

# The **OLAF** report **2012**

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Luxembourg: Publications Office of the European Union, 2013

ISSN 1977-4834

ISBN 978-92-79-27894-5

doi:10.2784/71720

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*Printed in Belgium*

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# The **OLAF** report **2012**

**Thirteenth report of the  
European Anti-Fraud Office,  
1 January to 31 December 2012**

**Disclaimer:**

OLAF's report features case studies for illustrative purposes only. In particular, the fact that OLAF presents such case studies does not prejudge the outcome of any judicial proceedings; nor does it imply that any particular individuals are guilty of any wrongdoings.



# Executive summary

Significant changes were introduced on 1 February 2012 to OLAF's internal organisation and investigative procedures aiming mainly to reinforce the investigative function and strengthen OLAF's contribution to anti-fraud policies.

In 2012, OLAF received 1 264 incoming information items of possible investigative interest, an increase of 21 % compared to 2011.

Of the 718 cases opened in 2012, 431 were opened as investigation cases; while 287 were opened as cases in which OLAF takes a coordination role. Moreover, 465 cases were closed during the year.

At the end of 2012, OLAF had 716 ongoing investigations and coordination cases.

For cases selected after 1 February 2012 the average duration of the selection phase was 1.4 months, down

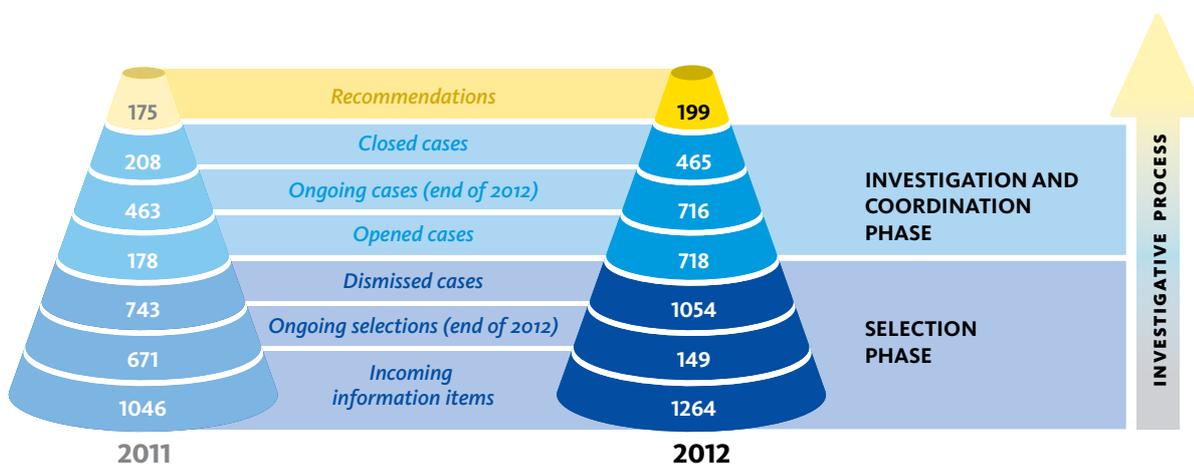
from 6.8 months in 2011. This is primarily due to the creation of a new unit dedicated to dealing with the selection of cases.

The duration of the investigation and coordination cases has sharply decreased - by almost half a year - reaching an average of 22.6 months (including the selection phase) for the year 2012.

With OLAF's support, the Commission's Anti-Fraud Strategy is now being implemented within all the European Commission's services.

OLAF, on behalf of the European Commission, has successfully represented the European Union throughout the negotiation process for the Protocol to Eliminate the Illicit Trade in Tobacco Products to the World Health Organization Framework Convention on Tobacco Control. The European Commission is now preparing the signature of the Protocol.

**Chart 1: 2012 caseload**







## Foreword

It is with great pleasure that I present to you the 13th OLAF Report covering the activities of the European Anti-Fraud Office in 2012.

On 1 February 2012 a major internal reorganisation of OLAF took place. The year was characterised by the implementation of these internal changes, new investigative procedures and new working practices. The achievements highlighted in the following pages are presented in a manner consistent with these new investigative procedures.

2012 was also the year during which the new OLAF Supervisory Committee took up its function.

As a result of the new organisation and the new investigative procedures, OLAF has reinforced its investigative function and achieved significant results. The changes have led to substantial improvements in a number of key processes. Notably, the duration of the selection phase has decreased to 1.4 months as from 1 February 2012, representing a reduction of 80 % compared to 2011. The shortened duration of the selection phase allows OLAF not only to take decisions on whether or not to open an investigation or coordination case more swiftly, but also to inform its sources more speedily on the outcome of the selection process.

Furthermore, the average duration of the investigation phase has been reduced by 23 %, from 22.4 months in 2011 to 17.3 months in 2012 (excluding the selection phase). Improved efficiency is a prerequisite for dealing with the increased amount of information reaching OLAF with allegations of fraud or corruption. The number of incoming information items in 2012 was 1264, which represents an increase of 21 % compared to 2011 (1046 items).

In line with its mandate to protect the financial interests of the European Union and the reputation of the European Institutions, OLAF has continued to play throughout 2012 a crucial role in preserving the credibility and high ethical standards of the European Institutions. Among other priorities, particular attention was paid to the Structural and Cohesion Funds and the smuggling of cigarettes and alcohol along the EU Eastern border. The number of investigation and coordination cases increased from 64 in 2011 to 186 in 2012 in the Structural Funds area.

OLAF's contribution to anti-fraud policies was also further reinforced. In the framework of the Commission's Anti-Fraud Strategy, OLAF cooperated closely with the responsible Commission services to improve the detection and prevention of fraud. This year's results illustrate the good cooperation that exists between OLAF and the European Institutions.

During 2012, OLAF together with the Directorate-General for Justice pressed ahead with the preparation of a legislative proposal for setting up a European Public Prosecutor's Office. This proposal will be presented in 2013 by Commissioner Šemeta and Vice-President Reding. OLAF's investigative experience and expertise constitute a valuable basis for the development of a European body competent for conducting criminal investigations, prosecuting the persons concerned and protecting more effectively the financial interests of the European Union. The establishment of the European Public Prosecutor's Office will be an important step towards the realisation of a European area of justice.

Finally, this report highlights the contribution of OLAF staff and the excellent results they have achieved. Such results would not have been possible without their hard work and commitment. I would like to thank them all.

Giovanni Kessler  
Director-General of OLAF





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# 1. OLAF's role and responsibilities

## Mission statement

The mission of the European Anti-Fraud Office (OLAF, also referred to as “the Office” in this report) is threefold:

- ▶ it protects the financial interests of the European Union (EU) by investigating fraud, corruption and any other illegal activities;
- ▶ it detects and investigates serious matters relating to the discharge of professional duties by members and staff of the EU Institutions and bodies that could result in disciplinary or criminal proceedings;
- ▶ it supports the EU Institutions, in particular the European Commission, in the development and implementation of anti-fraud legislation and policies.

By performing its mission as effectively as possible, OLAF contributes to the efforts made by the EU Institutions to guarantee that the best use is made of taxpayers' money. OLAF is part of the European Commission but is independent in its investigative function.

## OLAF: Key facts and figures for 2012

**Director-General:** Giovanni Kessler  
**Internal reorganisation:** 1 February 2012  
**Staff:** 435  
**Budget:** €57.4 million

**Incoming information:** 1 264 items  
**Total cases opened:** 718  
**Investigation cases:** 431  
**Coordination cases:** 287  
**Total cases closed:** 465  
**Number of recommendations issued:** 199  
**Amounts recommended for recovery:** €284 million

**Average duration of selections undertaken from 1 February 2012:** 1.4 months  
**Average duration of investigation and coordination cases, including the duration of the corresponding selection:** 22.6 months

The legal basis for EU action against fraud is Article 325 of the Lisbon Treaty. OLAF's main role and remit for carrying out its administrative investigations is defined principally in Regulation (EC) No 1073/1999<sup>(1)</sup>. This Regulation is currently being reviewed by the European Parliament and the Council of the European Union.

For investigations concerning members and staff of EU institutions, OLAF also derives its mandate from the Interinstitutional agreement between the European Parliament, the Council and the Commission<sup>(2)</sup>.



In 2012, OLAF has kept up the high pace in fighting fraud and maintained the policy of zero tolerance towards corruption. To achieve the full impact of OLAF investigations, the strong commitment of our partners and of the Member States are also necessary. It is essential that they take swift and decisive actions to recover misused EU money and bring perpetrators to justice.”

*Giovanni Kessler,  
 Director-General of OLAF*

Action taken by OLAF to protect the financial interests of the EU covers, in principle, the entire expenditure side of the budget. On the revenue side of the budget, OLAF focuses particularly on “traditional own resources”, including customs duties.

<sup>(1)</sup> Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF); OJ L 136, 31.5.1999, pp. 1–7.

<sup>(2)</sup> Interinstitutional agreement, OJ L 136/15, 31.5.1999.

'OLAF' is the acronym of its title in French, *Office européen de lutte antifraude*.

