OLAF had helped coordinate with national authorities and the pharmaceutical industry on raising awareness of the risk of fake vaccines – a precaution that proved entirely justified when the fraudsters inevitably sought to exploit government fears of a slow vaccine rollout with fake offers of supply. OLAF's role in tackling this part of the pandemic – and its wider experience in the field of health and safety – are recounted in more detail in Chapter 3.

While the pandemic dominated much of what we did in 2020, it did not stop our work entirely. Travel restrictions and lockdowns made life hard for our investigators, but never impossible. In Chapter 2 you will find a couple of first-hand accounts of the difficulties they faced, and how they were overcome. Chapter 2 also covers OLAF's wider investigative work in 2020, with 290 investigations opened, 230 investigations concluded, 375 recommendations issued and nearly €294 million recommended for recovery – very much in line with OLAF's performance in previous years.

These numbers underline clearly just how persistent fraudsters can be, and how quickly they can adapt to any new circumstances if there is a chance to line their pockets. It is a useful lesson to remember as we now start to move into the phase of recovery from the virus, especially with the considerable amounts of additional EU money available to Member States to support their recovery plans. OLAF is already playing an important part in helping to make these plans as fraud-free as possible – and we will continue to work with our partners across the EU to investigate allegations or suspicions of fraud wherever they occur.

I am extremely proud of the work of my OLAF colleagues. They have shown great resilience, adaptability and courage in exceptionally difficult circumstances to ensure that work – if not necessarily life – continued much as normal. I am doubly proud of the fact that they have played some small part in the global effort to tackle the pandemic, helping to keep fake (not only often useless, but also potentially dangerous) medical equipment off the market.

With vaccination progressing at pace across the EU, the prospects of a return to normality are growing. COVID-19 might have put many things on hold in 2020, but one thing it did not stop was the opportunity for fraudsters – or OLAF's determination to tackle them head on. As we emerge from the pandemic, OLAF, now working closely with the new European Public Prosecutor's Office (EPPO), will continue to play its vital role in helping to keep the EU safe, healthy and fit for the future. The EU has the means and the motivation to emerge from this crisis as a world-leading sustainable, digital, economy. Helping to ensure the billions of euros that have been set aside to do just that are invested where and how they are needed will be OLAF's contribution to this brighter, safer future for us all.

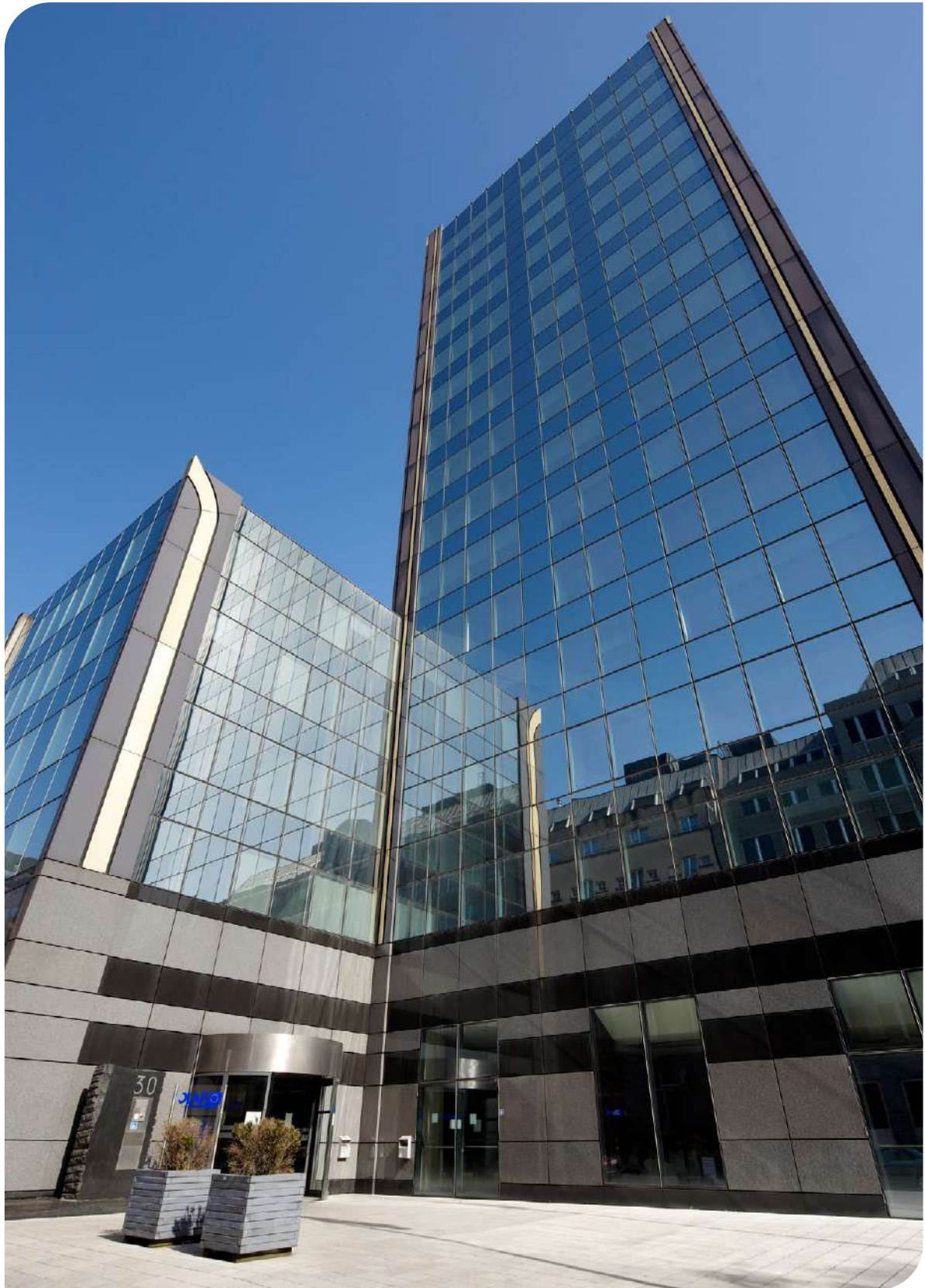
**Ville Itälä**  
**Director-General of OLAF**





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*The seat of the European Anti-Fraud Office, in Brussels*



# 1. Mission and mandate



## MISSION

Detect, investigate and work towards stopping fraud involving European Union funds.

## MANDATE

OLAF's mandate is:

- ▶ to conduct independent investigations into fraud and corruption 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

## COMPETENCES

OLAF can investigate matters relating to fraud, corruption and other illegal activities affecting EU financial interests concerning:

- ▶ all EU expenditure: the main spending categories are European Structural and Investment Funds,

agriculture and rural development funds, direct expenditure and external aid

- ▶ some areas of EU revenue, such as money from customs duties or VAT

OLAF can also carry out investigations into suspicions of serious misconduct by EU staff and members of the EU institutions.

OLAF is part of the European Commission and, as such, under the responsibility of the Commissioner for Human Resources and Budget, Johannes Hahn.

However, in its investigative mandate, OLAF acts in full independence.

## WHAT WE DO

OLAF's investigative work broadly involves:

- ▶ assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation
- ▶ conducting administrative anti-fraud investigations, where appropriate in cooperation with national criminal or administrative

- investigative authorities and with EU and international bodies
- ▶ supporting the anti-fraud investigations of national authorities
- ▶ coordinating the action of national authorities and sharing knowledge on fraud with its partners in order to prevent losses and protect health and safety
- ▶ recommending actions that should be taken by the relevant EU or national authorities
- ▶ monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work in the fight against fraud and better tailor the support OLAF provides to national authorities

Responsibilities for much of EU spending are shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The same applies for the customs duties or VAT-related parts of EU revenue. The detection, investigation, prosecution of fraud against the EU budget and the recovery of unduly spent amounts or evaded customs duties can therefore only be conducted in cooperation with a wide range of partners, at national, European and international level.

OLAF cases frequently concern:

- ▶ cross-border procurement fraud or corruption in public procurement procedures involving EU financing
- ▶ double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others made
- ▶ subsidy fraud in different forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes

- ▶ customs fraud where fraudsters attempt to avoid paying customs duties (EU own resources), for instance by smuggling goods into the EU

OLAF analyses data that gives it a unique overview of fraud trends and patterns. This big picture is essential not only to investigate fraud, but also to prevent it from happening. Cross-border fraud exploits gaps in knowledge and in cooperation among national authorities. OLAF joins the dots of these fraud schemes, shares its knowledge, organises joint operations, and gives early warnings that allow national customs authorities to take early action to prevent losses.

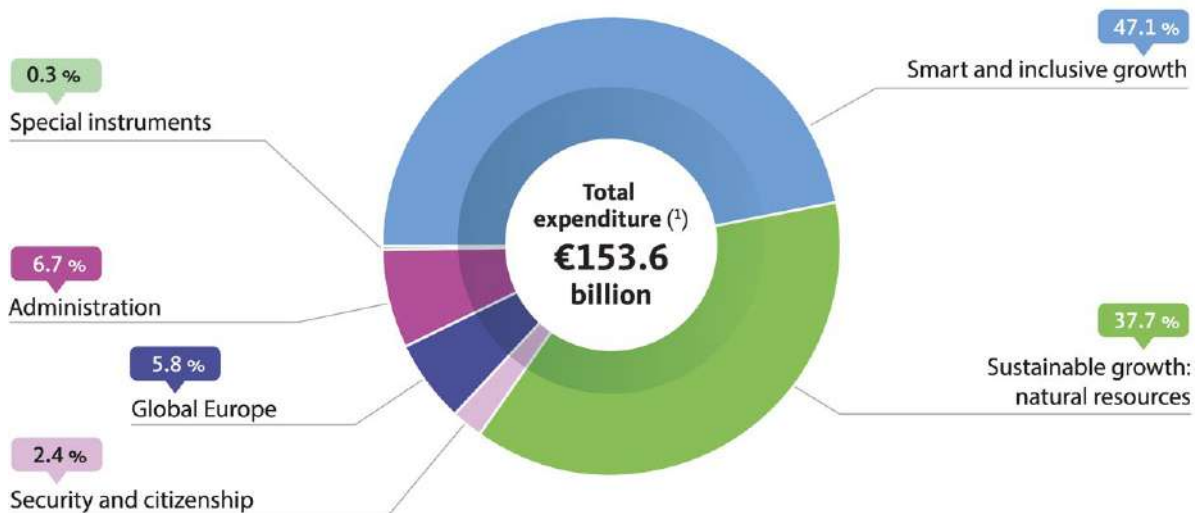
OLAF's main role as a knowledge centre frequently concerns:

- ▶ cross-border fraud to evade customs duties and VAT
- ▶ organised schemes which defraud projects and programmes financed by the EU
- ▶ the protection of health, safety and the environment from counterfeit, substandard and potentially dangerous goods

EU bodies are, like other employers, at risk of fraud from their members and staff in relation to remuneration, travel and relocation allowances, social security and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures, and of other forms of corruption such as attempts to illicitly influence decision-making and recruitment procedures. To some degree, these risks are enhanced by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out so-called "internal" investigations into any allegations of misconduct involving staff and members of the EU institutions.



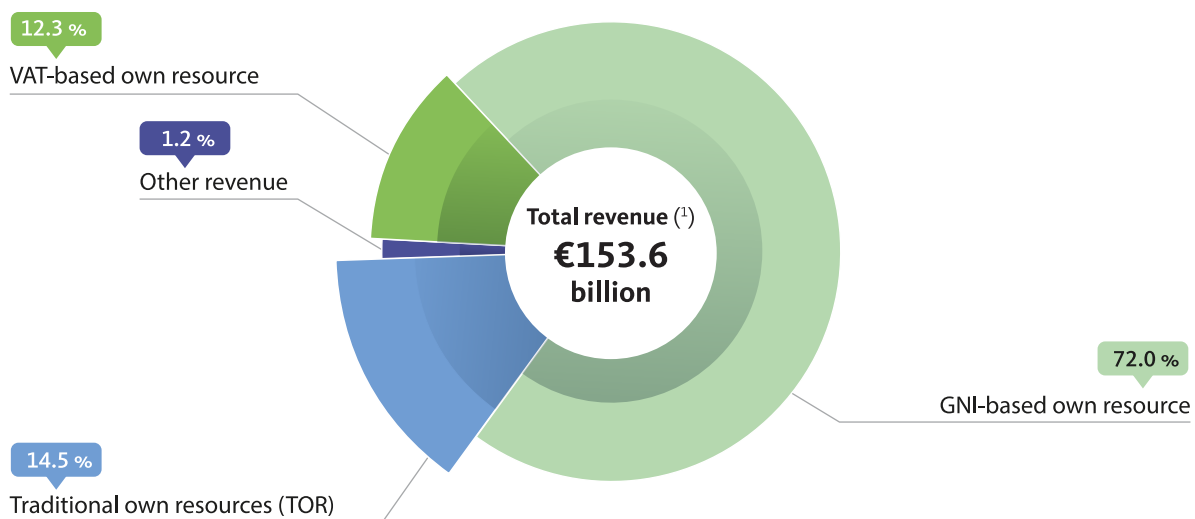
Figure 1: EU expenditure in 2020



(1) Source: OJ L57, 27.2.2020, p. 13

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

Figure 2: EU revenue in 2020

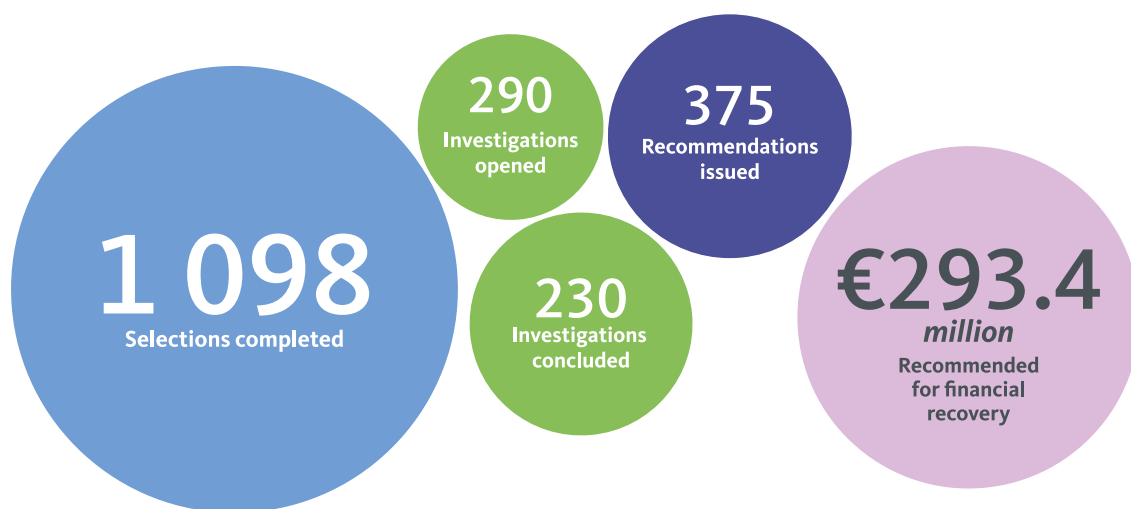


(1) Source: OJ L57, 27.2.2020, p. 14

Disclaimer: these are based on final amounts but are still subject to reliability checks by the European Court of Auditors

## 2. OLAF’s investigative activity: trends in anti-fraud investigations

Figure 3: OLAF’s investigative activity in 2020



### 2.1. Summary of OLAF’s investigative performance in 2020

OLAF’s investigative performance in 2020 was broadly in line with previous years. On the basis of more than 5,000 pieces of new incoming information from private and public sources, some 1,098 selections were made during the year, leading to a total of 290 investigations being opened. Some 230 were concluded during the year, leading to OLAF issuing 375 recommendations to competent authorities at EU and national level. The majority

of these recommendations concern the recovery of EU funds – nearly €294 million in 2020 – by the relevant authorities at EU and Member State level. OLAF also issued a limited number of judicial, disciplinary and administrative recommendations in 2020. For a detailed presentation of these and other performance indicators, please refer to the annex to this report (Chapter 11).