**Communicating with OLAF:**

<http://olaf.europa.eu/>

- ▶ Online form to report fraud via the Fraud Notification System: <https://fns.olaf.europa.eu/>
- ▶ Online form for general enquiries: [http://ec.europa.eu/anti\\_fraud/contacts/general-enquiries/index\\_en.htm](http://ec.europa.eu/anti_fraud/contacts/general-enquiries/index_en.htm)
- ▶ Online form to request a visit to OLAF: [http://ec.europa.eu/anti\\_fraud/contacts/request-visit/index\\_en.htm](http://ec.europa.eu/anti_fraud/contacts/request-visit/index_en.htm)
- ▶ By phone: +322 2991111 (general switchboard)
- ▶ By post: OLAF – European Anti-Fraud Office - European Commission - Rue Joseph II, 30, 1000 Brussels, Belgium

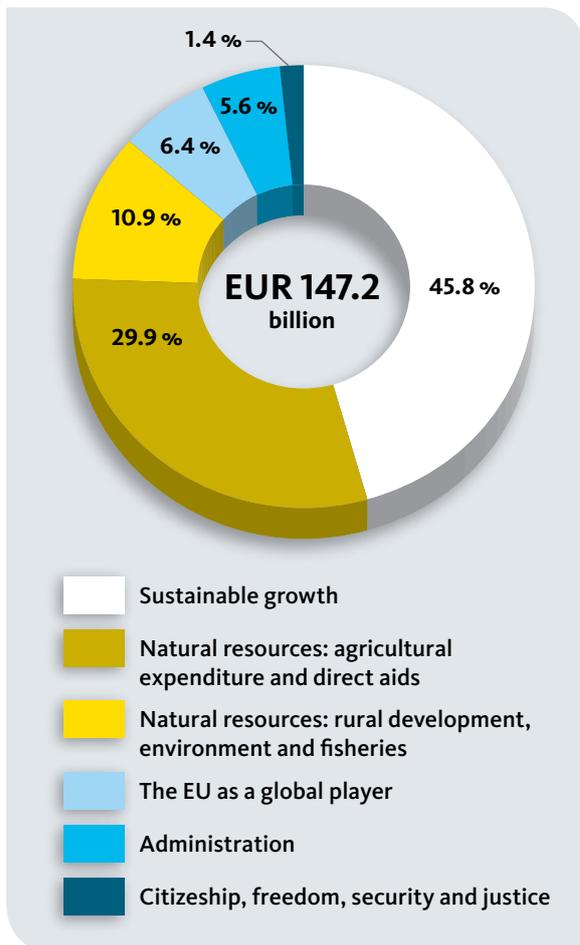
Whistleblowers: "Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which gives rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the EU (...)" shall without delay inform either his hierarchy or OLAF directly about these facts. "An official shall not suffer any prejudicial effects on the part of the institution as a result of having communicated the (...) information, provided that he acted reasonably and honestly". (Art. 22a, Staff Regulations of Officials of the European Communities, 1 May 2004)

**OLAF's reorganisation**

Some of the improvements brought by the reorganisation are:

- ▶ simplified and concise instructions to staff on the investigative procedures (ISIP<sup>(3)</sup>) have been issued to ensure a consistent application of the rules, the full respect for the procedural rights of the persons concerned by OLAF's investigation and coordination cases, and the respect for the confidentiality and the identity of informants and whistleblowers;
- ▶ a dedicated unit was established in order to improve efficiency and consistency in the selection of cases;
- ▶ the introduction of a legal review of cases at the opening of investigations, as well as for important milestones during the investigation or coordination phase;
- ▶ recommendations are issued by the Director-General for specific actions to be taken by national authorities and/or EU institutions;
- ▶ following recommendations, the results of the actions taken are monitored annually;
- ▶ the new organisation provides a clearer allocation of responsibilities (investigations, investigative support, policy and resources);
- ▶ a more efficient allocation of staff allowed for an increase in the number of staff dedicated to investigations and policy.

**Chart 2: EU budget 2012 - expenditure side**



<sup>(3)</sup> OLAF Instructions to Staff on Investigative Procedures (accessible at [http://ec.europa.eu/anti\\_fraud/documents/about\\_us/instructions-to-staff-120201.pdf#page=1](http://ec.europa.eu/anti_fraud/documents/about_us/instructions-to-staff-120201.pdf#page=1))

Chart 3: Organisation chart

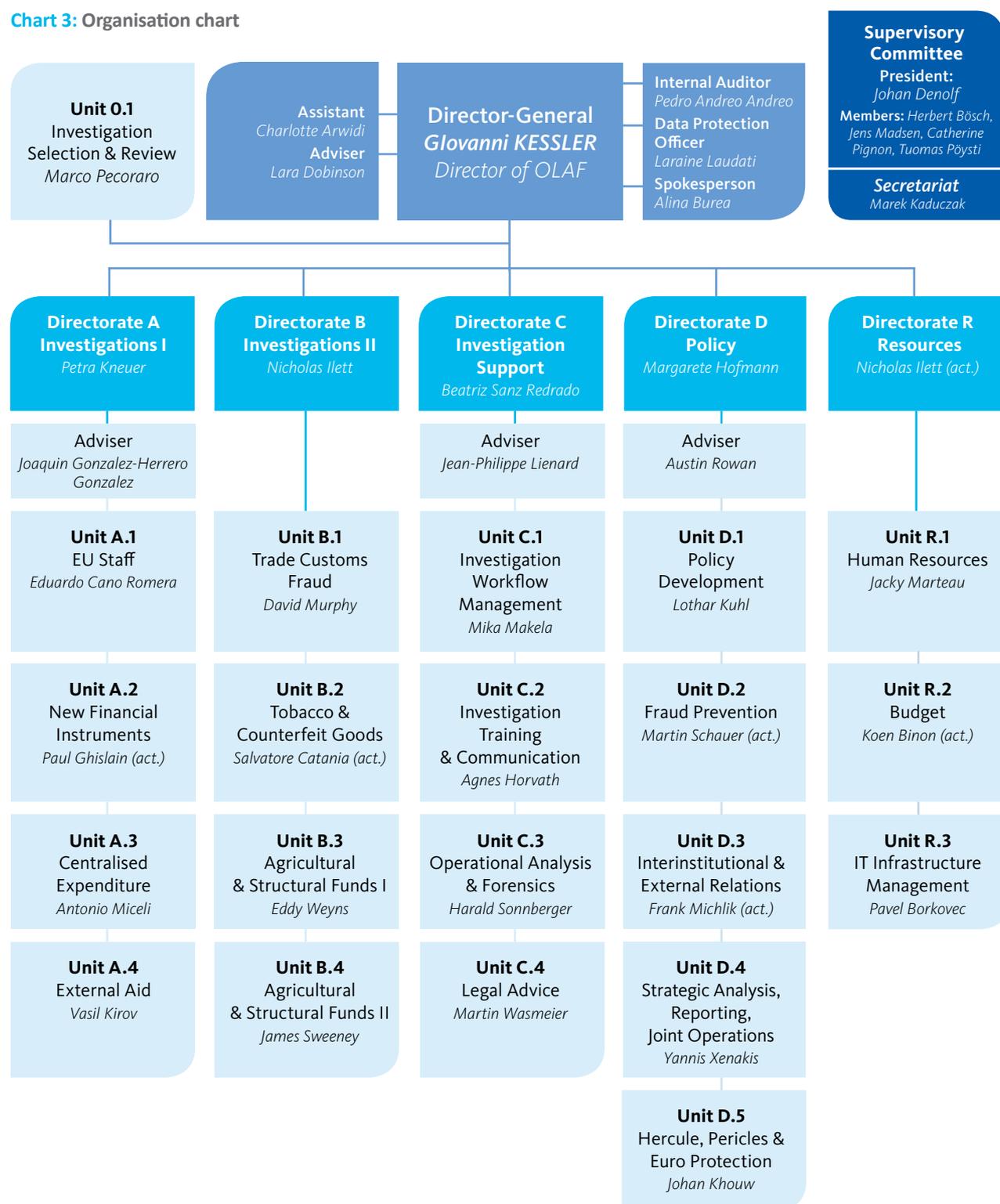
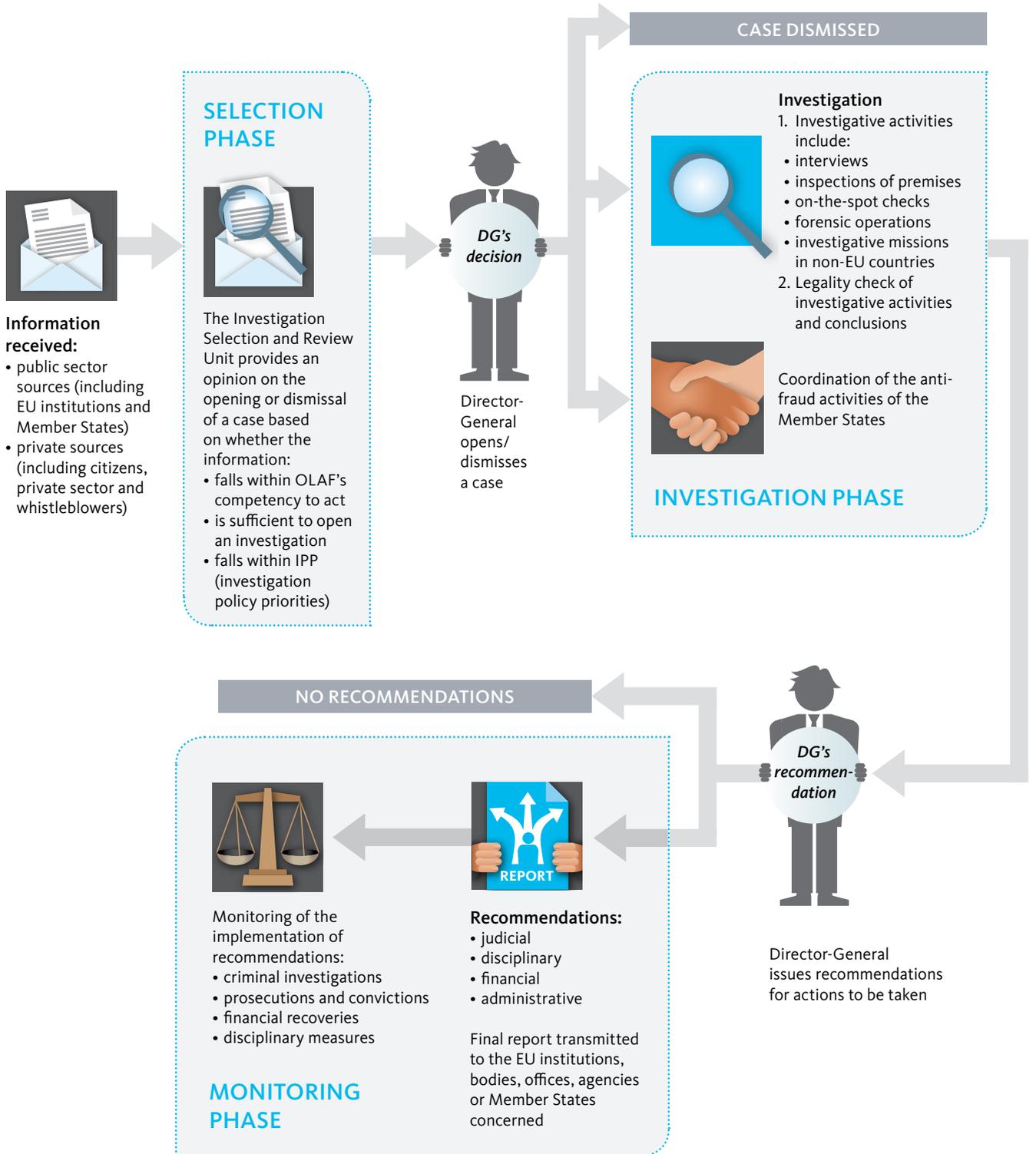


Chart 4: The investigative process from 1 February 2012



## 2. Focus on: Incoming information

Incoming information of possible investigative interest remains essential for OLAF's investigative function and constitutes the starting point in OLAF's efforts to protect the financial interests of the EU. Every piece of information, which could result in the opening of an investigation, is treated consistently and swiftly by the Office.

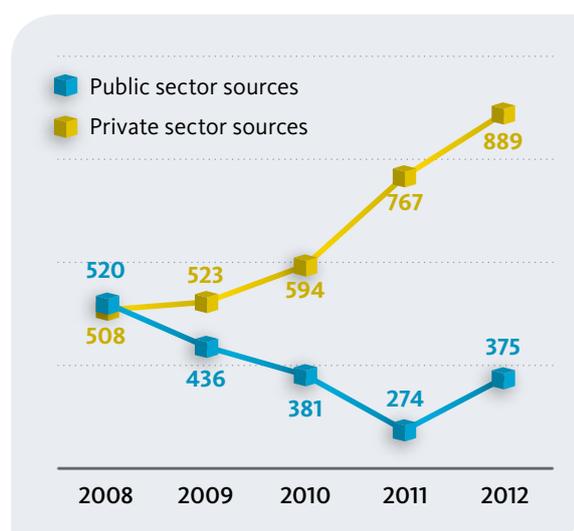
Under the new procedures emphasis is given to efficiency and promptness in the treatment of incoming information, as well as to consistency in the selection of cases.

### An increase in incoming information of possible investigative interest

In 2012, OLAF received 1 264 incoming information items coming from both public and private sources, an increase of 21 % compared to 2011. This increase can be attributed to several factors:

- ▶ increased visibility of OLAF as an independent investigative office;
- ▶ growing awareness of the need to protect the financial interests of the EU;
- ▶ improved transparency and expeditiousness in the treatment of incoming information, following the implementation of OLAF's reorganisation;
- ▶ better cooperation with other Commission services as a result of the on-going implementation of the Commission's Anti-Fraud Strategy<sup>(4)</sup> (see section 4.3 Commission's Anti-Fraud Strategy).

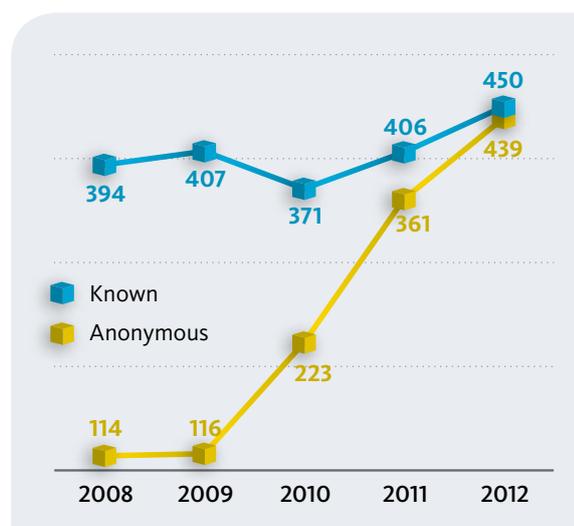
**Chart 5: Distribution of incoming information by source**



### Disparities persist among the types of sources

Information from private sources represented 70 % of the total items received. Over the last few years an increase in the number of items received from anonymous<sup>(5)</sup> sources has been noted.

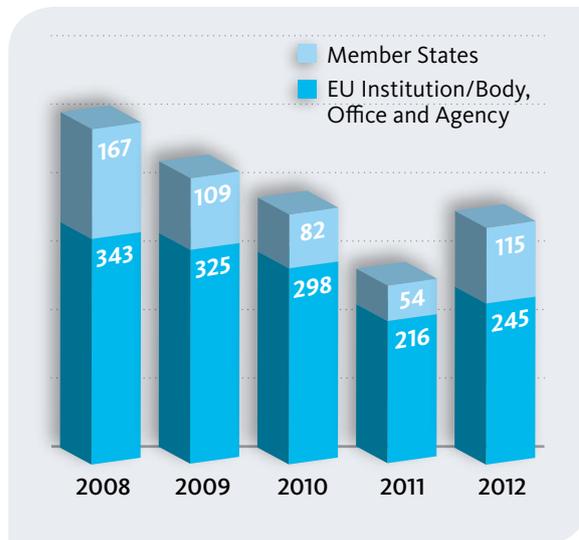
**Chart 6: Incoming information items from private sources**



<sup>(4)</sup> Communication from the Commission on the Commission's Anti-Fraud Strategy, COM (2011) 376 final, 24.6.2011.

<sup>(5)</sup> Including sources having provided insufficient contact details.

**Chart 7: Incoming information items from the public sector in the EU (°)**



Information coming from the public sector has significantly increased in 2012 (+37 % as compared to 2011), breaking a negative trend.

Although the European Commission remains the main source in terms of information items of possible investigative interest reported (165 items in 2012), this year's overall increase can be mostly attributed to the incoming information from Member States. Member States share with the Commission the management of more than 80 % of EU funds. Therefore, they play a leading role in alerting OLAF of any fraud or irregular activities concerning EU expenditure.

Though the number of items reported by the Member States was higher than in previous years (+113 % as compared to 2011), there are significant disparities among them. For example, public sources from two Member States (Germany and Italy) reported almost half of the incoming information items, while ten Member States provided one or two items, and five Member States provided none. It is notable that, in the case of certain Member States, where there has been a high level of expenditure of EU funds during 2012 and a significant number of information items received from private sources, not much information has been received from public sources.

**Table 1: Distribution of incoming information by Member State**

Member State	Public sources	Private sources
Germany	38	38
Italy	16	42
Romania	11	31
Spain	7	26
United Kingdom	5	21
Slovakia	4	13
Belgium	4	19
Bulgaria	4	46
Denmark	3	2
Netherlands	3	4
Greece	3	15
Czech Republic	3	23
Sweden	2	0
Ireland	2	1
Portugal	2	5
Poland	2	24
Cyprus	1	0
Finland	1	0
Estonia	1	2
Austria	1	3
Lithuania	1	3
Hungary	1	17
France	0	8
Latvia	0	2
Luxembourg	0	5
Malta	0	4
Slovenia	0	9
<b>Total</b>	<b>115</b>	<b>363</b>

(°) Information from third countries and international organisations has not been included.

**Table 2: Total number of incoming information items by Member State (ratio public-private)<sup>(7)</sup>**

Member State	Total number of incoming information items	Ratio of incoming information items from public sources/private sources
Germany	76	1.00
Italy	58	0.38
Bulgaria	50	0.09
Romania	42	0.35
Spain	33	0.27
United Kingdom	26	0.24
Czech Republic	26	0.13
Poland	26	0.08
Belgium	23	0.21
Greece	18	0.20
Hungary	18	0.06
Slovakia	17	0.31
Slovenia	9	0.00
France	8	0.00
Netherlands	7	0.75
Portugal	7	0.40
Denmark	5	1.50
Luxembourg	5	0.00

### Developing incoming information from third countries

The number of incoming information items received from public sources in third countries (10) and from International organisations (5) remains low. OLAF is stepping up its efforts to improve cooperation with its partners outside the EU by entering into formal Administrative Cooperation Arrangements with competent authorities with which OLAF has close relations (see section 4.2 Cooperation activities between OLAF and its partners).

### Case study: Developing the reporting of information of possible investigative interest from public sources in third countries

**Very little information of possible investigative interest comes from local authorities from third countries. Developing cooperation with local public sources can lead to new investigation cases.**

OLAF was contacted by a judge leading a major criminal investigation in the coffee-cocoa industry in an African country. It emerged that one of the investigated structures had received, since its inception, funds from the European Development Fund. OLAF opened a case to determine whether funds had been embezzled and offered its assistance to the local judicial authorities.