Table 1 shows the breakdown of the investigations concluded by OLAF in 2020 concerning EU funds managed or spent in whole or in part at national or regional level.



**Table 1: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2020**

Country	Cases concluded	
	Total number per country	of which closed with recommendations
Italy	13	9
Bulgaria	8	7
Hungary	8	4
Poland	7	2
Romania	8	4
France	7	3
Serbia	6	3
Slovakia	6	5
Spain	4	2
Syria	4	2
Uganda	4	3
Croatia	3	3
Greece	3	3
United Kingdom	3	2
Ethiopia	2	1
Mauritania	2	2
Armenia, Bangladesh, Bosnia & Herzegovina, Burkina Faso, Czechia, Denmark, Egypt, El Salvador, Estonia, Iraq, Moldova, Nigeria, North Macedonia, Portugal, Somalia, South Africa, Sweden, Turkey, Tanzania, West Africa*, Yemen	21 (1 per country)	13
<b>Total</b>	<b>109</b>	<b>68</b>

\* Single investigation covered several West African countries (Côte d'Ivoire, Guinea, Liberia, Mali, Nigeria, Senegal, Sierra Leone)

**Table 2: Investigations opened by main investigative area**

Reporting sector	2016	2017	2018	2019	2020
Internal Matters	41	40	27	36	46
Direct Management	31	36	38	26	48
Indirect Management	41	47	48	21	42
Shared Management	61	62	78	92	98
<i>European Agricultural Guarantee and Rural Development Funds (EAGF, EAFRD, EAGGF)</i>	14	10	23	25	39
<i>European Regional Development Fund</i>	33	40	36	36	34
<i>Cohesion Fund</i>	2	6	4	9	8
<i>European Social Fund</i>	8	4	12	14	8
<i>Other</i>	4	2	3	8	9
Revenue (Own Resources)	40	32	28	40	48
Illicit Trade	5	5	2	11	13
<b>Total</b>	<b>219</b>	<b>222</b>	<b>221</b>	<b>226</b>	<b>295</b>

Note: One investigation may concern more than one investigative area

## 2.2. Keeping up with the fraudsters: the main trends of OLAF's work in 2020

Each year, OLAF identifies the main trends in fraud activity across the EU and beyond. Many of these trends are repeated from year to year, and 2020 was no exception: OLAF identified patterns of collusion, conflict of interest, manipulation of tenders, money laundering, smuggling and counterfeiting that have also been seen in previous years. Meanwhile, the global pandemic brought new opportunities for fraudsters, for example through counterfeit medical and personal protection equipment.

Below is a selection of cases closed by OLAF in 2020 that illustrate these various trends. It is not a complete list of all the investigations completed by OLAF but rather an overview of the main types of fraudulent activity detected by the office during the year. OLAF's work in tackling the fraudsters in the wider area of health and safety, including pandemic-related investigations, is discussed in more detail in Chapter 3.

### 2.2.1. Fraudsters continue to target EU funding programmes

As in previous years, one of the main trends identified in 2020 was fraudsters manipulating the procurement and tendering process.

#### CONFLICTS OF INTEREST

A case from Croatia shows how the manipulation or circumvention of procurement procedures is often used to hide a conflict of interest.

OLAF's investigation concerned a project in Croatia that was co-financed by the European Agricultural Guarantee Fund (EAGF) through which a company was awarded just over €1.3 million in EU funds to help support the construction of a €3 million winery.

Under both national and EU law, the Croatian firm was not obliged to publish a call for tender to choose a contractor to carry out the construction work on the winery. However, national legislation in Croatia does prohibit beneficiaries from choosing contractors where there is a clear conflict of interest,





in particular where there are personal or business connections between the beneficiary company and the contractor as well as between their respective owners.

OLAF's investigation made it clear that these rules had been completely ignored: the beneficiary company awarded a construction contract worth €3 million to a firm with no employees which in turn subcontracted the same contract to a company owned and managed by the son of the owner and manager of the beneficiary company. OLAF discovered that the sole purpose of this manoeuvre was to hide the obvious conflict of interest from the national authorities.

Following the closure of the investigation, OLAF made recommendations to the European Commission's Directorate-General for Agriculture and Rural Development (DG AGRI) to recover the full amount of just over €1.3 million, as well as to the Croatian Public Prosecutor to initiate criminal proceedings against the beneficiary, the contractor, the subcontractor and all their respective managers. In addition, OLAF made recommendations to DG AGRI to address the administrative weakness within the Croatian Paying Agency for Agriculture, Fisheries and Rural Development: the rules on conflicts of interest only concern the beneficiary of the EU funds and the main contractor, and as such can be easily circumvented by using a sub-contractor.

Another case concluded in 2020 involved both conflicts of interest and tender manipulation, this time concerning EU funding for Serbia.

OLAF's investigation began after the EU Delegation in Serbia received an anonymous letter alleging that a tender procedure for the contract to provide software for a Serbian public institution had been manipulated, with illegal access granted to confidential information. The institution in question was the beneficiary of EU funding, which was used to finance the roll-out of the new software.

In the letter, the anonymous source claimed that one member of the tender evaluation committee, a representative of the institution concerned, had

allegedly arranged for one specific bidder to win the tender.

Working with the Serbian Prosecutor's Office and law enforcement authorities, OLAF discovered that the tender procedure had indeed been manipulated. The member of the evaluation committee had been in regular contact with the director of the IT company before the launch of the tender procedure – the two of them had long been friends, in fact, a clear conflict of interest that astonishingly remained undeclared. To cap it all, OLAF discovered that the IT company had also been involved in the drawing up of the technical specifications for the tender, clearly giving them an unfair advantage over the other tender applicants.

Based on its findings, OLAF recommended that the European Commission's Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) ensure the recovery of the entire amount of EU funding – over €200,000 – and that it exclude the IT company from any further EU-funded projects. OLAF also referred the matter to the Serbian judicial authorities for follow-up.

## **FARMING AND RURAL DEVELOPMENT FUNDS DEFRAUDED**

Agriculture and rural development traditionally accounts for one of the largest shares of the EU budget, and this in turn makes it a common target for fraudsters. 2020 was no exception, with several cases closed by OLAF during the year concerning funding in particular from the European Agricultural Fund for Rural Development (EAFRD). The EAFRD supports the development of sustainable agriculture and the wider rural economy. One area where funding can be used is in helping farmers expand or modernise their operations by helping them to buy new machinery.

In some cases, however, this support is abused. Cases investigated by OLAF typically involve issues such as inflated reimbursements of investments for the modernisation of buildings and agricultural equipment, or on irregularities involving subsidies for the first installation of young farmers.



One case closed by OLAF in 2020 involved farmers in Corsica, France, who were investigated following suspicions that they had submitted false invoices in order to obtain a higher level of reimbursement for the investments in equipment they had made for their holdings. Focusing in particular on suppliers' invoices, submitted by the beneficiaries to the French paying agency in support of their payment claims, OLAF's investigators uncovered a sophisticated scheme involving claims for many times the sums actually due.

OLAF found evidence of a tampering scheme. Information on the invoices – dates, signatures and amounts – was illegally altered in order to claim the reimbursement of hundreds of thousands of euros from EAFRD funding. Following its investigation, OLAF recommended the recovery of the amounts unduly paid by DG AGRI, as well as a judicial recommendation to take criminal action against the fraudsters and forgers.

#### **FALSE DOCUMENTATION TO HIDE LACK OF WORK**

Producing fake documentation in order to cover up a lack of any actual work is another common method for attempting to defraud EU projects. One investigation concluded in 2020 focused on this particular type of fraud used in three different projects in Croatia.

The projects, co-financed through the Instrument for Pre-Accession Assistance (IPA) and the European Social Fund (ESF), all involved the same Croatian private company, which was the ultimate beneficiary of the EU funds. The purpose of all three projects was to provide various rehabilitation services to mentally and physically impaired people living in rural areas with limited access to social services.

OLAF's investigation confirmed the allegation that the company had failed to carry out all the various activities foreseen in the contracts for each of the projects. Instead, it made false statements and produced falsified project documents to show that



the projects had all been completed as planned. OLAF discovered that as little as 7% of the total cost of the work had been carried out in some of the activities, and that the completion rate was never higher than 50%, despite the company's claims for reimbursement for 100% of the work.

Following the conclusion of its investigation, OLAF recommended that the European Commission's Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) recover the full amount of €562,956, and made a recommendation the Croatian Public Prosecutor to initiate criminal proceedings against the beneficiary and the persons responsible for the implementation of the project.

### JOINT INVESTIGATION TEAMS TAKING ON THE MONEY LAUNDERERS

Fraud concerning EU-funded projects is often associated with money laundering, and two joint investigations concluded in 2020 by OLAF and its EU and national partners offer good examples of the size and scope of such fraudulent activities.

#### *JIT TOMATO*

The first concerned allegations of fraud and money laundering by a number of Italian citizens who benefitted from EU agricultural funds in Romania, first published in a Romanian newspaper. OLAF launched its investigation and quickly discovered that the Romanian National Anticorruption Directorate (DNA) and the Prosecutor's Office of the Italian commune of Enna were conducting their own, separate, criminal investigations into the same persons involved in the OLAF case.

Joint investigation teams (JITs) are the most common and effective way of managing such complex, cross-border investigations. The new JIT created to investigate this case consisted of OLAF, the DNA and the Italian judicial authorities, supported as always by Eurojust, the EU's agency for criminal justice cooperation.

Working closely with its JIT partners, OLAF uncovered a complex scheme established in 2016 by a number of Italian citizens, known to be members

of an organised criminal group that specialises in defrauding EU funds. In this case, the group was targeting funding offered to Romanian farmers from the European Agricultural Guarantee Fund (EAGF) to help support tomato production during the 2017 growing season.

The JIT discovered a complex and sophisticated scheme that involved not a single hectare of farmland or any farm or other agricultural operations in Romania. Instead, the criminal group set up five shell companies, all at the same address in Romania and all with their own bank accounts with the same bank, created solely to receive EU subsidies and without any intention of growing a single tomato.

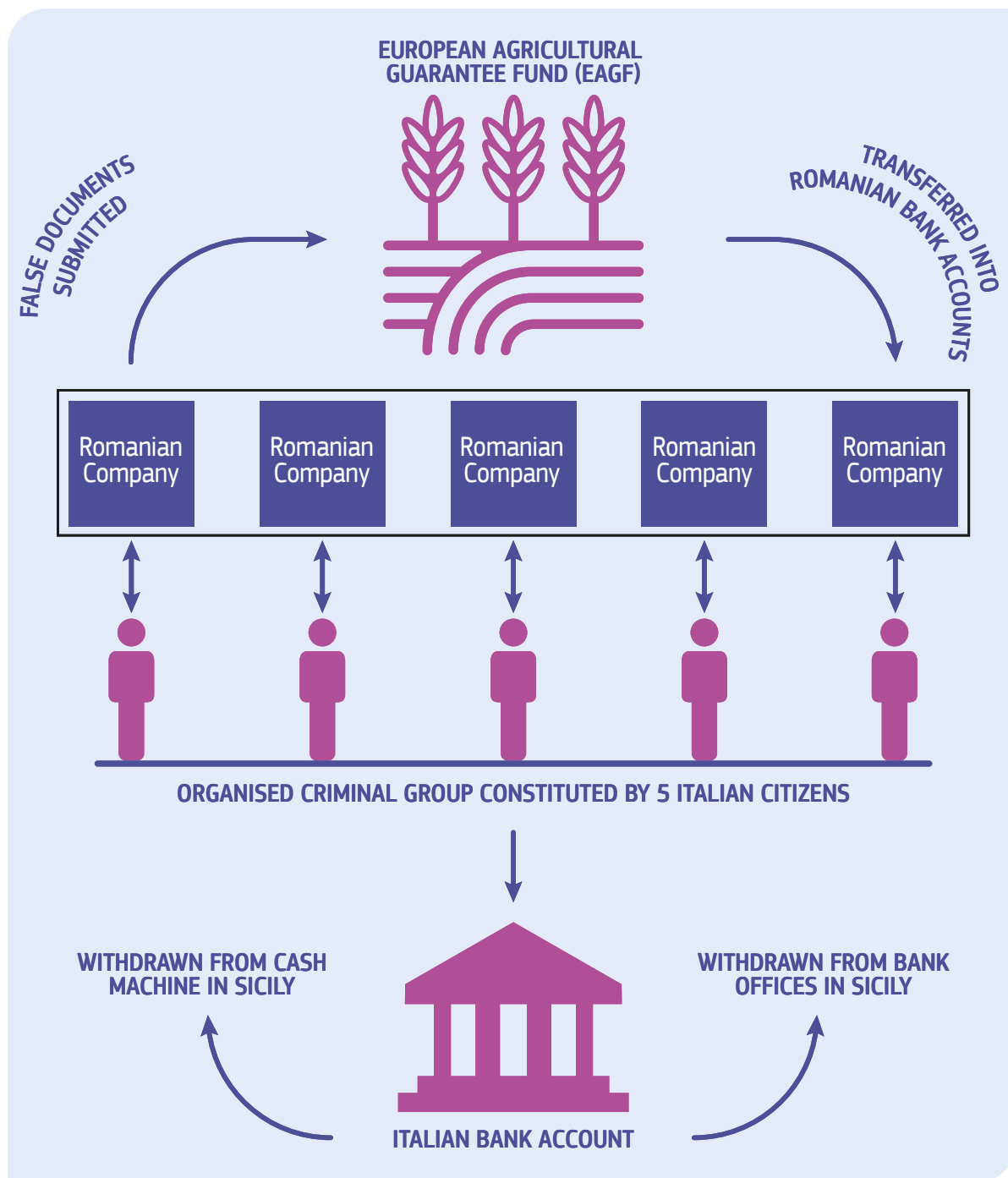
Using falsified documents such as fake lease contracts with the same landowner or fake invoices for the purchase of tomato seeds, the fraudsters managed to obtain €850,000 from the European Agricultural Guarantee Fund (EAGF), an amount that accounts for around a quarter of the entire EU farm subsidies allocated to Romania for the 2017 campaign.

Yet not a single cent of that money was spent in Romania. As soon as the Romanian Paying Agency paid the subsidies into the bank accounts of the five companies, the money was transferred to bank accounts in Italy, where it was swiftly withdrawn from cash machines or over the counter in banks and used to finance other criminal activities.

OLAF closed its investigation in October 2020 with judicial recommendations for the Romanian and Italian judicial authorities, and a financial recommendation for DG AGRI to recover the full amount of €850,000 stolen by the fraudsters.

Criminal proceedings in Romania related to this case have already led to the seizure of more than €215,000 from the bank accounts of the five companies concerned, all of which came directly from the fraudulently obtained EAGF funding.

Figure 4: The Tomato case



### *JIT PALINKA*

The second JIT involving money laundering once again saw OLAF work alongside the Romanian National Anticorruption Directorate (DNA), this time in cooperation with the Belgian Prosecution Office of Brussels, which was coordinating the activities of the Belgian Central Office for Combatting Corruption.

The investigation focused on corruption and money-laundering offences committed in relation to the tender procedure organised by a Romanian public company for a contract to develop new road infrastructure projects in Romania. The company was the beneficiary of EU funding of more than €33.5 million from the European Regional Development Fund (ERDF).