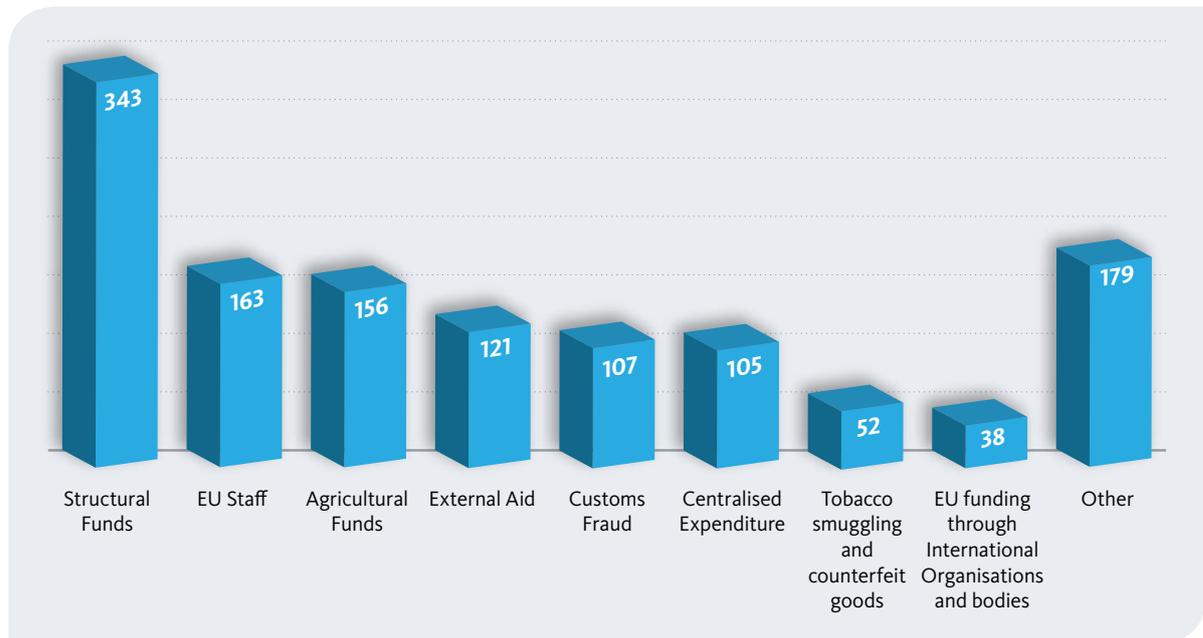
OLAF together with the EU delegation in the African country acted as coordinators to gather the expertise and the financing required to perform audits. It was found that the funds, due to remain frozen, had been released without authorisation from the EU. In addition, it was established that these funds, intended as back-up for financial guarantees, had financed various projects whose objectives fell outside the intended scope of the funding. The beneficiaries were identified.

### Conclusion and further steps

Thanks to the investigation organised by OLAF, the country concerned agreed to reimburse the full amount of the aid granted – more than €11 million. Furthermore, the audit were transmitted to the national judicial authorities as part of the global criminal investigation.

<sup>(7)</sup> The table includes only figures from those Member States from where more than 5 information items have been received.

**Chart 8: Incoming information by sector**



### Distribution of incoming information by sector

Almost half of the incoming information relates to the Structural Fund (343 items) and Agricultural Fund (156) sectors. Information on EU staff also represents an important share of the incoming information (163).

### Improving the quality of the incoming information

In the framework of the Commission's Anti-Fraud Strategy, OLAF plays a key role in supporting the development and implementation of anti-fraud strategies in all of the Commission's Directorates-General. Among other, the strategies include measures aimed at improving the reporting of information of possible investigative interest and on further developing communication with other European Commission services.

### 3. OLAF's investigative activities

Significant changes were introduced on 1 February 2012 to OLAF's investigative procedures and organisation. Among the objectives were the improvement of the efficiency and quality of the investigative activity, and the reduction of its duration. Placing more emphasis on the investigation phase, Instructions to Staff on Investigative Procedures (ISIP) were issued, while responsibilities and competencies were reassigned among the investigative units.

One of the main changes introduced by the reorganisation concerns the replacement of the assessment phase with a selection phase. As a result, 419 cases, which were being assessed under the previous investigative procedure, were opened as investigation or coordination cases on 1 February 2012. This significant number of cases has been included in the reporting of the statistics. However, where relevant, additional explanatory information has been provided.

#### Rights and procedural guarantees

Particular attention is given to the rights of persons concerned in an investigation. Specific procedures set out in the ISIP ensure that these rights are respected:

- ▶ all investigative actions must be conducted in full respect of the rights of persons involved in an investigation, including data protection and procedural guarantees applicable in OLAF investigations;
- ▶ when the investigation unit intends to interview persons concerned, it must inform those persons of their right not to incriminate themselves and to be assisted by a person of their choice. The persons concerned must also be informed that they may use any official EU language of their choice;
- ▶ prior to drawing conclusions, the persons concerned must be given the opportunity to provide comments on the facts concerning them established by the investigation.

#### 3.1 Selection phase

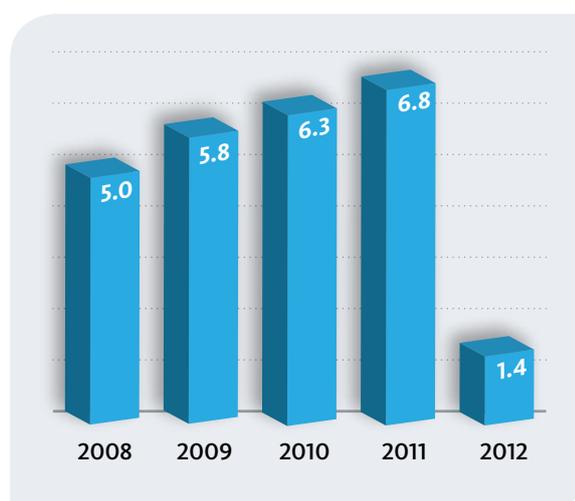
##### 2012: A change in the organisation of the selection phase

As a result of the reorganisation, during 2012, OLAF was able to reduce the duration of its selection process and apply the selection criteria more consistently.

As of 1 February 2012, incoming information of possible investigative interest to OLAF is transferred to a dedicated selection unit, the Investigation Selection and Review Unit (Unit 0.1), centralising the analysis of the incoming information. In accordance with the ISIP, this unit provides an opinion on the opening or dismissal of a case to the Director-General within two months.

The average duration of selections closed during 2012 has been significantly reduced compared to all previous years. From February until December 2012 the average duration of the selection phase was 1.4 months, a reduction of almost 80 % compared to 2011.

**Chart 9: Average duration (in months) of selection phase by year**



The average duration of the selection phase reported in Chart 9 does not include the selections completed before 1 February 2012, given that the selection process conducted in January was based on the former procedures. Including January, the average duration of the selection phase would be 3.9 months.

## HOW DOES OLAF SELECT CASES

Within the selection phase the following criteria apply:

- ▶ competency of OLAF to act;
- ▶ sufficiency of the suspicions to open an investigation, based on the reliability of the source and the credibility of the allegations;
- ▶ whether the information falls within the Investigative Policy Priorities\* which are proportionality, efficient use of investigative resources, subsidiarity/ added value, special policy objectives and financial impact. The five policy priorities will all be taken into consideration in order to decide whether or not to open an investigation. No single policy priority will operate as a *conditio sine qua non*.

\*OLAF Investigation Policy Priorities (accessible at [http://ec.europa.eu/anti\\_fraud/documents/about\\_us/ipp\\_amp.pdf](http://ec.europa.eu/anti_fraud/documents/about_us/ipp_amp.pdf))

Since 1 February 2012, in eleven months, 1158 new information items were treated under the selection process, resulting in 760 dismissals, 249 openings of investigation or coordination cases, and 149 ongoing selections at the end of the year. This represents a significant increase in the number of items treated under the selection process over the last four years. In 2012 (from 1 February), this number increased by 26 % compared with 2011 (full year).

The table below shows the results of the full year.

**Table 3: Results of the selection process by year**

Selection results	2008	2009	2010	2011	2012
Dismissed selections	684	787	661	742	1054
Opened Investigation cases	152	160	152	146	431
Opened Coordination cases	52	60	73	32	287
<b>Total selections completed</b>	<b>888</b>	<b>1007</b>	<b>886</b>	<b>921</b>	<b>1772</b>

**Table 4: Clearance rate (number of investigation and coordination cases opened/closed)<sup>(1)</sup>**

Cases	2008	2009	2010	2011	2012
Total opened	204	220	225	178	718
Total closed	187	188	189	208	465
<b>Clearance rate (in months)</b>	<b>1.1</b>	<b>1.2</b>	<b>1.2</b>	<b>0.9</b>	<b>1.5</b>

<sup>(1)</sup> The 718 cases include 419 cases opened as a result of the reorganisation, out of which 221 were closed in 2012.

The figures presented in Table 3 include 419 investigation and coordination cases, previously under evaluation, opened as a result of the implementation of the reorganisation on 1 February 2012.

## 3.2 Investigative phase

### An increased investigative activity

A special investigative team was established to handle the high number of cases opened on 1 February 2012. Correspondingly, a high number of cases were closed in 2012.

A total of 716 cases were still open at the end of 2012 (see Chart 10). The Structural Funds sector accounted for the highest number of investigations (134 in 2012 up from 55 in 2011), followed by External Aid and EU Staff sectors. Whilst the overall proportion of investigations remains similar to last year, OLAF has improved its investigative record in some sectors, such as in the area of Agricultural Funds (28 cases in 2011 and 59 in 2012).

### Case study: An example of investigation in the Structural Funds sector

In the framework of a previous investigation in the fishing industry in Central America, OLAF discovered other irregularities concerning two fishing vessels operated by a company registered in a Member State under the local flag. Suspecting fraudulent registration of these vessels, OLAF decided to open a new case.



It was established that the operator had received more than €4 million from the Financial Instrument for Fisheries Guidance to register the two fishing vessels in a non-EU country and fish in the Indian Ocean under a local flag for at least five years. However, OLAF's investigators discovered that the vessels had changed flag and were seen operating in the waters of a Central American country before the agreed term.

### Conclusions and further steps

- ▶ The result of the investigation was transmitted to the national judicial authorities with a view to launching a criminal investigation.
- ▶ OLAF's expertise in the field of fraudulent use of Structural Funds has added value for the national authorities. Critical evidence was transmitted, allowing the Ministry concerned, after hearing the suspected parties, to claim a refund of more than €7 million.

OLAF investigated 95 cases of serious misconduct by members or staff of the EU institutions, bodies, offices or agencies. These cases fall within OLAF's mandate to protect the reputation of the European Institutions, going beyond the sole protection of the EU's financial interests. In the course of 2012, OLAF dealt with such a case involving a Commissioner. OLAF's investigation

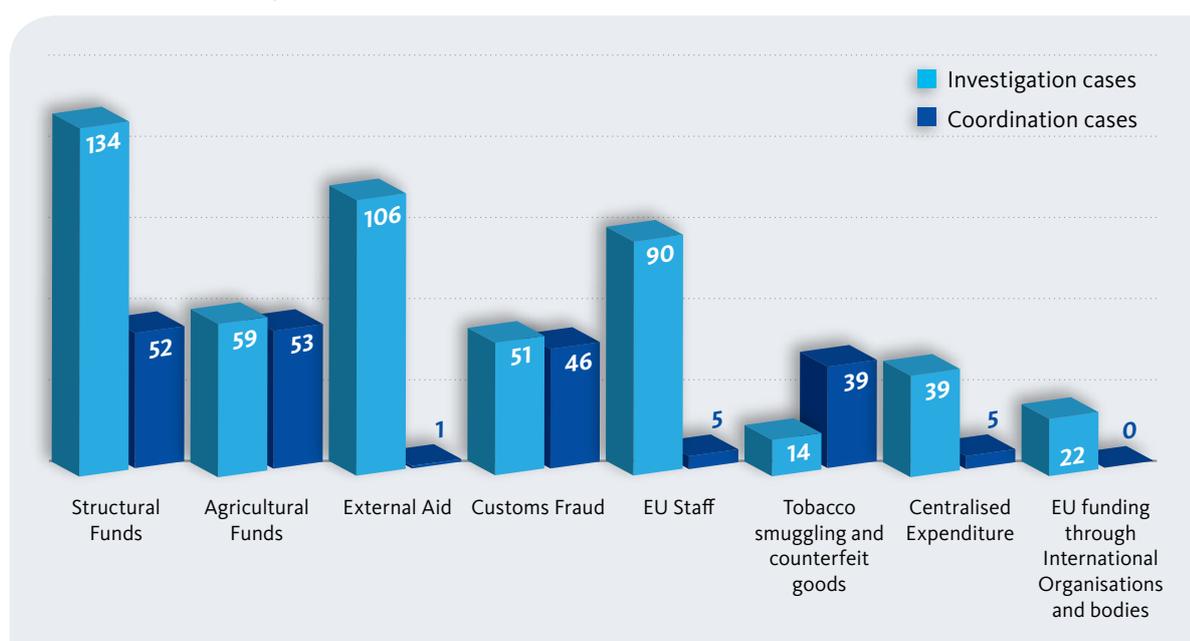
was conducted swiftly and independently. The results of the investigation were transmitted to the Commission for its consideration and to the competent national judicial authorities for possible judicial follow-up. This case is an example of the capacity of the EU Institutions to deal effectively with allegations of fraud and corruption also at the highest level.

### Overall reduction of the average duration of investigation and coordination cases

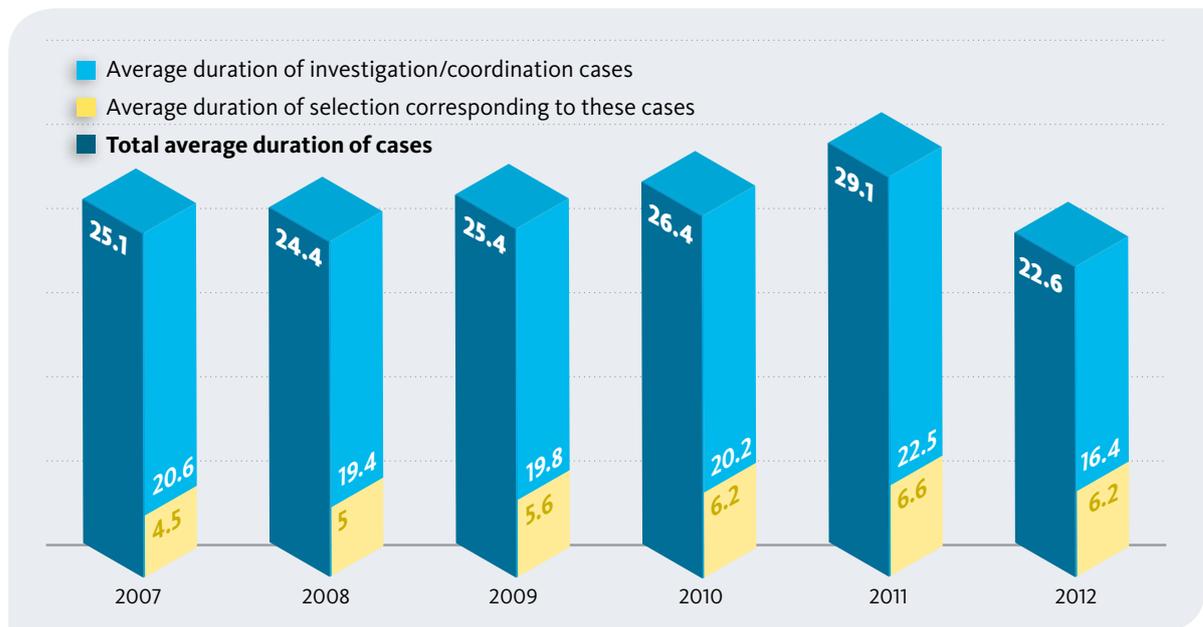
In 2012, the average duration of investigation and coordination cases was reduced significantly compared to previous years. The figures provided in Chart 11 include the average duration of investigation and coordination cases closed during 2012 or still opened at the end of 2012, as well as the duration of the selection phase corresponding to these investigation and coordination cases.

Most of the investigation and coordination cases were selected before 2012. That is the reason why the duration of the selection phase (6.2 months) differs from the duration of the selection phase conducted after 1 February 2012 (1.4 months).

**Chart 10: Open investigation and coordination cases by sector (end of 2012)**



**Chart 11: Average duration (in months) of cases**

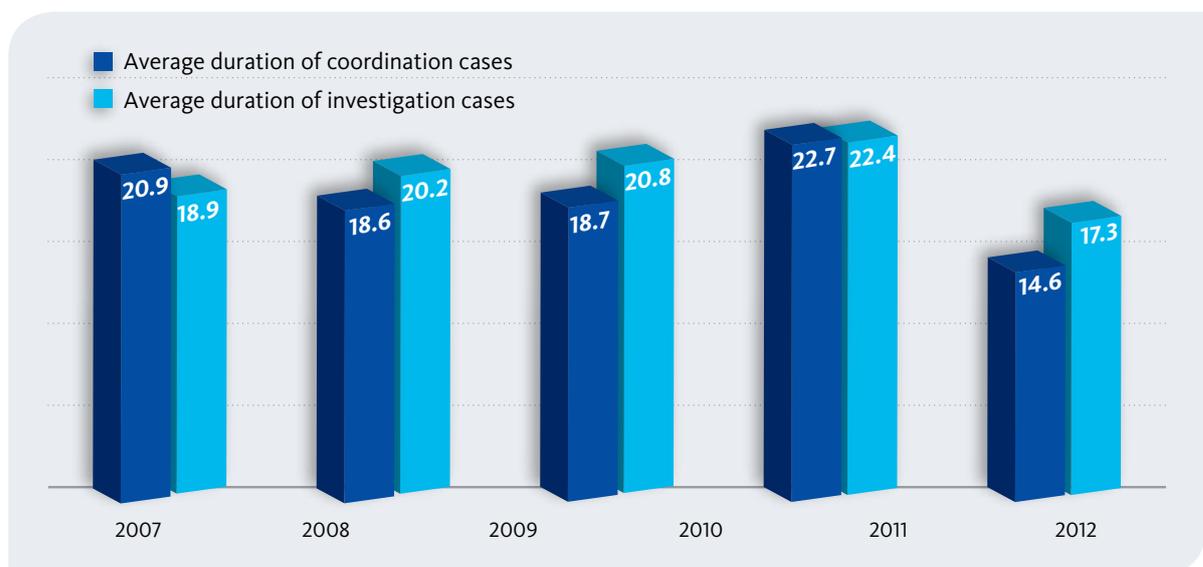


The statistics on the average duration of the investigation or coordination phase reflect an improvement compared with previous years. As such, the average duration of investigation cases has been reduced significantly from 22.4 months in 2011 to 17.3 months in 2012. The duration of coordination cases has also been reduced from 22.7 months in 2011 to 14.6 months in 2012.

### Example of key investigative activities

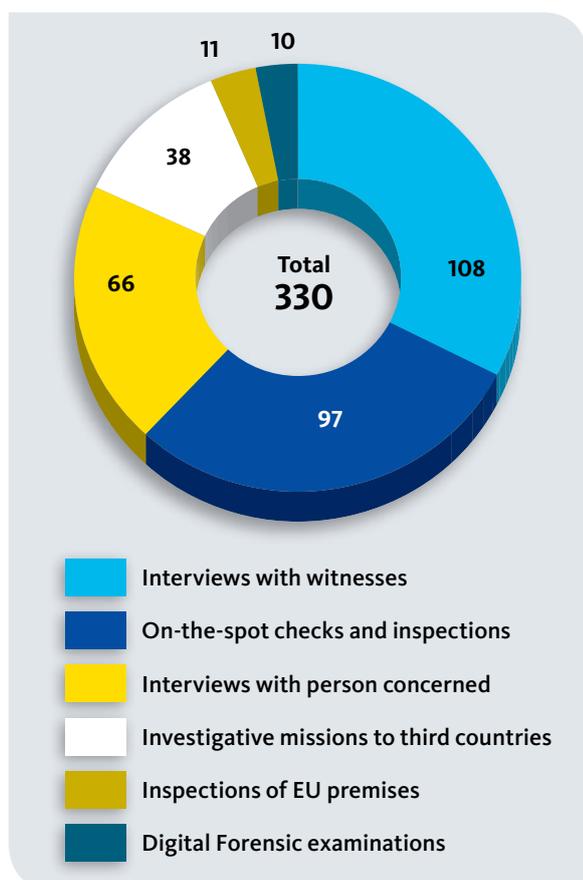
OLAF has at its disposal a number of investigative tools that allows it to conduct effective investigations. The most important tools used in 2012 were the on-the-spot checks, inspections of EU premises, interviews, digital forensic operations as well as investigative missions in third countries (see chart 13).