The scheme uncovered by OLAF and its JIT partners was particularly complex. The Romanian public company that was the beneficiary of the EU funds organised a public tender procedure for the works in 2012, awarding the contract to a joint venture composed of three companies (one Spanish, one Italian, one Romanian). Three months before the end of the tender and the awarding of the contract, two of the three companies in the joint venture (the Romanian and Spanish partners) signed a number of service contracts with two other companies, one Romanian and one Belgian, both owned and controlled by the same person, an Italian citizen.

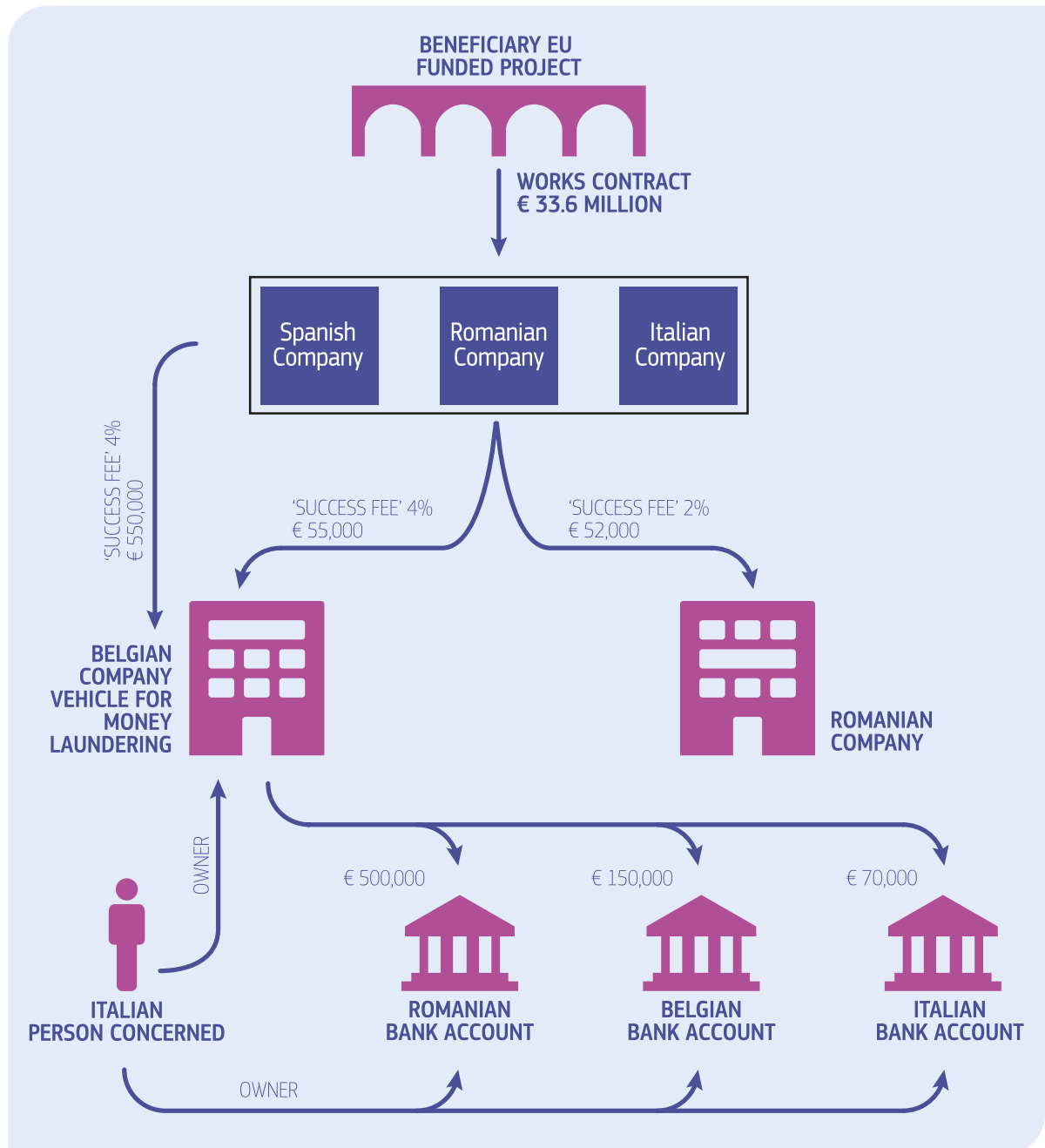
These service contracts were just a front, however. They were used as a vehicle to carry out money laundering operations on a major scale, signed with the sole aim of masking the illegal character of the

payments in the form of a so-called 'success fee'. Two out of the three companies in the joint venture paid €700,000 for fictitious services that were never provided, transferring money from Spanish and Romanian bank accounts to Belgian bank accounts, and then again to accounts owned by the Italian citizen in Romania, Belgium and Italy.

In the course of the investigation, OLAF and its JIT partners discovered that the Italian citizen who owned the two service companies had very close links to a number of senior people in the Romanian national administration. The JIT partners believed the money spent on the non-existent services was in fact by way of payment to the Italian citizen for using his close contact with the Romanian authorities to influence the awarding of the contract. The investigation revealed that four other individuals or companies were also involved in these criminal activities.

OLAF closed its investigation in November 2020, issuing judicial recommendations to Romania, Belgium and Spain, and a financial recommendation to the European Commission's Directorate-General for Regional Policy (DG REGIO) to recover €25 million in EU funds defrauded as part of the scheme. As part of the ongoing criminal proceedings in this case, Belgian judicial authorities have seized around €2.8 million from bank accounts in Italy and Belgium belonging to the suspects. Belgian judicial authorities have indicted seven individuals and businesses for crimes of money laundering, criminal association, falsification and use of false documents, misappropriation of corporate assets and offences with regard to the state of bankruptcy.

Figure 5: The Palinka case





## RESEARCH PROJECTS REMAIN AT RISK

Each year considerable sums of EU money are invested in projects that bring together scientists from across the globe to work on vital research projects. As with all other EU funds, the vast majority of this money is spent where and how it is intended, but research projects can also be a potential target for the fraudsters. Fraud of this kind is also often associated with money laundering, as OLAF discovered in the two cases presented below.

One case concluded in 2020 concerned funding from the EU's FP7 research programme, which ran from 2007-2013.

OLAF's investigation focused on the organisation that acted as the coordinator of two FP7-funded projects. Under the terms of the agreements by which the money was awarded, the coordinator was obliged to pass on a share of this funding to the other members of the consortium involved in the projects. Working closely with the German public prosecutor and police, OLAF discovered that the organisation had failed to meet its obligations as the coordinator of the projects, notably by failing to pass on any of the EU funding it had received. Instead, the amounts were transferred through a complex web of bank transfers to another organisation based in a different country with close ties to the management of the coordinating organisation; the money was used for private purposes entirely unrelated to the research projects.

Following OLAF's investigation, the European Commission began the process of recovering the more than €4 million granted to the organisation. The organisation has also been banned from taking part in EU funding offers for a period of three years, as have two of its board members.

Another OLAF case closed in 2020 concerned fraud and misuse of EU funds allegedly committed during the implementation of several EU research projects by two companies located in two different EU Member States. The two companies were beneficiaries of 56 projects in total, all funded by EU under the FP7 and/or Horizon 2020 research programmes.

OLAF carried out simultaneous, unannounced on-the-spot checks at the premises of the two companies in the United Kingdom and in France, collecting considerable quantities of data including information on bank accounts and transactions.

Using this data, OLAF was able to establish that the funding from the EU research projects was the main source of income for the companies, which appeared to be linked through their ownership and management. The evidence gathered demonstrated that both companies had maximised their profits by deliberately declaring the maximum working hours allowed under the rules for each of the projects instead of the real hours their employees spent working on the projects. As a result, they almost doubled the amount of money granted to them from the EU research budget.

OLAF established that both companies had used the EU money obtained in this way for entirely unrelated purposes. For example, OLAF proved that the UK company had invested €800,000 in a plan to build a block of flats in Colombia.

Judicial recommendations were made to the competent national authorities in France and in the UK on the grounds that OLAF considered both companies to have committed fraud and forgery. OLAF also issued financial recommendations for the recovery of €3.8 million.

## Business as usual? OLAF inspections in COVID times

On-the-spot checks and inspections are a core part of OLAF's work, enabling investigators to collect evidence of fraud and other inappropriate behaviour. As this work is classified as essential, OLAF staff were permitted to travel as usual during the lockdown to carry out the checks – even if there was little else that could be considered 'usual' about the conditions in which the work took place.

OLAF investigators faced a number of challenges that had to be overcome for them to be able to carry out their work effectively. Here they share some of them, in their own words:

*“ We planned a week-long trip to one Member State to carry out an on-the-spot check and a number of interviews, but we didn't know exactly what we would be able to do once we got there. It was unclear whether we would be able to count on the support of the local authorities, as we would normally be able to do. In particular, we did not know whether the company we wanted to inspect would even be open, let alone whether there would be anyone there to assist us in our work, with the majority of workers expected to stay at home. We also had no idea whether any of the witnesses we hoped to interview would consent to meeting us in person, given that we were coming from Belgium, at that time classed as a red zone.*

*Thankfully, all our fears proved to be unfounded, as the country we were visiting had a far less restrictive lockdown than Belgium at that time, and human contact and working conditions were relatively unaffected (apart from social distancing measures). Our week of inspections and interviews ran almost as normal, and we were relieved to have been able to do our work even in such extraordinary times.*

*In fact, getting home after our work proved to be by far the most stressful and complicated part of the trip. We were waiting to board our plane home when one of our team members was suddenly refused access on board. According to the airline, the papers from the Commission stating that our work there was considered essential were not enough – they wanted to also see some form of Belgian ID to prove that our colleague had the right to return to the country. Although resident in Belgium, the colleague in question has another nationality, and as such had no valid form of Belgian ID to show; as a result, they were refused access to the plane and had to stay there while the rest of us were allowed to return home. In the end, it took some urgent action through Commission, diplomatic and administrative channels to provide the airport authorities with the information needed to allow our colleague to return home, two days after the rest of us.”*

Other investigators found different ways of getting the job done. Some used Commission representations in each Member State to act as their 'sponsor' on the ground, ensuring that the work was clearly understood as essential by national authorities. Others came to agreements with their local counterparts to adapt their usual working practices to the specific needs of the pandemic; for example, in one EU country OLAF's investigators carried out checks at a company's premises on their own, without local inspectors also taking part as would normally be the case. This was agreed in advance in order to reduce the number of people needing to be in the same place at the same time, and OLAF's investigative team agreed to share all their findings with the local authorities in full transparency.



If travel within the EU was difficult, it was harder still for OLAF's investigators to carry out their work in countries that are not one of the 27 Member States.

“ We were heading to Moldova to conduct a number of checks and interviews, but our problems started before we had even managed to leave Belgium. When we arrived at the airport, we were initially told that we could not check in for the flight because we were not Moldovan residents. Thanks to official documents from the Moldovan authorities authorising our visit, we were at least given the green light to board the plane – although even that was delayed because one of our team had had to drop out at the last minute because of a COVID infection and the name of their replacement was not on our official paperwork. After a very long 20 minutes spent speaking to the border authorities in Moldova, the airline finally let us board and we were able to do our work relatively easily once we arrived.

*Our departure was pretty unusual though. We had been given offices in which to work and complete our reports, but on our last day there we were informed by the office managers that the building was to be thoroughly disinfected at midday and we would either have to wait in our offices for two hours or make sure we were outside already. We were given two hours notice to get all our work done. Not wanting to be stuck in a building being doused with chemicals, we*

*rushed to complete our work in the two hours we had left, and ended up leaving the building on the stroke of noon pursued by a team of white-clothed individuals looking like the Ghostbusters or nuclear inspectors.*

*And that was not the end of it, either. When we arrived at the airport soon afterwards, we were asked for proof of a negative COVID test before flying, even though this was not necessary at the time to return to Belgium, although we would have to take the test once we arrived home. The problem was that while we were all resident in Belgium, we are all from different parts of Europe, and our travel documents are not linked to our place of residence. It took us a good ten minutes to explain that we were all going back to the same place, and not to our country of origin, so we could follow the rules in place there.”*

Getting to and from the place of work was only one challenge among many. With tough lockdown rules in place in so many parts of the world, finding a hotel to stay in or a place to eat while staying there was also far more difficult than in normal times. Going through piles of documents looking for evidence becomes far more laborious when you have to disinfect your hands after each one. And interviewing witnesses is harder still when speaking through masks and with the windows open, even in the depth of winter...

Working in pandemic times proved difficult for everyone, with the constant evolution of the outbreak meaning rules on travel in particular could change almost overnight, putting immense pressure on airlines and other officials to keep up with what was and was not permitted. OLAF's work would not have been possible without the understanding and support of many others, from airline and airport staff to local, national and European authorities and the various business and individuals inspected and interviewed during the course of the investigations.

### 2.2.2. Protecting EU revenues from smugglers and counterfeiters

EU own resources – money from taxes and duties that are paid directly into the EU budget – are an important part of the EU’s budget planning. Keeping these resources – and citizens – safe by tackling the smugglers and counterfeiters is another key part of OLAF’s work.

#### TOBACCO SMUGGLERS & COUNTERFEITERS

Tobacco products account for a large share of the smuggled or counterfeit goods targeted by OLAF each year. Whether they are genuine cigarettes sold on the black market or fake cigarettes passed off as the real thing, sales of these products lead to the loss of millions of euros that could otherwise be used to finance projects and programmes for the benefit of citizens across the EU.

OLAF’s role in tackling the smugglers focuses on two main areas: gathering information from a variety of sources including law enforcement and industry on the people, companies and means of transport involved and, at the same time, monitoring the movements of suspicious consignments of tobacco

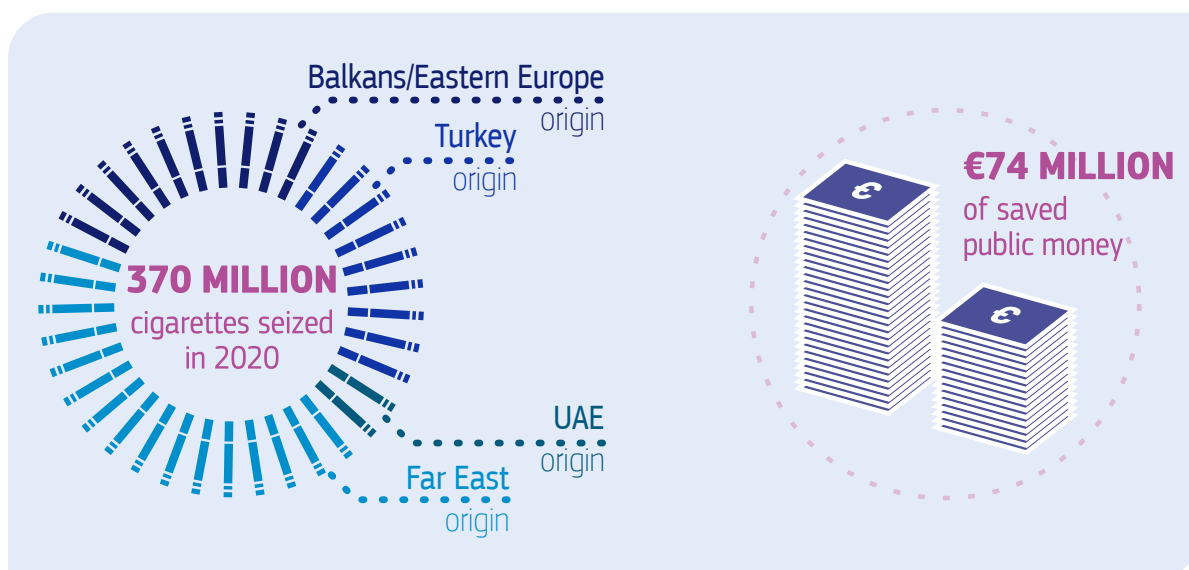
products worldwide, in close cooperation with the relevant services both within and outside the EU.