**Chart 12: Average duration (in months) of investigation and coordination cases**





**Chart 13: Investigative activities conducted in 2012**



### Case study: “On-the-spot” checks, an opportunity to reveal bigger frauds

OLAF received information that payments executed by the European Parliament in favour of a private company providing secretarial services to one of its Members (MEP) were not in line with the internal rules of the Parliament.

Based on this information OLAF conducted an investigation to determine whether the expenses were justified. In cooperation with the local authorities, on-the-spot checks were carried out at the service provider’s premises to check the financial accounts.

Not only did the investigation corroborate the initial suspicions, but it also allowed the identification of other irregularities. OLAF investigators discovered that expenses allegedly declared for hiring personnel, hotel accommodation as well as private travel had been unduly reimbursed by the service provider to the MEP.

The national authorities were informed of the evidence found in the financial accounts of the service provider, including suspected irregularities in VAT treatment.

### Conclusions and further steps

- Following its investigation, OLAF recommended that the European Parliament issue a recovery order addressed to the MEP for an amount in excess of €100 000. The case is currently being monitored by OLAF to ensure the implementation of this recommendation.
- The case demonstrates the importance of on-the-spot checks in order to acquire quickly evidence to prove or disprove allegations and to verify that no other EU interest is affected by irregularity or fraud.

## 3.3 Monitoring phase

### A stable trend for issued recommendations

The Director-General can issue recommendations on the basis of the results of investigations, for action to be taken by EU Institutions, bodies, offices, agencies or competent authorities of Member States concerned. A recommendation may be for administrative, disciplinary, financial or judicial action to be taken, and several recommendations may be made in a single case.

In 2012 the number of cases closed with recommendations (100) remained stable compared to previous years.

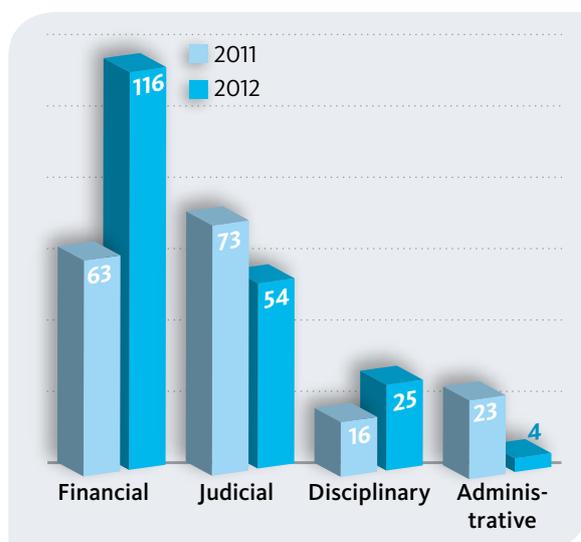
**Table 5: Investigation and coordination cases closed with or without recommendations**

	2008	2009	2010	2011	2012
with recommendations	125	106	98	108	100
without recommendations	62	82	91	100	365
<b>Total</b>	<b>187</b>	<b>188</b>	<b>189</b>	<b>208</b>	<b>465</b>

The high number of cases closed without recommendations is due to the exceptional number of cases opened as a result of the reorganisation.

199 recommendations were issued in 2012. The majority of these were financial recommendations, reflecting OLAF's mandate to protect the financial interests of the EU.

**Chart 14: Type(s) of recommendations**



**Table 6: Distribution of judicial recommendations issued in 2012 per Member State**

Member State	Total
Romania	13
Belgium / Bulgaria	6
Italy / Luxembourg	5
Spain	3
Malta / Netherlands / United Kingdom	2
Austria / Cyprus / Czech Republic / Estonia / Finland / France / Germany / Greece / Latvia / Slovakia	1
<b>Total</b>	<b>54</b>

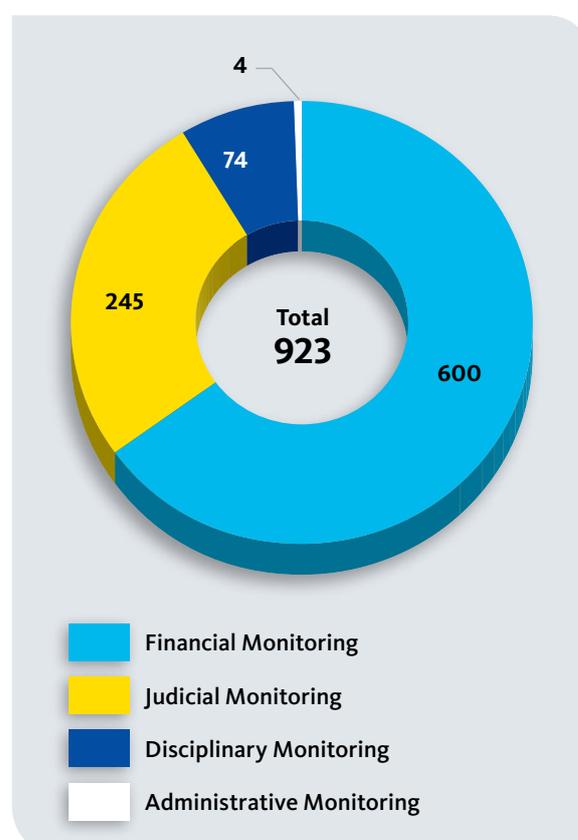
In 2012 OLAF made financial recommendations in relation to the recovery of a total of €284 million.

**Table 7: Amounts recommended for recovery in 2012**

Sector	Recommended amount (€ million)
Customs Fraud	165.8
Structural Funds	63.3
Agricultural Funds	33.4
External Aid	15.6
Centralised Expenditure	5.0
EU Funding through International Organisations and bodies	0.8
EU Staff	0.1
<b>Total</b>	<b>284.0</b>

In addition to the 199 recommendations issued in 2012, OLAF is monitoring a further 724 recommendations issued in previous years.

**Chart 15: Total recommendations in monitoring phase (end of 2012)**



## Case study: Improving the prosecution of transnational cases

The 'Leonardo da Vinci' programme funds practical projects in the field of vocational training. Partners can claim through their National Agency, partial reimbursement of the costs they incur working on projects. The European Commission's Directorate-General for Education and Culture (DG EAC) informed OLAF of suspicions of possible multiple claims for reimbursement by a project partner and its connected entities.

OLAF computed the information received from DG EAC on the staff time reported by the suspected entities. In parallel, the Office notified the persons concerned of the facts and took account of the information they provided to draw up its conclusions. OLAF concluded that, over a period of several years, the persons had reported time worked on projects in excess of the number of working days in the period. The excess costs were ineligible for EU funding.

## Conclusions and further steps

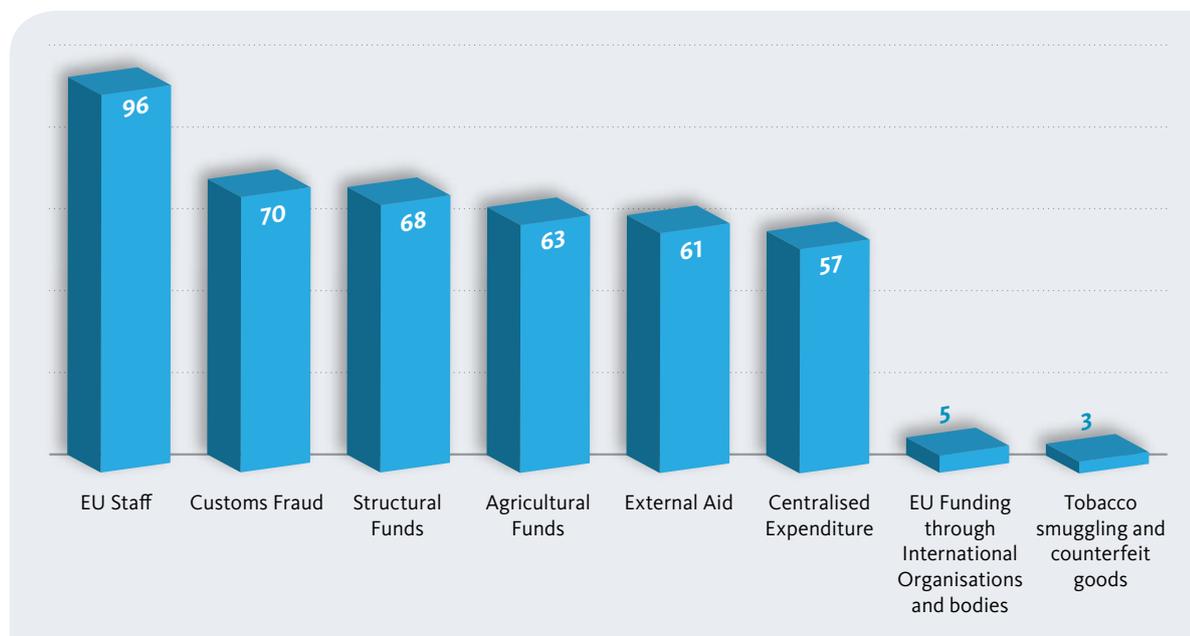
- ▶ Based on its investigation, OLAF recommended to DG EAC to seek recovery of the excess funding. OLAF also communicated its findings to the judicial authorities of the relevant Member State.
- ▶ The case was not prosecuted by the national judicial authorities despite the evidence collected. This was because the criminal intent of the persons concerned could not be demonstrated, owing to lack of clarity in the relevant EU legislation, in particular regarding permitted working days.

## Monitoring, a transitional period

As part of the new procedures introduced on 1 February 2012, all investigative and post-investigative activities (including monitoring of the implementation of actions recommended to be taken) are carried out by the investigative unit. As such, the investigators are now monitoring the outcome of the investigations.

The total number of cases in the monitoring phase in 2012 (423) slightly increased (407 in 2011).