These two elements combine to help OLAF identify containers and/or lorries loaded with cigarettes that are falsely declared as other goods at the EU borders – and to do so from among the thousands of containers and lorries of merchandise that enter the EU every day.

In 2020, OLAF and its partners seized a total of 368,034,640 cigarettes destined for illegal sale in the EU; of these 132,500,000 cigarettes were seized in non-EU countries (primarily Albania, Kosovo, Malaysia and Ukraine) while 235,534,640 cigarettes were seized in EU Member States.

The vast majority of these cigarettes came from outside the EU: some 163,072,740 originated in the Far East (China, Vietnam, Singapore, Malaysia), while 99,250,000 were from the Balkans/Eastern Europe. A further 84,711,900 originated in Turkey, while 21,000,000 came from the UAE.

Figure 6: Results of OLAF’s work against tobacco smuggling





OLAF estimates the potential loss of revenues for EU budgets if these cigarettes had reached the EU market at around €74 million. This figure is based on an average loss of around €2 million in customs and excise duties and VAT for every 10 million cigarettes.

### ILLEGAL CIGARETTE PRODUCTION WITHIN THE EU

While smuggling of cigarettes into the EU remains a constant threat, OLAF is also extremely active in tackling the counterfeiters who focus on the illegal production of cigarettes within the EU.

For the last three years, OLAF has been coordinating a major cross-border investigation into the illicit production of cigarettes, involving nine EU countries and the United Kingdom. A major operation on 17 December 2020, led by more than 160 officers from the Romanian Border Police and assisted by two officers of the Spanish Guardia Civil, was the final phase of this complex investigation.

On the day, the Romanian Border Police targeted 50 individuals suspected of being part of a criminal organisation involved in a variety of criminal activities linked with smuggling and the illicit production of cigarettes, as well as fiscal fraud. Forty search warrants were served at company offices and private residences in Bucharest and across Romania. On the same day, the Criminal Directorate of the National Tax and Customs Administration in Hungary and the Guardia di Finanza in Italy carried out searches linked to the same international investigation.

During the course of the three-year operation, more than 200 people have been arrested or reported to the judicial authorities in the framework of investigations conducted at national level in Romania, Hungary, Slovakia, Greece, the Czech Republic, Italy, Spain, Belgium and the United Kingdom.

In addition to the arrests made over the three years, the operation prevented the loss of approximately €80 million in duties and taxes in five EU countries following raids on nine illicit factories that led to the seizure of 95 million illegal cigarettes and 300 tonnes of tobacco.

### ILLEGAL SALES OF WATER PIPE TOBACCO CONTINUE TO GROW

One relatively new development in the fight against tobacco smugglers is the focus on water pipe tobacco, which has become increasingly popular among the smugglers over the last few years. OLAF was involved in three main operations featuring water pipe tobacco in 2020.

The first, in Lithuania, took place after six consignments of water pipe tobacco with a total net weight of 20,000 kg arrived in the port of Klaipeda from the UAE with accompanying documents issued in Germany. OLAF considered the shipments, which all took place between February and June, to be suspicious, not least because the documentation stated that the tobacco was destined for Kazakhstan and that the buyer was an Israeli company – giving it no good reason to be passing through Lithuania.

OLAF ascertained that neither the buyer nor the receiver of the goods was involved in any water pipe tobacco trade and that invoices and trade contracts handed over to Lithuanian customs were fake. Tests carried out by Lithuanian customs and the brand owner of the tobacco showed that the goods were counterfeit, prompting the Lithuanian authorities to seize the shipments and start criminal investigations. The Lithuanian authorities suspect that shipment was originally genuine tobacco destined for sale on the EU black market but that it had been replaced by counterfeit tobacco at some point before arriving in Klaipeda.

A second case, this time in Poland, followed roughly the same pattern: a suspicious shipment of water pipe tobacco from Dubai was traded by a Hungarian company, shipped via Belgrade in Serbia and finally stored in the port of Gdansk, Poland. With the support of OLAF and the tobacco brand owner, Polish customs were able to ascertain that the shipment of 5,240kg of tobacco was counterfeit, enabling them to seize it.

Another cross-border case with coordination from OLAF was the third concerning water pipe tobacco in 2020. In October, Croatian customs seized 4,100kg of counterfeit water pipe tobacco, but

further investigations revealed that at least three other consignments had arrived in Portugal during the course of the year and had been traded and transported to two Montenegro-based companies. Working closely with the Montenegrin and Italian authorities, OLAF uncovered that two consignments of water pipe tobacco totalling over 24,300kg had left the port of Bar in Montenegro destined for

Trieste and Genova in Italy. Both loads were seized by Italian authorities in November, and the tobacco was identified as counterfeit. Previous investigations by Croatian customs showed that the counterfeit tobacco was most probably made from glycerine from Poland and cheap tobacco waste originating in Bulgaria.

Figure 7: Water pipe smuggling routes and quantities identified by OLAF in 2020



## Working with national and international partners on joint customs operations

In addition to investigating cases of revenue fraud and counterfeiting, OLAF also coordinates large-scale joint customs operations (JCOs) involving EU and international operational partners. JCOs are targeted actions of a limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas at risk and/or on identified trade routes. In 2020, OLAF was involved in several operations working alongside partners such as Europol, Frontex and the World Customs Organization.

### SILVER AXE V

Operation Silver Axe takes place each year targeting illicit imports of prohibited pesticides into the EU. Led as usual by Europol, the fifth Silver Axe operation involved OLAF and customs authorities from the EU Member States, China, Ukraine, Russia and Colombia.

The traffic of illicit and/or counterfeit pesticides is one of the most profitable businesses for international fraudsters, and is estimated to account for up to 13.8% of all pesticides sold in the EU. European legislation on pesticides is among the toughest in the world, and all pesticides must undergo rigorous testing before they are placed on the EU market. Illegal pesticides, which are mostly untested and composed of active substances banned in the EU but still in use in other parts of the world, can pose significant health risks for farmers and consumers. They are also considered harmful to the environment by causing damage to flora, fauna and soils.

OLAF's principal role in the operation was to alert EU customs authorities about suspicious shipments of pesticides, with a specific emphasis on active ingredients such as carbendazim, chlorpyrifos, thiacloprid or thiametoxam that have recently been de-authorized for use in the

EU because of their environmental or health risks. The suspicious shipments of pesticides identified by OLAF came mainly from China and India, and although declared as being in transit through the EU en route to other countries, the chemicals were in fact intended for illegal sale in the EU.

As well as working closely with EU authorities, OLAF exchanged information with the Chinese Anti-Smuggling Bureau and the Security Service of Ukraine via its liaison officers in Beijing and in Kyiv, and with the Colombian Policía Fiscal y Aduanera and the Federal Customs Service of Russia. OLAF also created a rapid alert system that allowed it to share intelligence in real time with other non-EU countries such as Hong Kong, Singapore, Malaysia, Thailand, Vietnam and Indonesia, helping them to monitor suspicious containers as they passed through various ports of transit.

Some 1,346 tonnes of illicit and counterfeit pesticides were seized as a result of the fifth Silver Axe operation, taking the total over the five years to 2,568 tonnes.

### OPSON IX

OLAF once again worked with customs authorities from across the world on the joint customs operation Opson, led by Europol and Interpol. Opson targets international trade in counterfeit or sub-standard food and beverages, as well as food fraud and adulteration, and the ninth annual operation took place from December 2019 to May 2020.

OLAF's role was the coordination of a specific action focused on trafficking in counterfeit wine and alcoholic beverages. OLAF used its secure communication channel to exchange information between all the parties taking part

in the action - customs authorities from 17 EU Member States and two non-EU countries, as well as representatives from the global food and beverage industry.

As a result of this action coordinated by OLAF, customs and police authorities across the world seized nearly 1.2 million litres of wine and 109,267 litres of other alcoholic beverages that infringed intellectual property rights.

### **DEMETER VI**

Operation Demeter concerns the monitoring and control of illicit cross-border movements of waste and the illegal trade in ozone-depleting substances and refrigerant gases. Now in its sixth year, Demeter is coordinated by the World Customs Organization, and in 2020 took place between 14 September and 11 October. Some 73 countries worldwide were involved in the operation, as well as various European and international bodies. OLAF's role was to identify and monitor suspicious shipments and provide the authorities taking part in the operation with risk-based information and intelligence. As a result of the 2020 operation, almost 99,000 tonnes of illegal waste and around 42 tonnes of ozone-depleting substances and refrigerant gases were seized.

### **HANSA**

Another operation targeting tobacco smugglers took place in November 2020, with law enforcement authorities from 15 EU countries and the UK teaming up to dismantle a major black market cigarettes racket.

The operation, dubbed Hansa, focused on a common fraud technique: duty avoidance. Under EU law, when cigarettes are legally produced within the EU and declared for export or delivery elsewhere in the EU, the payment of VAT and excise duties in their country of production is suspended. Fraudsters make these false declarations and instead sell the cigarettes in their country of origin or elsewhere within the EU rather than exporting them, thus avoiding paying any duties or VAT.

OLAF's support during Hansa again focused on the secure exchange of information between customs authorities, as well as monitoring and cross-checking of the information exchanged. As a result of Operation Hansa, some 67 million cigarettes and 2.6 tonnes of tobacco were seized, the vast majority produced in Belarus. Some 17 suspects were arrested and 10 vehicles used to transport the illegal cigarettes were also seized in eight of the participating countries.





## **FALSE DECLARATIONS TO AVOID PAYING DUTIES**

One of the most common forms of revenue fraud is the avoidance of duties or taxes, and OLAF dealt with a number of cases in 2020 that focused on this particular activity.

### **SUGAR FRAUD TURNS SOUR**

Sugar is an everyday household item to most of us, but trade in sugar is a multi-million euro business and as such a significant contributor to EU revenues in the form of customs and other duties. Avoidance of those duties is also big business for fraudsters, so when in early 2020 the sugar industry raised concerns that duties on the import of organic cane sugar were being illegally avoided, OLAF launched an investigation.

The alleged fraud concerned in particular the abuse of the system regarding what is known as 'inward processing', a special customs procedure that allows for raw materials or semi-manufactured goods to be imported for processing within the EU without the obligation to pay relevant customs duty. After the processing operations, the processed products are supposed to be re-exported from the EU.

However, manufacturers do not have to follow a strict timeline in this respect: if they wish to export processed products made using EU raw materials before they import equivalent non-EU products, they are free to do so. The non-EU equivalent products can then be imported into the customs territory of the EU without being subject to import duty.

There are several conditions to be met allowing raw materials to be treated as equivalent, however. One of them is that organic and non-organic goods cannot be equivalent, and as such it is not permitted to replace one product by another. This condition is intended to support the production of organic goods in the EU.

This question was at the heart of OLAF's investigation: was the non-EU sugar that was imported duty-free equivalent to the EU organic sugar used in the processing of products under the

inward processing procedure? OLAF conducted checks at the production facilities to determine what kind of sugar (organic or non-organic) was used in the production process, and the answer to this question was clear. The imported sugar was not produced from organically grown sources, and so could not be declared as organic sugar when imported or considered as an equivalent to organic sugar used in processed products.

OLAF's investigation showed that this false declaration allowed €15 million in customs duties on the import of organic sugar to be avoided; OLAF recommended the recovery of the full amount.

### **CYCLING AROUND ANTI-DUMPING DUTIES**

Taiwan is one of the main producers and exporters of bicycles and bicycle parts to the EU. This status, as well as its location in the South China Sea, has been used by fraudsters to conceal the Chinese origin of numerous consignments of bicycles and bicycle components shipped to the EU. The aim of the fraudsters is to evade the payment of anti-dumping duties at import of these goods into the EU where they are incorrectly declared for customs purposes as originating in Taiwan.

This concealment of origin is commonly operated from customs bonded zones (free trade zones) but in one case investigated in 2020, OLAF suspected a more sophisticated modus operandi of fraud used by certain Taiwanese companies in order to make tracking of Chinese origin more difficult. More specifically, it was suspected that instead of transshipment via customs bonded zones, Chinese bicycles and bicycle parts were released for free circulation on the Taiwanese customs territory and then later exported from Taiwan as domestic goods.

OLAF analysed a significant amount of data with a view to matching consignments of bicycles and bicycle parts imported from China into the Taiwanese customs territory with consignments of bicycles and bicycle parts exported from the Taiwanese customs territory. In all, 335 consignments of Chinese bicycles (264,338 bikes in total) and 545 tonnes of bicycle parts were exported from Taiwan and falsely declared as of Taiwanese origin when imported into the EU.



On-the-spot checks at some of the Taiwanese exporters confirmed the results of OLAF's analysis showing the use of import and re-export procedures to conceal the Chinese origin of bicycles and bicycle parts. This analysis was further confirmed by information provided by Member State authorities.

As a result of its investigation, OLAF established that €8 million in anti-dumping duties were evaded at import into 21 different EU countries. The Taiwanese authorities cooperated fully with OLAF in its investigation and have introduced new rules to prevent such irregular practices.

#### **DECLARE LESS, PAY LESS**

Another common method of avoiding duties is to under-declare the value of goods imported into the EU. Since the level of duties paid depends, among other things, on the value of the goods, claiming that they are worth less than they actually are is a way of avoiding higher rates of import duties. False declarations of destination for goods can also be used to avoid VAT. One case from 2020 shows clearly

that it is still a very popular money-making scheme for the fraudsters.

Following a tip-off from Czechia, OLAF began investigating suspected irregularities and frauds affecting import duties and related VAT on goods imported from China into several EU countries.

OLAF's investigation revealed a sophisticated scheme that saw the goods coming from China introduced into the EU via several Member States and declared for transit to other EU country. This declaration allowed the goods to enter the EU without paying VAT in the country into which they were initially imported; under EU rules, this VAT payment would normally be paid in the EU country that was declared as the final destination for the goods in question.

Focusing its initial investigations on 24 containers, OLAF's case quickly grew to encompass more than 1400 consignments amounting to 19,000 tonnes of textiles and shoes from China. The investigations conducted by OLAF in close cooperation with authorities in Poland, Czechia and Slovakia showed





that the consignments were not only systematically undervalued but also transported to Member States other than the one indicated on the official documents. The goods disappeared and were most likely traded on the black markets, thus also evading VAT payments.

The under-valuation of the goods is estimated to have cost the EU around €4.5 million in lost customs duties, while the VAT losses amount to €33 million affecting at least seven EU countries. OLAF has recommended that the Member States concerned take action to recover the money, while judicial action was recommended in Poland, Slovakia and Czechia.

#### **MILLIONS SAVED THROUGH FRAUD PREVENTION**

This example is typical of the many customs undervaluation cases investigated by OLAF in recent years. As reported in several previous OLAF Reports, they mainly concern textiles and shoes imported from China which are then subject to systemic undervaluation upon their import into the EU. OLAF has worked in partnership with the Member States concerned on a number of such cases – several of which are still ongoing.

OLAF's work in investigating and coordinating these cases has led to concrete results: between 2017 and 2020 there was a significant reduction in the amounts lost to the EU budget due to undervaluation. The estimated losses fell from over €1 billion in 2017 to just over €180 million in 2020, a net gain of over €800 million in customs duties to the EU budget in that period.

These numbers highlight the effectiveness of the efforts of OLAF and the Member States to counter undervaluation fraud in the EU, in particular the control measures proposed by OLAF and implemented by customs authorities in the Member States. Preventing undervaluation fraud is important to protect the EU budget, and to ensure that the ongoing recovery efforts in Europe are not undercut by fraud schemes that allow illicit profits to be made by putting on the market products at ridiculously low

prices through tax evasion. These products are also often of substandard quality and of dubious origin.