Chart 16: Cases in monitoring phase by sector (end of 2012)



In terms of financial recovery<sup>(8)</sup>, as announced in last year's report, from 1 February 2012 OLAF changed its reporting procedures. With effect from 2012, in order to reflect better the activity during the reporting year, the Office will present the amounts recovered in the year of their recovery. Previously, the amount recovered in a case was reported in the year in which the case was closed, regardless of when it was actually recovered.

In line with the new approach, OLAF is reporting that an amount of €94.5 million was recovered in 2012 as a result of its investigations<sup>(9)</sup>.

In addition to the amount recovered in 2012, the sum of €207 million recovered before 2012 but corresponding to cases still open at that time, was not accounted for in last year's report, and will not need to be reported in the future as a consequence of the changes in reporting methods.

At the time of adoption of this report, the final results of the judicial actions taken by national authorities, to whom the recommendations were addressed, were not yet available.

**Table 8: Amounts recovered in monitoring activities during the year**

Sector	Recovered amount (€ million)
Customs Fraud	33.9
Structural Funds	33.4
Agricultural Funds	14.3
External Aid	12.8
EU Staff	0.05
Centralised Expenditure	0.04
EU Funding through International Organisations and bodies	0.003
	<b>94.5</b>

<sup>(8)</sup> In the context of this report, the term 'recovery' mainly includes the results of recovery orders issued by the Commission, offsetting of debts, de-commitment of EU finances from projects or programmes, debt liability apportionment between the Commission and Member States in certain sectors and recoveries of EU funds (e.g. import duties) from economic operators by Member States. Not all of these recovery transactions are individually identifiable in the Commission's accounting system.

<sup>(9)</sup> Figures on amounts recovered available at the time of adoption of this report. For expenditure sectors, the recovery data was provided to OLAF by the competent Commission services and, with regard to the traditional own resources sector, the recovery data was extracted from the OWNRES database, which the Member States use to report frauds and irregularities over €10 000 to the Commission.

## 4. Policies to fight against fraud

### 4.1 Curbing cigarette smuggling

In the context of the Commission's Anti-Fraud Strategy, designed to update and modernise its policies to fight against fraud, the European Commission published in June 2011 an Action Plan<sup>(10)</sup> to fight against cigarette and alcohol smuggling along the EU's Eastern border. This is one of the strategies for combating fraud against the EU budget from a regional perspective, by tackling the smuggling of highly taxed goods as a criminal phenomenon prevailing at the Eastern border. The implementation of this action plan was one of OLAF's key objectives in 2012.

#### Examples of actions accomplished by OLAF in 2012:

- ▶ OLAF organised a targeted meeting focusing on cigarette smuggling in the Baltic region, in Warsaw, in November 2012. Lithuanian, Latvian, Estonian, Polish, Russian and Belarusian competent authorities took part in the meeting discussing smuggling in the Baltic Region and improvement of operational contacts.
- ▶ Together with the Commission's Directorate-General for Taxation and Customs Union, a detailed risk assessment was carried out at the Eastern EU land border within the Customs 2013 Land Frontier Contact Group.
- ▶ The Commission, with OLAF's involvement, was also active in raising problems with Russia, Ukraine, Moldova and Belarus at official meetings with customs authorities and at political level.

Smuggled cigarettes very often originate in Asia and far-Eastern countries. Therefore there is a need, at EU level, to look at the illicit tobacco trade in a global



and comprehensive way. OLAF, on behalf of the Commission, is now working on a comprehensive EU strategy to step up efforts to fight against cigarette smuggling.

In the same context, the Protocol to Eliminate the Illicit Trade in Tobacco Products to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) plays an important role. The FCTC Protocol covers a variety of measures including a requirement for countries to impose restrictions on tobacco advertising, sponsorship and promotion, regulate the packaging and labelling and the content of tobacco products, ensure strict smoking controls in public places and make use of tax and price measures in order to reduce tobacco consumption. OLAF, on behalf of the European Commission, has coordinated the EU position and represented the EU throughout the negotiation process.

In November 2012 negotiations for the Protocol were finalised in Seoul, Republic of Korea, by the fifth Conference of the Parties of the World Health Organization. According to Article 43 of the Protocol, it is open for signature at the UN Headquarters in New York until 9 January 2014.

<sup>(10)</sup> Commission Staff Working Document accompanying the Commission Anti-fraud Strategy, Brussels, 24.6.2011, SEC(2011) 791 final.

The Commission is now preparing, on behalf of the EU, the signature of the Protocol. The Commission services are also currently analysing the steps to be taken in order for the EU to comply entirely with the Protocol and implement it. One key aspect will be the implementation of the tracking and tracing provisions. Once in force, the Protocol will be a strong international tool to fight against illicit trade.

With 176 Parties, including the EU and all of its Member States, the WHO FCTC is one of the most widely accepted UN Treaties in history.

## 4.2 Cooperation activities between OLAF and its partners

The EU budget finances a wide range of programmes and projects in the European Union and around the world. OLAF's work to ensure that the funds reach the intended beneficiaries, without being diverted by fraud and corruption, depends significantly on cooperation with its external partners. The partner services include authorities responsible for bringing prosecutions where necessary, investigating irregularities and monitoring EU-funded projects.

OLAF's aim is to intensify its collaboration with various investigative, administrative and judicial partner services in the EU, non-EU countries and international organisations, who:

- ▶ have the competence to exercise functions of control over projects financed by the EU, realised inside or outside the EU territory;
- ▶ have the competence to investigate and/or prosecute cases of fraud, corruption and other illegal activities affecting those funds.

### OLAF's partners cooperate by:

- ▶ assisting OLAF in conducting inspections and on-the-spot checks in EU and non-EU countries;
- ▶ sharing information and expertise.

OLAF has developed specific policy actions concerning cooperation with its partners. The Office organises consultations with national authorities from Member States and enlargement countries through regular

or ad-hoc meetings. Moreover, Administrative Cooperation Arrangements are signed to facilitate practical day-to-day cooperation.

## OLAF's cooperation with the Member States and enlargement countries, sharing information and expertise

The meetings organised at European level between OLAF and its partners from Member States and enlargement countries serve as a platform for sharing experience and best practices between the attending participants, thus providing a basis for future cooperation.

- ▶ Two meetings of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF), composed of representatives of the Member States' authorities, relevant to cooperation with OLAF, took place in May and October 2012 and served as an exchange of best practices.
- ▶ In June 2012 Croatia hosted the annual Anti-Fraud Co-ordination Service (AFCOS) meeting, with the participation of the Member States (EU12) and most of the enlargement countries (Albania, Croatia, FYRO Macedonia, Montenegro, Serbia and Turkey). The discussions focused on the challenges to be met in regard to cooperation between OLAF and national authorities, such as exchange of information, safeguarding of evidence and equal treatment of suspected fraud cases involving EU funds by prosecution and other judicial authorities.

### Case study: The need to improve the efficiency of transnational investigations

A national law enforcement service from a Member State informed OLAF that two companies had declared sales of large quantities of concentrated tomato to buyers located in two other Member States and, as a consequence, had already received EU funds under the Common Agricultural Policy. In order to assist in the national investigations, OLAF opened a coordination case involving law enforcement services from four different Member States.

During a previous investigation, OLAF had already established that one of the buyers was a fictitious company. This fact was confirmed by



the national authorities. It was concluded that the invoices had been used to cover fictitious sales. Meanwhile, in another Member State, the investigation carried out by the national authorities, at the request of OLAF, concluded that the processed tomatoes had been effectively sold and delivered at national level.

### Conclusions and further steps

- ▶ Following its investigation, OLAF recommended that the national paying agency recover €2 million unduly paid by the EU. Besides, OLAF transmitted its conclusions to the national law enforcement services. A judicial case is ongoing in the respective Member State, with more than 200 individuals and 30 companies under investigation.
- ▶ OLAF, as a European body, coordinated the actions of the national authorities, playing an important role in the transnational cases. However, cooperation has its limits, and improved protection of the EU's financial interests would require a dedicated structure. In this case study, a European Public Prosecutor's Office would have simplified transnational investigations, while speeding up the prosecutions.

### Administrative Cooperation Arrangements

In recent years, OLAF has intensified its efforts to establish closer links with its operational partners in Member States, third countries and International organisations through bilateral or multilateral Administrative Cooperation Arrangements (ACAs). The ACAs are aimed at achieving multi-faceted cooperation between OLAF and its operational partners to protect the financial interests of the European Union and of the recipient country or International organisation.

The ACAs do not contain legally binding commitments, apart from their contractual data protection clauses, but do provide a structured framework for practical cooperation.

Cooperation activities may include:

- ▶ exchange of information;
- ▶ operational assistance;
- ▶ joint investigations;
- ▶ technical assistance;

- ▶ access to information systems and databases;
- ▶ strategic analysis;
- ▶ training and staff exchange.

In 2012 ACAs were signed with:

- ▶ the Italian Guardia di Finanza;
- ▶ the Department of International Cooperation, United Kingdom;
- ▶ the Inspectorate of Government of the Republic of Uganda;
- ▶ the Export Promotion Bureau of the Ministry of Commerce of the People's Republic of Bangladesh.

### Policy initiative for the creation of a European Public Prosecutor's Office (EPPO)

The initiative for setting up a European Public Prosecutor's Office was announced by the President of the Commission, Mr Barroso, in his speech on the State of the Union in September 2012. Under the joint political guidance of Commissioner Šemeta and Vice-President Reding, OLAF and the Directorate-General for Justice are preparing a legislative proposal to set up such an Office. The European Commission will put forward this legislative proposal in 2013.

This initiative should address gaps and shortcomings in the investigations and prosecutions of fraud, which continue to be experienced by OLAF in its cooperation with national judicial authorities. OLAF's case experience has demonstrated that, in order to conduct successful criminal investigations in EU fraud cases and speed up prosecutions, a European prosecution authority is needed. This body would ensure better coherence, effectiveness and equivalence in the investigation and prosecution of fraud throughout the EU.