Much work remains to be done to combat such fraud, which is already evolving towards new patterns, particularly with e-commerce, and OLAF will continue to play an active part in investigating and coordinating with national authorities and other key stakeholders.

### **2.3. OLAF's investigative mandate within the EU institutions**

OLAF has a unique mandate to carry out internal investigations into the EU institutions, bodies, offices and agencies for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the EU. But its role is not only to make sure that EU taxpayers' money is properly spent; it is also there to help defend the reputation of the EU as a whole from the risk posed by the perceived lack of integrity within the institutions.

Although there are generally very few cases of irregular, inappropriate or fraudulent behaviour by EU staff, those that OLAF does investigate tend to follow roughly the same patterns. These can include false declarations of expenses or other statements, especially in relation to allowances, undeclared external activities or harassment or other inappropriate behaviour in the workplace.

#### **UNDUE FAMILY ALLOWANCES**

Several cases closed by OLAF in 2020 focused on education allowances unduly granted to staff members of the European Investment Bank (EIB), due in part to the overly complex rules.

Working in close collaboration with the EIB, OLAF's investigation established that around €1.6 million had been incorrectly paid to 45 staff members. The overpayments were due to irregularities in declaring the situation of dependents, along with a number of errors and inconsistencies by the EIB's general administration.

The case covered payments made mostly in 2017 and 2018, and the EIB has since reformed its allowances system and corrected many of the errors detected by OLAF, including starting the recovery of the undue payments.

However, OLAF has recommended disciplinary proceedings or other corrective measures against 26 staff members who did not accurately declare the situation of their dependents, as well as recommendations for judicial follow up in relation to three staff members who misled the administration with falsified documents.

Some €600,000 had already been recovered by the EIB by the time OLAF closed its investigation as result of verifications and recovery actions carried out by the EIB before and during OLAF's investigation.

#### **MISAPPROPRIATION OF PARLIAMENTARY ALLOWANCES**

A handful of cases of apparent misappropriation of parliamentary allowances by Members of the European Parliament (MEPs) were also investigated by OLAF in 2020.

In one of the cases, OLAF established that during a single parliamentary term a Member had employed five accredited parliamentary assistants to work in his office in Brussels, as well as 33 local assistants in his home Member State, although not all of them at the same time. OLAF discovered irregularities in spending the parliamentary assistance allowance.

For example, OLAF found that one of the parliamentary assistants did not live in Brussels or work in the European Parliament, and had never delivered any work at all. Two others were found to have genuinely worked for the MEP but not always in Brussels, even if their contracts made it clear that Brussels must be their place of employment.

OLAF found that many of the local assistants had formal or informal roles in the MEP's national political party and had stood as candidates for parliamentary and/or local elections. European Parliament rules are clear that MEPs cannot use their parliamentary allowances to support their local political party. OLAF

also discovered that, in addition to their political activities, some of these local assistants were also involved in other outside activities. Neither the MEP in question nor most of the local assistants provided proof of any work being carried out.

Following its investigation, OLAF issued a recommendation to the European Parliament for the recovery of the salaries of most of these assistants, which totalled around €500,000. OLAF also recommended that the national authorities in the MEP's home country consider taking judicial action if it was considered that the Member in question had broken national laws.

In another case, OLAF discovered no evidence that the assistant of one MEP had ever lived in their place of employment throughout the five-year duration of their contract, or that they had worked in the premises of the European Parliament as a full time assistant to the Member. The MEP in question was unable to provide any credible proof of the work carried out by the assistant. As a result of the investigation, OLAF recommended the recovery of more than €500,000 and made a recommendation for judicial follow-up to the competent national authorities.

Another investigation concerned an MEP who was also under criminal investigation by the Public Prosecutor's Office in his own Member State. OLAF's investigation focused on whether the MEP had illegally inflated the value of contracts for parliamentary assistance and press and communication services in order to claim higher amounts for reimbursement, as well as illegally contracting fictitious parliamentary assistants. The investigation by the national authorities was on the possible unlawful financing of a political party through false invoicing and corruption.

Working closely with the local prosecutor's office and financial police, OLAF helped establish a number of additional facts, including that the MEP had claimed back part of the salary intended for the two real parliamentary assistants, and that the MEP was aware that three parliamentary assistants were engaged in unauthorised external activities. The investigation also revealed a possible case of plagiarism.



OLAF recommended that the European Parliament recover around €800,000 from the MEP and begin disciplinary procedures against the assistants. OLAF also shared its findings and evidence with the national authorities to help support their criminal proceedings. The national authorities also seized around €500,000 in assets as a precautionary measure.

### INAPPROPRIATE BEHAVIOUR

OLAF also investigated allegations of serious misbehaviour by a senior member of the European Economic and Social Committee (EESC) towards other members and staff working or having worked there. In the course of the investigation, OLAF interviewed a number of people, including some of the alleged

victims and the person concerned, and concluded that inappropriate behaviour towards many of them had taken place. OLAF also considered that in two cases, this inappropriate behaviour could be considered as harassment.

OLAF closed its investigation with a recommendation to the EESC to take the appropriate sanctions against the individual, and sent its findings to the competent public prosecutor to begin judicial proceedings for harassment. As a result, the person was removed from managerial responsibilities and is being pursued before the courts.

**Table 3: Investigations into EU staff and members of the institutions concluded in 2020**

	Cases concluded	
	Total	of which closed with recommendations
Council	1	1
European Commission	5	5
European Parliament	17	12
European External Action Service	8	5
European Securities and Markets Authority	1	1
European Economic and Social Committee	2	2
European Union Agency for Cybersecurity	1	1
European Investment Bank	12	10
<b>Total</b>	<b>47</b>	<b>37</b>

### 3. Focus chapter: OLAF's role in keeping citizens healthy & safe

2020 was above all the year of the global pandemic, and public authorities across the globe focused on keeping people safe and their economies moving as best they could. Keeping people safe has long been a priority for OLAF, in particular through its work on tackling counterfeit and potentially dangerous goods. But the COVID-19 pandemic lent additional urgency to OLAF's work in 2020, with the risk of consumers falling foul of fraudsters offering fake and sub-standard personal protection equipment (PPE), testing kits and even potentially fake treatments for the virus.

#### 3.1. OLAF's investigation into fake COVID-19 related products



The COVID-19 pandemic led to a sudden and massive increase in demand for PPE – in particular face masks

but also hand sanitisers and testing kits. Demand came not only from the medical profession tasked with treating the virus but also from consumers wanting to keep themselves safe. Both were targeted by fraudsters, who saw major opportunities in what very quickly became big business.

This massive increase in demand highlighted in particular to what extent the EU is dependent on third-country suppliers for many products, including PPE. As a result of the COVID-19 outbreak, EU imports from China of healthcare products – from protective garments to disinfectants and testing kits – grew by a massive 900% in the second quarter of 2020 compared to the virus-free previous year.

Faced with exponential growth in the number of infections, and deaths, at the start of the outbreak, EU public authorities were forced to act quickly to try to contain the spread. One decision taken was to accelerate the certification processes for face masks, sanitisers, ventilators and medicines coming from outside Europe, mainly from China, in order to better meet demand.

However, it soon became clear that while relaxing the rules did indeed help speed up the supplies of legitimate, safe products to the EU, it also made it easier for millions of substandard or fake medical products, with invalid EU conformity certificates, to be imported into the EU.

The speed with which this happened is reflected in the fact that OLAF opened its investigation into this trade in fake and counterfeit goods on 19 March 2020 – right at the very start of the virus outbreak in Europe. Teaming up with nearly every customs and enforcement authority in Europe, and many worldwide, and with international organisations such as Europol, Interpol and the EU's intellectual property office EUIPO, OLAF set to work identifying the many suspicious companies acting as intermediaries or traders of counterfeit or substandard products



linked to the COVID-19 pandemic. A year later, with the investigation (and the pandemic) still ongoing, OLAF and its partners have identified more than 1000 of these suspicious companies, many of which are based outside the EU.

Not all are fraudulent operators, however. OLAF also identified many opportunistic companies, trying to profit from the pandemic by moving into a new line of business, despite having no track record in this area and with little or no control over their supply chain. These companies are often easy targets for fraudsters, who create artificially long chains of intermediary shell companies that open and close quickly to hide their tracks – and which pass off fake

and counterfeit products as the genuine article to unsuspecting clients.

#### FAKE AND SUB-STANDARD MEDICAL PRODUCTS SEIZED UNDER OLAF'S INVESTIGATION (AS AT 31 DECEMBER 2020)

- ▶ 31,500 fake COVID-19 test kits
- ▶ 2,416,000 face masks
- ▶ 140,000 litres of hand sanitiser
- ▶ 105,000 spray cans
- ▶ 3,636 litres of counterfeit Dettol products (antiseptic disinfectants)

### Case study: Tracking down fake hand sanitiser from Turkey

Information provided by OLAF led to the seizure of 140,000 litres of counterfeit hand sanitiser from Turkey that contained dangerously high levels of methanol. Methanol has a direct toxic effect on the optic nerve, and ingestion can lead to blindness, and use of the hand sanitiser could cause headaches, blurred vision, nausea and vomiting and loss of coordination.



OLAF first became aware of the risks following an alert by Danish authorities in August 2020, concerning a seizure of 6,000 litres of hand

sanitiser from Turkey. A month later, OLAF identified a suspicious shipment heading for Ireland and alerted Irish customs authorities, who intercepted the suspicious cargo when it arrived at the port of Dublin. Tests showed that the cargo of hand sanitisers contained unacceptably high levels of methanol.

A second shipment to Dublin was also seized, and further investigations by the Irish authorities, working in collaboration with the freight forwarding company, led to the discovery of contaminated sanitisers in a number of earlier consignments which were being kept in storage ahead of distribution to administrations, schools and other public services across Ireland.

OLAF investigations discovered several companies in different EU Member States that had also ordered hand sanitisers from the same Turkish manufacturer, and warned the authorities in those countries to be on the look out for the consignments. The manufacturer in question was found to operate under a number of different names, and to manufacture products on behalf of other companies. OLAF's unique pan-European role enabled it to untangle this complex web and ensure that Member State authorities had all the necessary information to keep their citizens safe.

### JOINT CUSTOMS OPERATIONS

Two joint customs operations involving OLAF also focused on COVID-related products.

OLAF's role in the Europol-led operation Shield was the coordination of a targeted action against counterfeit and substandard oncological medicines, doping substances, food supplements and medical supplies used in the fight against COVID-19. OLAF coordinated the operations of the authorities in the 13 EU Member States that took part in the action (Croatia, Czechia, France, Greece, Hungary, Italy, Latvia, Luxembourg, Portugal, Romania, Slovakia, Slovenia and Spain). The targeted action discovered 58 cases of various irregularities with illicit and substandard oncological medicines, hormonal substances and food supplements.

Operation Stop, meanwhile, was coordinated by the World Customs Organization and mobilised 99 customs administrations from across the world, supported by OLAF. It targeted the traffic of illicit products related to the COVID-19 pandemic,

uncovering more than 307 million units of illicit medicine and 47 million units of medical supplies (masks, gloves, test kits, thermometers), as well as 2.8 million litres of sanitiser gel.

### 3.2. International cooperation in health-related investigations

Given the global nature of the supply chains exploited by the fraudsters, OLAF worked closely with international partners in many of its investigations in 2020.

#### COUNTERFEIT MEDICINES

One of the most high-profile examples of this was the successful seizure of a major consignment of counterfeit health products and medicines en route from China to Venezuela thanks to close cooperation between OLAF and the Police Community of the Americas (Ameripol). OLAF identified and tracked a shipment of counterfeit over-the-counter products (12,400 toothbrushes and over 38,000 products





destined to relieve nasal congestion and flu symptoms) that was successfully seized by the police and customs authorities in Colombia.

## ILLEGAL HFC GASES

Keeping citizens safe also means making sure that the products and technologies they rely on meet the high standards set by the EU.

This is particularly important when it comes to the technology around refrigeration, an essential part of everyday life. Food is chilled, frozen, stored, transported and displayed in refrigerated units. Houses, offices, cars, trains, planes are cooled for comfort. Many of the COVID-19 vaccines that have been developed need to be refrigerated in transit and storage.

The gases used in refrigeration equipment are often hydrofluorocarbons (HFCs), which were introduced as replacements for ozone depleting substances. Even though HFCs do not deplete the ozone layer, they are still potent greenhouse gases, often with a high global warming potential, and as such their use and trade is strictly regulated. Illicit HFC gases have a major potential impact on the environment, and on people's health.

Since the EU's decision in 2014 to progressively reduce the quantity of HFCs placed on the market, the market shortage has led to higher prices for HFCs, and to the growth of parallel trade and the emergence of a black market.

The fight against the illegal import of HFCs into the EU is one of OLAF's operational priorities, in line with the European Commission's ambition to make Europe the first climate neutral continent by 2050 with its European Green Deal. The impact of these illicit imports can be devastating on the environment, and ultimately on people's health and well-being. Preventing them from entering the EU is OLAF's contribution to protecting citizens, the environment and legitimate trade.

In 2020, OLAF passed on relevant information to competent authorities across the EU that led to

seizures and/or detentions of shipments of illicit of HFCs.

The most significant of these came in July when the Dutch authorities seized approximately 14 tonnes of illicit refrigerant gases bound for the EU, with a potential environmental impact equivalent to 38 return flights from Amsterdam to Sydney. OLAF's investigation began when it identified a suspicious cargo destined for a consignee in Lithuania that was not registered to receive imports of HFCs. In addition, the shipment coming from China was initially discharged in the German port of Hamburg and declared in transit towards Rotterdam, in the Netherlands, despite the fact that the final declared destination was Lithuania.

Other operations against illicit HFCs involving OLAF included a haul by the Romanian authorities of 76,045kg of illicit refrigerant gases, with a potential global warming impact of 170,000 metric tonnes of carbon dioxide. OLAF investigators had been monitoring a suspicious shipment from China that had been discharged in Turkey, removed from its container and re-routed by truck to the EU. The customs documents accompanying several shipments revealed that they were destined for five different consignees in Romania. Four of the consignees were not registered to receive imports of these gases, while the fifth one would have significantly exceeded its quota for 2020 with its share of the shipment. In addition, in most of the cases, the refrigerant gases were packaged in non-refillable cylinders, which are banned in the EU.

In September 2020, Italian customs authorities stopped a shipment of approximately 3.7 tonnes of HFCs and hydrochlorofluorocarbon gases (HCFCs), packaged in 300 non-refillable cylinders. OLAF supported the operation by providing the Italian authorities with additional information regarding the consignment. This haul followed an earlier seizure of 1,098 cylinders of HFCs by Italian customs in February.

Romanian customs benefited from OLAF's assistance again in October to stop a shipment of 1,100 cylinders containing illicit refrigerant gases coming from Turkey, while Polish acted on a tip-off from OLAF

in December to seize two containers containing 36,946kg of illegal HFCs.

### AFRICAN WATER TREATMENT CASE

EU money is used across the globe to support projects designed to improve the health and safety of citizens, and one case concluded by OLAF in 2020 shows how fraud, corruption and mismanagement can have a serious impact on people's lives.

The case concerned a project in country in Sub-Saharan Africa where EU money was being used to help bring safe water and sanitation facilities to 350,000 people. The procurement was managed by the ministry of water and environment in this country, and OLAF uncovered evidence that various procurement procedures linked to the project had been manipulated, with several of the contracts awarded in extremely dubious circumstances.

Manipulation of tender processes is a common fraud method (See Chapter 2) but this particular case had far wider implications than most. Many of the towns served by the project failed to get the clean water they needed, while the materials used to build latrines and other sanitation infrastructure was substandard and potentially dangerous.

For example, OLAF found that one third of the public toilets built through the project were not functional, because they had been built in inappropriate locations, water bills had not been paid or the facilities were not provided with an effective management system which meant that continuous and sustainable service could not be guaranteed.

OLAF recommended the recovery of more than €7 million from the project.

### 3.3. Trends in expenditure related to health & safety

EU funds have traditionally been used to support health-related projects focused primarily on the construction or modernisation of healthcare facilities, or the purchase of medical equipment. In the vast majority of cases, these projects run entirely without

problem, but those cases that OLAF has investigated in this field have tended to show similar patterns to those seen elsewhere, for example focused on public procurement issues.

In one project, aimed at upgrading medical equipment in one EU country, OLAF found that the technical specifications for the procurement of a mammography system were written in such a way that only a company offering a specific device would be able to bid. 'Single bidder' procurement is in fact relatively common in the health and safety field. Excessive or discriminatory requirements are just one of the irregularities that may affect the procurement process. Others include accelerated procedures, negotiated procedures without publication of a contract notice, or even direct awards, when the necessary conditions are not in place.

Another irregularity in procurement procedures in this field is the grouping together of works, supplies or services under one single tender, possibly even accompanied by restrictions on subcontracting or the use of consortia. This effectively means that one company is expected to cover every aspect of a major and frequently complex project, and this unduly restricts competition, excluding many potential tenders to the advantage of the few that are able to comply with this artificial grouping.

For example, in one case concerning a project to construct an emergency unit in a public hospital, OLAF found that one single procurement procedure was launched to cover everything from the construction works to the supply of medical equipment and even publicity services. In this case, the tender procedure also included disproportionate qualification requirements which effectively ruled out three potential bidders. OLAF discovered that the two remaining companies in the tender process then colluded on the cost of their offers. The winning company was then awarded two separate contracts – one covering the works, the other the supply of the medical equipment – even though works and supplies had been artificially grouped in the same procurement procedure. The company significantly over-charged for the medical devices.





Another example from OLAF's past investigations shows how the inflation of prices can work in practice. In a project to purchase medical equipment for diagnostics, OLAF brought to light a fraudulent scheme based on a network of companies that the beneficiary of the contract (a company established in an EU Member State) had set up outside the EU. These companies established fake transactions among themselves for the sole purpose of increasing prices, before finally selling the medical equipment to the beneficiary company. The price was so massively inflated that it effectively covered the share of the project costs the beneficiary company was obliged to fund with its own resources – and even allowed the company to make a profit. OLAF's investigation also revealed that the medical equipment concerned was never even used by the beneficiary – the sole reason for its purchase was to defraud the project.

These cases illustrate how the investment of EU funds in the health sector is traditionally affected by irregularities and fraud. But the EU's response to the COVID-19 pandemic has potentially led to additional risks. For example, the need to act quickly to tackle the virus brings with it the possibility of contracts being awarded with simplified, accelerated or restricted procedures, all of which could be open more easily to fraud. And with OLAF's experience showing that more money can often lead to more risk of fraud, the additional funding from the EU to help Member States recover from the impact of the pandemic is likely to prove irresistible to the fraudsters as well.

## 4. OLAF on the European and international scene

### 4.1. OLAF's relations with its partners

The effectiveness of OLAF's work depends also on efficient cooperation with partners from across the EU and beyond. OLAF works continuously with police, judicial, customs and other authorities in the Member States, and at EU and international level, to ensure the success of its investigations.

Examples of successful and expanded cooperation with many of these partners can also be found elsewhere in this report.

#### INTER-INSTITUTIONAL AND MEMBER STATE MEETINGS GO VIRTUAL

The working restrictions imposed during the global pandemic in 2020 inevitably led to fewer meetings with international partners than in previous years, although many were still able to take place virtually. This was particularly the case for the annual meeting with the Anti-Fraud Coordination Services (AFCOS) from each Member State, held online for the first time in October. The discussions focused on the new anti-fraud 'triangle' (AFCOS, OLAF and the EPPO), assessing and tackling COVID-19 related fraud risks in EU spending and OLAF investigations in the Member States.

On the inter-institutional side, OLAF's Director-General presented the activities of OLAF in several meetings of the European Parliament's Committee on Budgetary Control (CONT). OLAF also represented the European Commission in the Council Working Party on Combating Fraud (GAF) and participated in a number of meetings of other working parties.

A particularly important meeting for OLAF was the inter-institutional exchange of views discussing the new EU anti-fraud architecture, including OLAF's internal restructuring and OLAF-EPPO cooperation.

This meeting included relevant partners from within the European Commission as well as the European Parliament, the Council of the EU, the European Chief Prosecutor and the OLAF Supervisory Committee.

#### MUTUAL ASSISTANCE AND ANTI-FRAUD CLAUSES IN INTERNATIONAL AGREEMENTS

Cooperation with third countries with a view to preventing, detecting and combating breaches of customs legislation is based on agreements on mutual administrative assistance in customs matters. OLAF currently has agreements with more than 80 non-EU countries, including with major trade partners, such as the United States, China or Japan. In 2020, negotiations with the United Kingdom and Uzbekistan were finalised, and were ongoing with Australia, Indonesia and five countries of eastern and southern Africa.

OLAF also made progress in 2020 on negotiations for the inclusion of anti-fraud clauses in free trade agreements. Most free trade agreements contain an anti-fraud clause that allows a temporary withdrawal of tariff preference for a product in cases of fraud and lack of cooperation to combat it. OLAF represents the EU in any negotiations related to this clause. In 2020, negotiations with the United Kingdom, Chile and New Zealand were concluded, and negotiations continued with Australia and Indonesia.

#### ADMINISTRATIVE COOPERATION ARRANGEMENTS WITH INTERNATIONAL PARTNERS

Administrative Cooperation Arrangements (ACAs) are a key tool in helping OLAF foster close relationships with investigative bodies and other non-investigative partners engaged in the fight against fraud. Although no new ACAs with national authorities from Member States were signed in 2020,



much of the year was spent preparing the ground for a number of new arrangements set to be signed in 2021. An international ACA was signed in November 2020 with the Police Community of the Americas (Ameripol).

### **INTERNATIONAL EVENTS FOCUS ON DEVELOPMENT AID AND CORRUPTION**

A number of international events were organised by OLAF in 2020.

A November webinar organised with Transparency International (TI) was designed to raise awareness amongst the staff of TI's offices and EU delegations in Southern African countries on OLAF's investigative work against corruption and fraud. Over 30 people participated in the webinar, mostly from EU delegations, the EEAS, the European Commission and TI offices in Southern African countries. In addition to illustrating how OLAF's investigative process works, the event focused on the need for inter-institutional cooperation, explaining how the different legal frameworks of the region tackle corruption and discussing the challenges that the pandemic has created in the fight against corruption.

In a similar vein, the first meeting of the network of external aid agencies' investigative units took place later the same month, bringing together representatives from the investigative units of the external aid agencies of 14 EU Member States. Over 40 anti-fraud experts took part in the meeting, sharing their investigative expertise and discussing the current challenges. The meeting was also used as the springboard for the creation of the first permanent network of national experts from external aid agencies, designed to bring regular and long-term cooperation between the different agencies and bodies concerned by the fight against fraud in development cooperation and humanitarian aid projects.

Another novelty for OLAF in 2020 was the first Anti-Corruption Seminar, again held virtually,

to mark International Anti-Corruption Day on 9 December. The event brought together more than 900 staff members from the European Commission, most working in delegations in 45 countries across the globe. The aim of the event was to learn from OLAF investigators how to spot, report and tackle corruption that could affect European funds invested outside the EU.

### **ADVISORY COMMITTEE FOR COORDINATION OF FRAUD PREVENTION**

OLAF steers and chairs the Advisory Committee for Coordination of Fraud Prevention (COCOLAF), composed of representatives of Member States authorities. The annual COCOLAF meeting provided an opportunity to exchange views on the main developments in the fight against fraud and the preparation of the so-called PIF Report on the protection of the EU's financial interests.

In 2020, specific COCOLAF subgroups worked on:

- exchanging best practices and developing a common framework for fraud prevention and detection
- looking into possible uses of the Early Detection and Exclusion System (EDES) to protect the EU's financial interests in shared management and capacity building actions to identify and prevent fraud and corruption in European Structural and Investment Funds
- sharing the results of analyses about the main trends and patterns in fraud and irregularity
- fraud risks and mitigating measures in the context of the COVID-19 crisis
- the use of national anti-fraud strategies in the context of the EU budget framework 2021-2027 and the Recovery and Resilience Fund
- OLAF cooperation with AFCOS, both from an investigative and from a policy perspective
- sharing media strategies and organising communication activities on fraud prevention and deterrence

## 4.2. FCTC Protocol to Eliminate Illicit Trade in Tobacco Products

The Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products (FCTC Protocol) is an international agreement aimed at significantly reducing the illicit tobacco trade worldwide. The EU plays an important role in ensuring the implementation of the FCTC Protocol and in 2020 OLAF, as one of the key facilitators, contributed to the work on the tracking and tracing of tobacco products, as well as on activities relating to assistance and cooperation.

## 4.3. Hercule III funding programme

The Hercule III programme, which financed projects designed to protect the EU's financial interests, came to end in December 2020 in line with the end of the seven-year EU budget cycle (2014-2020). OLAF was responsible for the management of Hercule III, which had a budget of more than €100m between 2014-2020, used primarily to support the work of national and regional authorities in the Member States, such as customs or law enforcement agencies.

In 2020, some €16.4 million was available for projects across the EU, which included the purchase of a wide range of technical equipment, such as x-ray scanners used in harbours or airports, digital forensic tools, investigation tools or automated number-plate recognition systems. Some of the money was also

used to finance Member States' access to certain commercial databases necessary for operations and investigations. Since 2018, OLAF has been working with the European Commission's Joint Research Centre (JRC) on an innovative project to explore new data analysis methodologies to support operational activities at the EU and Member State level for customs anti-fraud purposes. At the end of 2020, OLAF concluded a new administrative arrangement with the JRC to continue this work.

Hercule funding was also used to finance conferences, seminars and training events attended by staff of national administrations, law enforcement agencies, NGOs and academia, with the aim of strengthening cooperation and the exchange of best practices in the protection of the EU's financial interests. The pandemic meant that most of the events planned for 2020 were postponed until at least 2021.

With the end of the Hercule III programme in 2020, an evaluation of the effectiveness of the programme was launched by OLAF. The aim of the evaluation is to assess the performance of the programme over its seven-year life span, and the sustainability of its results in the long term. The evaluation will be presented to the European Parliament and the Council by the end of 2021 with the goal of improving the effectiveness of anti-fraud funding in the current seven-year budget period.



## 5. Monitoring the outcome and impact of OLAF recommendations

When OLAF concludes an investigation, it can issue recommendations to the competent national and European authorities. OLAF invites these authorities to take action, in order to redress the fraud, irregularity or other illegal activity uncovered by the investigation. For example, recommendations can suggest financial recovery or the start of a criminal prosecution. OLAF's recommendations are intended to protect the EU budget, to uphold the rule of law and to help ensure that OLAF's investigations act as a deterrent against potential fraudsters.

While OLAF has no powers to impose its recommendations, recipients are obliged to report to OLAF on the action taken. OLAF systematically monitors this feedback, as it helps to measure the success of OLAF's investigations and the work of its partners, as well as highlighting areas for improvement.

In order to expand and build upon the follow-up of OLAF's recommendations, a dedicated Task Force Monitoring team was created as part of the wider reorganisation of OLAF which came into force in June 2020 (see Chapter 10). Bringing together a broad spectrum of skills and expertise from across OLAF, the Task Force's role is to streamline the monitoring process, coordinate data collection and analyse monitoring results.

### 5.1. Financial monitoring

It is important for the EU to ensure that funding is spent correctly and for the benefit of all – and to effectively recover any amount that may have been

put to fraudulent use. This is an important part in retaining the trust of citizens in the wider EU project.

The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that particular year. The amounts recommended for recovery are therefore not an indication of the overall fraud level in Europe, but relate to specific investigations finalised by OLAF in that year.

Table 4 shows how these figures can fluctuate year on year. One or two very high value cases in any particular year can lead to a significant increase in the amounts recommended for recovery (as in 2017). At the same time, years with a large number of recommendations do not automatically have the highest amounts recommended for recovery: this was the case in 2020, which has the highest number of recommendations in the last five years, but with the lowest overall amount due to a relatively low average value.

OLAF has monitored the follow-up to its financial recommendations for a number of years, focusing primarily on whether the recommendations are wholly or partially followed by the recipients, i.e. what amount, if any, the recipients claim from the debtors in question. In 2020 OLAF also began monitoring actual recoveries – i.e. if the amount recommended has been fully or partially recovered, which depends not only on decisions taken by the recipients of recommendations but equally on the debtors' ability and willingness to pay. Working with partners from across the European Commission, OLAF expects to further strengthen this monitoring in the future.

**Table 4: Amounts recommended by OLAF for financial recovery 2016-2020 compared to financial recommendations (€ million)**

	2016	2017	2018	2019	2020
Amounts recommended for recovery	631.1	3,094.5	370.6	484.9	293.5
Number of financial recommendations issued	209	195	168	157	223

## 5.2. Financial impact of OLAF investigations in the overall detection of irregularities across Europe

Member States are responsible for most EU spending and they also manage the collection of EU customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and supports them through an active exchange of information and via targeted training.

Under sectoral regulations, Member States have to report to the European Commission any irregularity or suspicion of fraud they detect exceeding €10,000. An analysis of this data is compiled in the Commission's Annual Report on the protection of the EU financial interests (the so-called "PIF Report").

In parallel with data concerning Member States' detections, OLAF also gathers data on the number of investigations it has concluded and that have led to financial recommendations.

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations <sup>(1)</sup> are comparable to the financial impact of irregularities detected and reported by Member States.

Table 5 shows the number of irregularities/fraud cases detected in the area of Traditional Own Resources (TOR) between 2016 and 2020 and the percentage that their financial impact represents in terms of the gross TOR collected by Member States and made available to the EU budget. OLAF results are shown alongside those of national authorities.

Table 6 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management (European Structural

and Investment Funds and Agriculture and Rural Development Funds) between 2016 and 2020 and their financial impact expressed as a percentage of the total payments, by Member State. OLAF results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations are making in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent. In terms of Traditional Own Resources, OLAF financial recommendations would represent 2.55% of the gross TOR collected, compared to 2.02% for all Member States together. This means that, for this period, OLAF financial recommendations exceed the entire financial impact of the investigative and control activities of the Member States. The OLAF results are significantly influenced by the conclusion of a string of investigations linked to the undervaluation of imported goods. These results also highlight OLAF's commitment to utilising resources effectively and concentrating on cases where its input would bring most added value.

OLAF results are significant also in the shared management areas, where the financial impact of the activities of all Member States together accounts for 1.59% of payments (for the EU27), while OLAF alone recommended the recovery of 0.29% of payments. In this area, OLAF financial recommendations would represent 15.6% to 18.5% of the entire impact of investigative and control activities. There are countries where the financial impact of OLAF cases is particularly significant and, at times, even higher than that of national investigations.

<sup>(1)</sup> The calculation of the financial amounts recommended is the sum of the amount recommended to be recovered and the amount recommended to be prevented from being unduly spent.



**Table 5: Member State/OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources for the period 2016-2020**

Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % of TOR collected
	N	%	N	%
Austria	259	2.08%	8	0.54%
Belgium	1,460	1.17%	32	0.81%
Bulgaria	58	2.27%	7	0.17%
Croatia	79	1.94%	11	0.23%
Cyprus	18	0.37%	6	0.36%
Czechia	376	1.66%	16	1.03%
Denmark	322	1.45%	14	0.24%
Estonia	38	1.92%	3	0.07%
Finland	204	2.22%	5	0.05%
France	1,475	2.26%	18	0.32%
Germany	8,828	2.43%	37	0.17%
Greece	277	4.37%	16	18.23%
Hungary	174	2.86%	9	0.06%
Ireland	148	1.02%	4	0.00%
Italy	610	0.59%	32	0.17%
Latvia	118	3.57%	6	0.43%
Lithuania	221	2.98%	12	0.13%
Luxembourg	11	0.36%	0	0.00%
Malta	5	0.87%	3	1.16%
Netherlands	2,316	2.82%	42	1.68%
Poland	690	0.85%	24	0.21%
Portugal	129	2.29%	13	0.65%
Romania	216	1.38%	23	0.47%
Slovakia	56	0.52%	5	54.54%
Slovenia	61	0.91%	14	0.43%
Spain	1,554	2.08%	35	0.86%
Sweden	770	1.54%	16	0.15%
<b>EU-27</b>	<b>20,473</b>	<b>1.95%</b>	<b>411</b>	<b>1.05%</b>
United Kingdom	4,012	2.46%	33	11.27%
<b>EU-28</b>	<b>24,485</b>	<b>2.02%</b>	<b>444</b>	<b>2.55%</b>

**Table 6: Member State/OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and Agriculture and Rural Development Funds for the period 2016-2020**

Member State	Member States		OLAF	
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments
	N	%	N	%
Austria	177	0.20%	2	0.02%
Belgium	253	0.36%	1	0.07%
Bulgaria	1,275	2.17%	20	0.69%
Croatia	340	0.67%	6	0.21%
Cyprus	50	0.64%	0	0.00%
Czechia	1,544	2.00%	9	0.14%
Denmark	119	0.16%	1	0.01%
Estonia	419	1.23%	2	0.00%
Finland	126	0.08%	0	0.00%
France	1,262	0.16%	8	0.02%
Germany	978	0.21%	2	0.41%
Greece	2,132	2.30%	14	0.14%
Hungary	2,200	1.42%	32	2.20%
Ireland	230	0.16%	1	0.01%
Italy	3,468	1.13%	19	0.40%
Latvia	401	1.91%	1	0.00%
Lithuania	929	1.00%	1	0.06%
Luxembourg	2	0.02%	0	0.00%
Malta	62	3.72%	0	0.00%
Netherlands	284	0.36%	0	0.00%
Poland	4,485	1.47%	25	0.13%
Portugal	2,464	1.47%	9	0.35%
Romania	4,327	3.41%	32	0.55%
Slovakia	1,281	19.02%	12	0.48%
Slovenia	159	0.50%	1	0.32%
Spain	5,681	1.90%	8	0.02%
Sweden	69	0.16%	0	0.00%
<b>EU-27</b>	<b>34,717</b>	<b>1.59%</b>	<b>206</b>	<b>0.29%</b>
United Kingdom	1,938	0.40%	6	0.08%
<b>EU-28</b>	<b>36,655</b>	<b>1.54%</b>	<b>212</b>	<b>0.29%</b>





### 5.3. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcome of its cases on the ground - indictments, dismissals, or other judicial measures.

Under EU law, when requested by OLAF, national judicial authorities must send OLAF information on any action taken on the basis of its judicial recommendations. An analysis of the figures shows that between 2016 and 2020, around 37% of the cases which OLAF transmitted to national judicial authorities and on which these authorities have already taken a decision led to indictments (Table 7).

Member States' judicial authorities are independent, and are under no obligation to follow OLAF's recommendations. Nonetheless, OLAF continues to work at better understanding the reasons why national judiciaries dismiss a considerable number of the cases it transmits to them.

There are a number of reasons why a recommendation may be dismissed. Sometimes it relates to differences of interpretation of EU and national law between OLAF and national authorities. In other cases, national prosecutors may deem the evidence of criminal wrongdoing to be insufficient.

Indeed, despite OLAF's considerable investigative efforts, its limited investigation powers and practical possibilities mean that conclusive evidence of a criminal offence cannot always be collected: OLAF's primary mission is protecting the EU's financial interests, not criminal prosecution. However, where an OLAF investigation finds sufficient grounds for suspecting a criminal offence, national authorities may investigate further, which can then lead to an indictment or to dismissal of the case.

In order to address these issues and to improve follow-up at national level, OLAF liaises with Member States on a continuous basis, often before its investigation is closed. This exchange of information will be significantly reinforced by the amended OLAF Regulation (see Chapter 6), which increases the obligations on national authorities to inform and report to OLAF at different points in time, in particular at the monitoring stage. For example, Member States are required to notify OLAF of the relevant national rules on the admissibility of evidence in criminal proceedings and to send OLAF the final decisions taken by national courts in relation to its recommendations. In addition, OLAF can set a time limit for national authorities to report on actions taken following its recommendations.

**Table 7: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued between 1 January 2016 and 31 December 2020**

Member State	No decision taken by JA	Decision taken by JA			Indictment rate
		Total	Dismissed	Indictment	
Austria	1	4	3	1	25%
Belgium	16	10	7	3	30%
Bulgaria	12	4	3	1	25%
Croatia	2	4	1	3	75%
Cyprus	3	0	0	0	N/A
Czech Republic	4	6	4	2	33%
Denmark	4	0	0	0	N/A
Estonia	1	1	1	0	0%
Finland	1	0	0	0	N/A
France	12	3	1	2	67%
Germany	11	9	8	1	11%
Greece	14	12	6	6	50%
Hungary	16	9	3	6	67%
Ireland	4	0	0	0	N/A
Italy	29	15	5	10	67%
Latvia	3	1	1	0	0%
Lithuania	2	4	1	3	75%
Luxembourg	4	0	0	0	N/A
Malta	1	1	0	1	100%
Netherlands	10	6	6	0	0%
Poland	11	9	6	3	33%
Portugal	4	4	3	1	25%
Romania	20	14	9	5	36%
Slovakia	9	4	4	0	0%
Slovenia	5	1	1	0	0%
Spain	17	4	2	2	50%
Sweden	1	0	0	0	N/A
United Kingdom	11	14	13	1	7%
<b>Grand total</b>	<b>228</b>	<b>139</b>	<b>88</b>	<b>51</b>	<b>37%</b>



## 5.4. Disciplinary monitoring

The disciplinary recommendations issued by OLAF concern serious misconduct of EU staff or Members of the EU institutions and other EU bodies. They are directed at the authority having disciplinary powers in the institution or body concerned. When making such recommendations, OLAF does not specify the

type of action that should be taken. The disciplinary authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the disciplinary authority may join several recommendations resulting from different investigations and, subsequently, impose one single sanction.

**Table 8: Actions taken by the disciplinary authorities following OLAF's disciplinary recommendations issued between 1 January 2016 and 31 December 2020**

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Agencies	11	2	4	5
Committee of Regions	1	0	0	1
Council of the European Union	2	1	0	1
European Union Rule of Law Mission in Kosovo	1	0	1	0
Eurojust	1	0	0	1
European Commission	25	9	7	9
European Court of Auditors	2	0	1	1
European Court of Justice	2	0	1	1
European Economic and Social Committee	4	1	2	1
European External Action Service	9	4	2	3
European Investment Bank	12	10	0	2
European Parliament	31	9	5	17
<b>Total</b>	<b>101</b>	<b>36</b>	<b>23</b>	<b>42</b>

## 6. Policies to fight fraud

In addition to its independent role in investigating potential fraud, corruption or other irregularities that might affect the EU's financial interests, OLAF is responsible for helping to develop more effective anti-fraud policies and practices across the EU.

### 6.1. OLAF's contribution to the Commission's political priorities

In 2020, OLAF continued to contribute to the top political priorities of the EU through anti-fraud advice. Europe is investing an unprecedented amount of resources in pulling Europe out of the devastating effects of the pandemic. Now more than ever, it is important that every euro reaches its intended objective. Next Generation EU, and in particular the Recovery and Resilience Fund (RRF) must be protected from fraud. OLAF played an active role in providing anti-fraud advice to the relevant Commission departments and the national authorities in the preparation of the control chapters of their Recovery and Resilience Plans. Given the urgent need for financial support, prevention of irregularities and fraud is crucial to make sure that the money is available quickly where it is needed. OLAF will continue to work in close cooperation with the national authorities to support them in this effort.

### 6.2. Revision of the OLAF Regulation: adapting OLAF's work to the new anti-fraud environment

The so-called OLAF Regulation is the main legal instrument that governs the investigative activity of OLAF. The creation of the EPPO has changed the way fraud is detected, investigated and prosecuted in the EU, in turn requiring a revision of the OLAF Regulation to set out how OLAF and the EPPO will work together towards these common goals.

The revised Regulation was first put forward by the European Commission in 2018 but it was not until June

2020, after months of negotiations, that the European Parliament, the Council and the Commission reached an agreement in principle on the new rules. The revised OLAF Regulation entered into force on 17 January 2021, setting out how OLAF and the EPPO will work together, as well as further reinforcing the investigative capacity of OLAF.

In practical terms, these rules set out how OLAF will use its expertise and experience to support the EPPO in carrying out its tasks; establish OLAF's right to launch its own investigations to complement those of the EPPO, for example to facilitate the recovery of funds or adopt administrative precautionary measures; and create mutual reporting mechanisms to ensure the effective exchange of information before and during investigations.

The updated rules also give OLAF better tools to investigate fraud against the EU budget. For example, OLAF can access bank account information under the same conditions that apply to national competent authorities, as well as access privately owned devices used for work purposes, if it has reasonable grounds to suspect that their content may be relevant for the investigation. The rules that govern how OLAF conducts on-the-spot checks have also been made clearer, while the way in which the office cooperates with national authorities has also been enhanced. These improvements go hand in hand with the reinforcement of procedural guarantees of persons under investigation.

### 6.3. Preparing the ground for the launch of the European Public Prosecutor's Office

During the course of the year the EPPO continued to move steadily towards becoming fully operational, despite the impact of the COVID-19 crisis. Following the appointment of the European Chief Prosecutor in 2019, the College of European Prosecutors took office in September 2020. In close cooperation with the



European Chief Prosecutor, the participating Member States have launched the necessary procedures for the selection of the European Delegated Prosecutors and several have been appointed by the College.

The future relationship between OLAF and the EPPO is key to ensuring that both offices work efficiently and effectively in their shared role of protecting the EU's financial interests. With this in mind, OLAF and the EPPO agreed to prepare their joint working arrangements in 2020, setting out how they will work together once the EPPO starts its activities in 2021.

#### 6.4. Commission Anti-Fraud Strategy

OLAF coordinates the implementation of the Commission Anti-Fraud Strategy, adopted in April 2019, and develops fraud risk analysis and anti-fraud policy measures to support Commission services. The Anti-Fraud Strategy seeks to further improve the detection, sanctioning and prevention of fraud and to support the Commission's ongoing efforts to decrease the level of fraud against the EU budget.

The strategy promotes greater consistency and better coordination in the fight against fraud among Commission services, and paves the way for evidence-based anti-fraud measures. The strategy is accompanied by an action plan with 63 actions to be implemented by OLAF and Commission services. The implementation of the actions is well on track.

#### 6.5. The Union Anti-Fraud Programme

In May 2018, the European Commission put forward a new Union Anti-Fraud Programme (AFP) to support the protection of the EU's financial interests and

strengthen cooperation and assistance between customs authorities in the Member States.

The AFP replaces the Hercule III funding programme as of 2021, and will run for the seven years of the current EU budget framework, until 2027. In addition to continuing the activities of Hercule III, the new AFP will finance two additional activities from the European Commission. These are the Anti-Fraud Information System (AFIS), which helps the customs authorities in each EU country in their joint efforts to prevent and detect customs fraud, and the Irregularities Management System (IMS), an online platform for Member States to report suspected irregularities or fraud that could have an impact on the EU budget. An initial agreement on the new programme by the European Parliament and Council was reached in December 2020.

## 7. Communication

OLAF's communication in 2020 focused more than ever on its unique and vital role in helping to keep European citizens safe and healthy.

Just as the pandemic dominated the news throughout the year, OLAF's communication reflected in particular its pandemic-related activities – not least the opening of an enquiry into shipments of fake, sub-standard or counterfeit face masks, gels and hand sanitisers. The investigation continued throughout 2020 and into 2021, and media interest remained high.

The working restrictions imposed due to the pandemic also meant that some of OLAF's traditional media events had to be reworked. This was particularly the case for the launch of the OLAF Report for 2019 in September, where a fully interactive virtual press conference allowed journalists to connect to the presentation of the report by OLAF's senior management, including to the question and answer session. The stakeholder presentation of the report, the other major communication event of the year, was replaced entirely by a pre-recorded summary of the report from OLAF's senior management.

OLAF's COVID-related work was not the only thing communicated during the year, however, with much of the office's work continuing as normal despite the difficulties imposed by travel restrictions, quarantines and home-working. OLAF's traditional work in tackling cigarette smuggling and counterfeiting or the illegal trade in refrigerant gases or pesticides continued as usual during the year, and the Office was keen to ensure that European citizens and businesses were aware that it was 'business as usual' despite the pandemic.

This meant a significant increase in communication activities over the year compared to previous years,



*The 2020 OAFCN meeting took place in Brussels in January, before social distancing measures were imposed.*

with more than double the number of press releases and online news items published compared to 2019. The number of interviews with influential media outlets from all across Europe also nearly doubled – in particular interviews with the Director-General and background briefings for journalists.

This general increase in awareness of and interest in OLAF's work is also reflected in the growth of the Office's main social media channel, Twitter, which saw a 20% increase in follower numbers over the course of the year.

Despite delays due to the lockdown, five new videos about OLAF's work in protecting EU expenditure, revenues and development aid were completed during the year, and will be rolled out via social media and other communication channels during the course of 2021.

OLAF continued to develop its communication activities with international partners, for example via shared press/news items and social media posts with international bodies such as Europol and Eurojust, as well as through a pre-pandemic meeting of the OLAF Anti-Fraud Communicators Network (OAFCN) which brings together communicators from the national anti-fraud, customs and other relevant administrations.



## 8. The OLAF Supervisory Committee

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of OLAF's investigative function. Its members are appointed by common agreement of the European Parliament, the Council and the Commission.

The current members are Jan Mulder (chair), Grażyna Stronikowska, Helena Fazenda, Rafael Muñoz and Dobrinka Mihaylova. The members are supported by a secretariat provided by the European Commission.

The Director-General of OLAF keeps the committee regularly informed about the activities of the Office, the implementation of OLAF's investigative function and the follow-up to investigations.

For 2020 the committee received 620 documents with information on investigations lasting more than 12 months. OLAF also informed the committee about judicial recommendations transmitted to national judicial authorities, and about OLAF cases in which information was sent to national judicial authorities at the dismissal of the case. The committee and its secretariat had full access to 146 case files in OLAF's case management system in 2020.

On the basis of the information provided by OLAF, the committee delivers opinions to the Director-General of OLAF and reports to the EU institutions. In 2020, the Supervisory Committee delivered opinions on OLAF's dismissed cases concerning members of EU institutions and on OLAF's preliminary draft budget for 2021.

In its opinions, the committee issues recommendations to the Director-General. OLAF reports annually to the committee on the state of implementation of these recommendations. Nine recommendations were made in 2020, all of which have been implemented. Two recommendations from previous years remain to be implemented, with one still ongoing and the other not yet applicable.

New working arrangements between OLAF and the committee were agreed in 2020 for entry into force in 2021.

Details of the committee's work can be found in its annual activity report. This report as well as other information is publicly available on the OLAF website.

## 9. Data protection & complaints

### 9.1. Data protection

The protection of personal data has always been a high priority for OLAF, which continues to work hard to ensure that it meets all the requirements set out in EU law, including the decisions and recommendations of the European Data Protection Supervisor (EDPS). These have a significant impact on how OLAF carries out its investigative activities, including on-the-spot checks or the forensic examination of digital media.

OLAF has its own data protection officer and applies the highest data protection standards. Since the entry into force of the new Data Protection Regulation for EU institutions, in December 2018, OLAF has committed to lead by example.

The Commission Decision concerning the internal rules on the processing of personal data by OLAF ensures compliance with the fundamental right to the protection of personal data. It set out how OLAF informs data subjects of any activity involving the processing of their personal data, and handles their rights of access, rectification, erasure, restriction of processing and communication of a personal data breach.

The procedures and IT tools needed to ensure the implementation of the Commission's decision were successfully implemented in 2019. By the end of 2020, all OLAF staff had received data protection training adapted to their tasks, thus ensuring a high level of awareness and ensuring consistent compliance with the rules in place.

In 2020, OLAF received and handled 10 requests for access to personal data, two for erasure, two for erasure combined with an objection to processing, and one to rectify of data. In 2020, two complaints were filed with the EDPS, both of them still ongoing.



### 9.2. Complaints to OLAF

Persons affected by an OLAF investigation may address any complaint directly to the Director-General of OLAF. This is without prejudice to their right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the EU or national courts.

In 2020, the Director-General received 12 complaints from persons involved in different OLAF investigations about issues relating to the handling of their procedural guarantees. All these complaints have been followed up by the relevant services.

### 9.3. European Ombudsman

The European Ombudsman opened six inquiries concerning OLAF in 2020.

Four of the inquiries concerned the lack of reply by OLAF to citizens' requests. As OLAF eventually replied to these requests, the Ombudsman closed these inquiries in the course of the year, with the conclusion that OLAF had settled the matter. A fifth inquiry concerns how OLAF conducted an investigation and is currently ongoing.





The sixth inquiry opened in 2020 concerned a request for public access to documents, but the Ombudsman closed the inquiry during the course of the year, concluding that there was no maladministration on the part of OLAF when it refused to grant public access to the requested document. The Ombudsman nonetheless suggested that OLAF could make a specific assessment of the requested document to determine whether at least partial access could be granted.

The Ombudsman also dealt with five other cases which were not communicated to OLAF, as the Ombudsman had sufficient information from the individuals bringing the complaints to conclude that there was no maladministration on the part of OLAF.

#### 9.4. Relevant case law from the European Courts

During 2020, the Court of Justice of the European Union handed down two decisions of particular relevance to OLAF.

The first case concerns an individual who was not considered by OLAF as a person concerned in two investigations related to projects for road construction in Romania. The applicant was, at the time, the president of a county council in Romania, the contracting authority behind the projects. Although OLAF had not considered him as a person concerned, the competent national authority in Romania nevertheless initiated proceedings against him, along with other persons, for suspected fraud relating to the EU budget.

The individual in question then asked OLAF to open an investigation into the handling of the two initial investigations and to give him access to several documents contained in the case files of those investigations. Both these requests were refused by OLAF, a decision that was challenged at the courts by the individual.

In its order of 12 May 2020 (case T-738/18, *Dragnea v Commission*) the General Court rejected the applicant's action as inadmissible since the refusal by OLAF to open an investigation into the conduct of a previous investigation cannot be challenged under Regulation 883/2013 (the so-called OLAF Regulation). The request for access to the case files was also judged inadmissible as the applicant had not followed the correct procedure. The applicant has appealed the decision before the Court of Justice, where it is pending (case C-351/20 P).

In the second case, a former Member of the European Parliament challenged the decision of the Secretary General of the Parliament to recover €264,196.11 from him following an investigation by OLAF. At first instance, the General Court had confirmed the European Parliament's right to claim back the vast majority of the amount. The applicant brought an appeal before the Court of Justice, arguing that the European Parliament should not be allowed to recover any of the sums concerned because he had not been able to consult OLAF's final report or the evidence annexed to it. In its order of 6 May 2020, the Court of Justice rejected the applicant's argument and his action in its entirety, judging that it was not necessary in the circumstances that the European Parliament provide him with the documents (case C-628/19 P, *Szegedi v Parliament*).

## 10. Staff and budget

Human resources management in 2020 was dominated by the COVID-19 pandemic and its impact on OLAF staff. Ensuring the well-being of all OLAF staff, from officials to service providers, was the number one HR priority for OLAF in 2020.

All the necessary procedures and protocols to keep OLAF staff safe when working in the office – and to allow them to work effectively from home when remote working became obligatory – were put into place swiftly and effectively, and adapted throughout the year as the situation evolved.

Staff presence at OLAF premises was kept to a minimum while the number of physical meetings, business trips and any other activity that posed a high infection risk was also significantly reduced. Essential business travel was however permitted for investigators (see Chapter 3). Extensive use of teleworking ensured business continuity at the same time as minimising risk.

OLAF staff proved to be resilient and highly adaptable, ensuring a high level of business continuity despite the enforced home-working and severe restrictions on travel and meetings.

### OLAF REORGANISATION: PREPARING FOR FUTURE CHALLENGES

COVID-19 was not the only challenge faced by OLAF in 2020 in terms of human resources. A major reorganisation of the Office took place in June after many months of discussion and consultation. The reorganisation was designed to strengthen the Office’s investigative capacity, internal controls and financial management, and to maximise the potential of the broad range of skills and experience of OLAF staff.

Despite taking place in the middle of the pandemic, with no access to the OLAF premises or opportunity to meet new colleagues and teams, the reorganisation



OLAF Director-General and Directors at the press conference for the OLAF Report 2019, September 2020



has proved successful, and has been widely welcomed by OLAF staff.

A further fine-tuning of OLAF's new structure will be carried out following the start of operations of the EPPO in 2021 in order to ensure the two offices work as effectively as possible together.

The creation of the EPPO also had an impact on OLAF staff numbers, with several posts transferred from OLAF to the new office over the course of the last few years, including nine in 2020. Two additional posts were transferred from OLAF to other departments of the European Commission. The gradual transfer of posts to the EPPO will only finish in 2023. The challenge for OLAF will be to continue its high level of performance despite fewer resources, at the same time as supporting the work of the EPPO as it begins its own investigations.

The vacancy rate decreased in 2020 to 3.9% (compared to 5.2% at the end of 2019). OLAF has been highly successful in recruiting qualified investigators, support staff and managers. OLAF has also encouraged the mobility of its staff, both within OLAF itself (with staff offered the chance to change roles as part of the reorganisation, for example) as well as within the EU institutions.

OLAF continues to invest in the professional development of its staff, with a broad offer of learning and development programmes. Despite

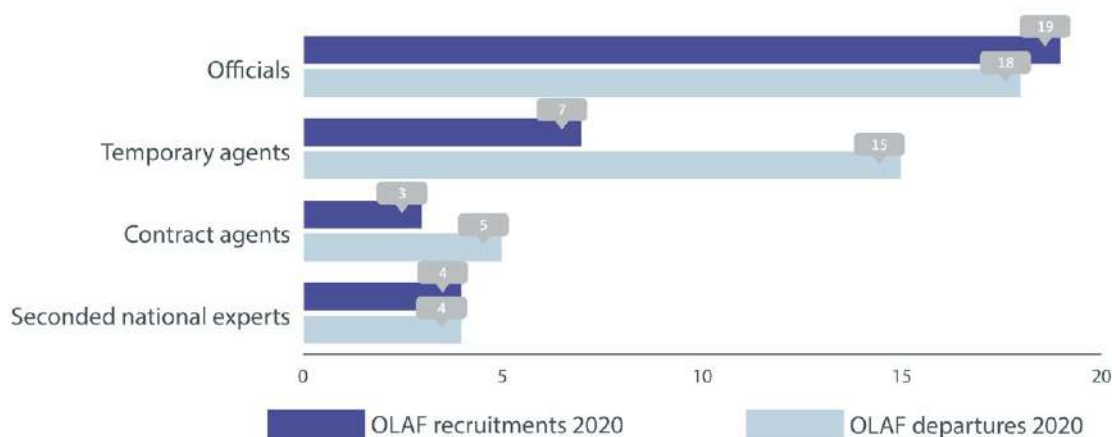
the lockdown linked to the COVID-19 situation, 102 training sessions were given to OLAF staff in 2020, including specialised training for OLAF investigators, general training courses for all OLAF staff and sessions run by other European Commission departments and services, other EU institutions and other EU or national public or private bodies.

### DIVERSITY AND INCLUSION IN OLAF

The share of women in middle management positions in OLAF continued to improve in 2020, with 41.2% of all middle management posts held by women compared to just 10.5% in 2013.

Despite its independent investigative status, OLAF remains part of the European Commission, and an increase in staff mobility within the Commission meant that the overall share of women working for OLAF fell from 47% in 2019 to 41.2% in 2020. This nonetheless remains above the overall Commission target of 40% in 2020. Two OLAF staff members took part in the 2020 Female Talent Development Programme.

OLAF is committed to building a diverse and inclusive working environment, in line with the overall priorities of the European Commission. To that end, an Open Council (all-staff meeting) on diversity and inclusion and the development of an internal plan on equality were planned for 2021.



**Table 9: Number and breakdown of OLAF staff, 2015-2020**

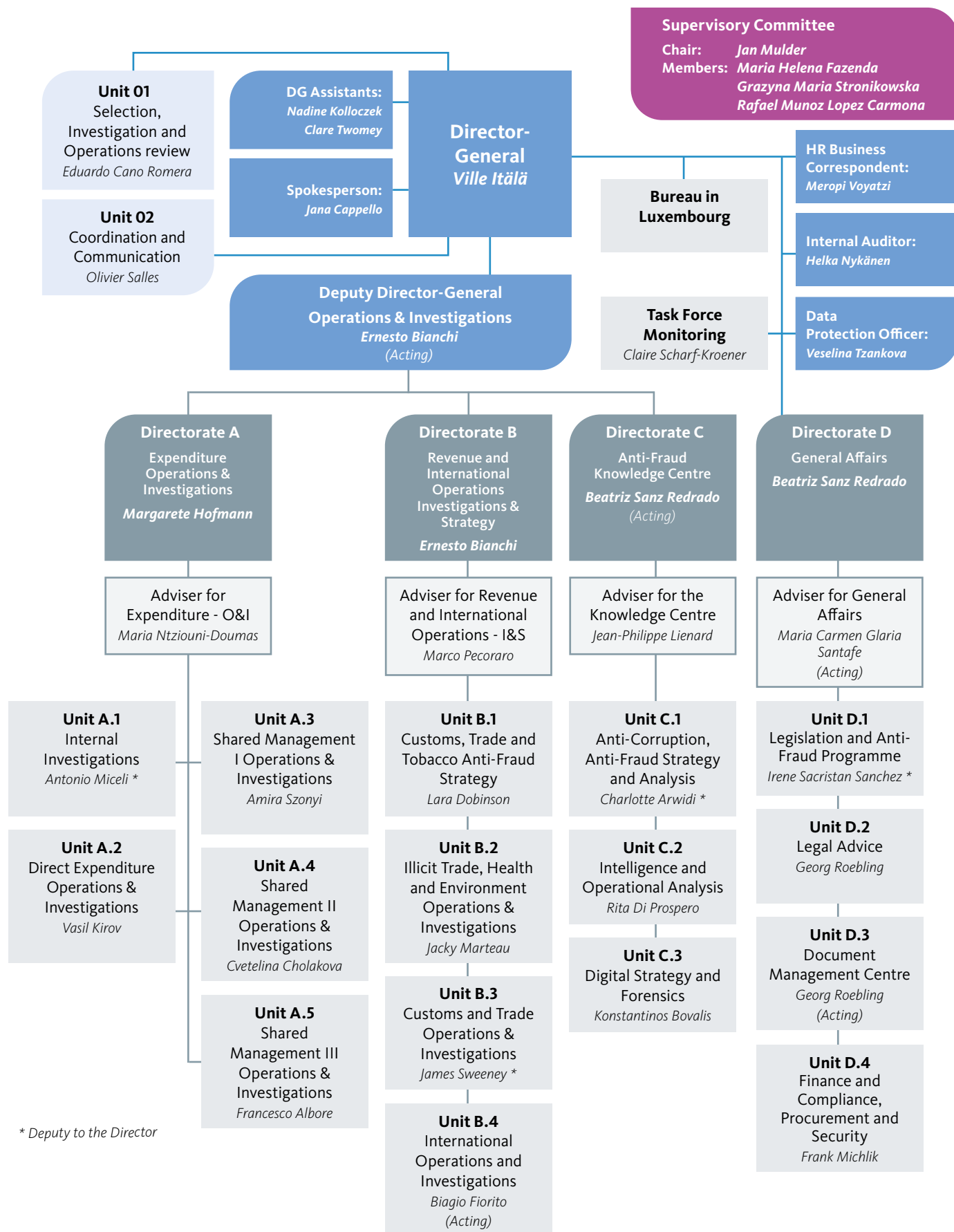
	2015	2016	2017	2018	2019	2020
Establishment posts occupied	356	336	318	318	329	323
Establishment posts vacant	11	24	32	27	17	13
External staff	55	55	55	44	47	43
<b>Total</b>	<b>422</b>	<b>415</b>	<b>405</b>	<b>389</b>	<b>393</b>	<b>379</b>

**Table 10: OLAF's administrative budget in 2020 (€ million)**

	2020
EU staff	42.5
Infrastructure	6.6
IT	4.9
External agents (contract staff, seconded national experts and interims)	2.6
Missions	1.4
Anti-fraud measures	1.9
Training, meetings and committees	0.5
<b>Total</b>	<b>60.4</b>



Figure 8: Organisational chart (situation as at 31 December 2020)



\* Deputy to the Director

## 11. Statistical annex: additional data on OLAF's investigative activity

This annex presents additional detailed data relating to OLAF's investigative activity in 2020.

**Table 11: OLAF's investigative performance in 2020**

	2016	2017	2018	2019	2020
Items of incoming information	1136	1295	1211	1095	1097
Investigations opened (or reclassified or split)	219	215	219	223	290
Investigations concluded	272	197	167	181	230
Recommendations issued	346	309	256	254	375

**Table 12: Selections completed and their duration**

	2016	2017	2018	2019	2020
Selections completed	1157	1111	1259	1174	1098
Average duration (in months) of selection phase	1.7	2.4	2.6	2.3	1.7

**Table 13: Average duration of closed and ongoing investigations (months)**

	2016	2017	2018	2019	2020
Average duration of investigation	23.2	21.9	23.1	24.3	24.3
Average duration of selection corresponding to these cases	1.8	1.7	1.9	2.0	2.2
<b>Total average duration of cases</b>	<b>25.0</b>	<b>23.6</b>	<b>25.0</b>	<b>26.3</b>	<b>26.5</b>



**Table 14: Percentages of ongoing investigations lasting more than 20 months**

	2016	2017	2018	2019	2020
Percentage of ongoing investigations lasting more than 20 months	20%	22%	22%	29%	26%

**Table 15: Recommendations issued**

Type of recommendation	2016	2017	2018	2019	2020
Financial	209	195	168	157	222
Judicial	87	80	48	64	87
Disciplinary	18	10	18	18	34
Administrative	32	24	22	15	32
<b>Total</b>	<b>346</b>	<b>309</b>	<b>256</b>	<b>254</b>	<b>375</b>

**Table 16: Incoming information by source**

Source	2016	2017	2018	2019	2020
Private	756	889	807	663	698
Public	380	406	404	432	399
<b>Total</b>	<b>1136</b>	<b>1295</b>	<b>1211</b>	<b>1095</b>	<b>1097</b>

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