In this context, OLAF's experience is used as a basis to define the rules that would govern a European body competent for conducting criminal investigations, prosecuting the persons concerned and protecting more effectively the financial interests of the EU.

### Case study: International cooperation is essential to uncover and investigate fraud

The ACA signed between OLAF and the Bangladeshi Export Promotion Bureau (EPB) came as a consequence of their close cooperation while conducting investigations into fraud relating to the Generalised System of Preferences (GSP).

OLAF was informed of suspicions that two EU textile importers - situated in two different Member States were using fake GSP certificates from Bangladesh to enjoy duty-free access to the EU market.

OLAF, together with the Bangladeshi EPB, investigated the Bangladeshi exporters and found that more than 1 000 textile consignments were identified as originating from third countries but were claimed to be of Bangladeshi origin by use of fake GSP certificates of origin. Another 1 000 textile consignments, mostly jeans and trousers, were indeed exported from Bangladesh, but did not qualify for preferential treatment. In order to obtain wrongfully such status for these goods, dummy companies submitted fraudulent applications to the Bangladeshi authorities.

#### Conclusions and further steps

The financial impact of these two fraud cases is likely to be in excess of €10 million in own resources (customs duties/revenue side of EU budget). OLAF is in the process of issuing recommendations to the Member States involved in order to recover the custom duties.

## 4.3 Commission's Anti-Fraud Strategy

Following the adoption of the Commission's Anti-Fraud Strategy (CAFS), OLAF has contributed to the implementation of a series of initiatives and measures, as part of its mandate to support the European Commission in the development of comprehensive anti-fraud policies.

The CAFS aims at improving:

- ▶ the prevention and detection of fraud;
- ▶ the conditions for fraud investigations;
- ▶ the recovery and deterrence.

With OLAF's involvement and support, the Commission has made considerable headway in tackling the priorities identified in the strategy:

- ▶ OLAF fully supports the implementation of the anti-fraud provisions included in the legislative proposals for the new Multiannual Financial Framework (MFF). In some policy areas preparations have already started for the application of these provisions;
- ▶ OLAF has devised up a methodology to support the Commission's Directorates-General (DGs) in drawing up of anti-fraud strategies. Most DGs are currently working on or have already completed their anti-fraud strategies;
- ▶ the Commission has already tabled a proposal for public procurement rules and negotiations are taking place.

Also other actions linked to the strategy have been completed in 2012 or are in progress:

- ▶ OLAF launched the Commission Anti-Fraud website in July 2012. This website, accessible to Commission staff only, serves as a central source of anti-fraud information and experience of the Commission services, including OLAF;
- ▶ OLAF coordinated the publication and dissemination of a casebook for external actions with anti-fraud information, based on an analysis of fraud cases;
- ▶ OLAF organised regular meetings of the Fraud Prevention and Detection Network (FPDNet), set up within the Commission to allow exchange of best practices among Commission services;
- ▶ an ad hoc COCOLAF (Advisory Committee for the Coordination of Fraud Prevention) meeting focused on structural actions took place and will continue to be organised annually, to facilitate the exchange of best practices in anti-fraud measures among Member States;
- ▶ with OLAF's support, training on detection and reporting of fraud for auditors of the Commission has been developed and several training sessions took place.



## 4.4 Financial support

The **Hercule programme** offers funding dedicated to fighting fraud, corruption and any other illegal activities affecting the financial interests of the EU, including the fight against cigarette smuggling and counterfeiting. Hercule II<sup>(1)</sup> had in 2012 a budget of €14.3 million, covering all current EU countries and on certain conditions those that will join soon or are official Candidate Countries. Funding can be awarded to administrations (national or regional), research and education institutes or non-profit bodies.

In 2012, the Hercule programme provided grants to customs in Estonia and Lithuania in order to develop an Automated Number Plate Recognition System (ANPRS) for capturing information about cars and vehicles entering or leaving any of the three Baltic countries. The ANPRS is a system that consists of cameras, computers and dedicated software to identify the number plates of inbound and outbound vehicles at the main border crossing points of Estonia, Latvia and Lithuania. The purpose of the ANPRS is to gather information and intelligence on vehicles owned by persons or companies suspected of being involved in the smuggling and counterfeiting of cigarettes. The geographical location of the three Baltic Member States makes them vulnerable to smuggling of cigarettes and the introduction of the ANPRS has already led to some substantial seizures of smuggled cigarettes.

The ANPRS is a good example of “best practices” that have been facilitated by EU funding. Moreover, through their cooperation the Member States have endorsed a common approach to a number of practical problems during its development stage, which eventually could facilitate its extension to other Eastern border Member States and third countries.

Based on positive outcome from the previous years, a new proposal for Hercule III<sup>(2)</sup> was adopted by the Commission in December 2011 as part of the

<sup>(1)</sup> Decision No 878/2007/EC

<sup>(2)</sup> COM(2011) 914 final

Multiannual Financial Framework (MFF) package. This proposal provides for an overall budget of €110 million for a period of seven years as from 1 January 2014.

## 4.5 Protection of the euro

In 2012, OLAF, on behalf of the Commission, continued to protect the euro against counterfeiting through its activities in the following three domains:

- ▶ preparation of legislative initiatives;
- ▶ training and technical assistance;
- ▶ technical analysis of counterfeit euro coins.

### IMPORTANT FIGURES

A total of 531 000 counterfeit euro banknotes were withdrawn from circulation in 2012. Although there was a decrease of 12.4% compared with 2011, the European Central Bank (ECB) notes an increase of 11.6% in the second half of 2012, compared with previous months (source: ECB).

The number of counterfeit euro coins removed from circulation increased by 17% to 184 000 in 2012 (source: OLAF's European Technical Scientific Centre – OLAF/ETSC). This increase can be attributed to the efforts of the Member States in implementing the Regulation concerning the authentication of euro coins.

OLAF is managing, on behalf of the European Commission **the Pericles programme**, which is an exchange, assistance and training programme designed to strengthen the protection of euro banknotes and coins in Europe and worldwide. The amount allocated for the implementation of the programme in 2012 was €1 million, covering technical assistance, professional training, support for improving cooperation between competent authorities, as well as awareness-raising activities concerning counterfeiting of the euro. The new MFF also includes a new proposal for Pericles 2020<sup>(3)</sup> with a budget of €7.7 million for a period of seven years from 2014 until 2020.

In 2012, OLAF, together with the Directorate-General for Justice, finalised a proposal for a Directive of the

<sup>(3)</sup> COM(2011)913 final.

European Parliament and of the Council to enhance the protection of the euro and other currencies<sup>(14)</sup>. The key objectives of this proposal are:

- ▶ to increase deterrence by harmonising the levels of minimum and maximum sanctions for serious cases of production and distribution;
- ▶ to increase the efficiency of cross-border investigations by means of special tools that are used for detecting other organised crime offences;
- ▶ to improve the detection of counterfeits by obliging judicial authorities during judicial proceedings to transmit seized counterfeits to the competent authorities for analysis.

### Case study: OLAF contribution to the investigations - Three arrested in Italian Counterfeit Coin Raid

In 2012, a joint investigation carried out by the Italian Carabinieri and Guardia di Finanza with the on-the-spot support of OLAF led to the discovery of an illegal mint near Rome, Italy. Three criminals were arrested for producing fake €1 and €2 coins. The illicit mint produced a large amount of good quality counterfeit coins and had the potential to yield substantial profits.

Along with the coins, approximately €120 000 worth of equipment and materials were seized on site. Experts from the Italian Coins National Analysis Centre and the ETSC were called in to provide technical expertise in examining the coins as well as to oversee any possible links with similar cases across Europe.

After examination, OLAF/ETSC found that the case was technically linked to a mint which was discovered in Mons, Belgium, in April 2011.



<sup>(14)</sup> Proposal for a Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA, COM(2013) 42 final, 5.2.2013.

## 5. Data protection

Protection of personal data is the key to a successful investigation because it is a crucial element in safeguarding the rights of individuals concerned by investigations. Since OLAF was established as an independent body, a decision was taken that it should appoint its own Data Protection Officer (DPO), who would make every effort to ensure that the Office implements the requirements of Regulation 45/2001 on the protection of personal data<sup>(15)</sup>, including recommendations of the European Data Protection Supervisor (EDPS).

The decisions and recommendations of the EDPS have a significant impact on how OLAF carries out its investigative activities, such as on-the-spot checks or the forensic examination of digital media.

OLAF is committed to guaranteeing the implementation of data protection requirements by staff in their daily work. The new Instructions to Staff on Data Protection<sup>(16)</sup> (ISDP) were submitted for consultation to the EDPS in 2012, and following implementation of the EDPS recommendations, were adopted by the Director-General of OLAF in April 2013.

### Key figures about our activity in 2012:

Data subjects submitted a total of 13 requests for access to their personal data. OLAF granted access to all of them except one, about whom OLAF held no personal data.

A total of eight complaints were ongoing during 2012, of which two were newly filed in 2012.

This has to be put into perspective with the 891 investigations opened since 1 January 2009, involving more than 2 400 data subjects.

### Case study: Data protection during computer forensic examination

In 2012, the EDPS issued several important decisions on a series of complaints which had been lodged in 2011 and 2012 by several staff members of an EU institution. The complaints concerned the manner in which OLAF had conducted an investigation and an on-the-spot inspection, including a forensic examination of digital media, in the concerned institution. The specific allegation was that OLAF had gathered an excessive amount of personal data from a computer (documents and e-mails unrelated to the subject of the investigation and private documents) and the SIM card of a mobile phone containing two telephone numbers, one of which was private (telephone traffic data).

The EDPS concluded that OLAF's execution of the digital forensic examination complied with data protection requirements.

In this context it should be noted that:

- digital forensic examinations are used only where there is a concrete suspicion of breach of EU rules, corroborated by concrete initial evidence;
- digital forensic examinations are preceded by a documented assessment of necessity and proportionality in relation to the suspected offence;
- when the forensic file is analysed by OLAF, only relevant data is extracted by means of key word searches and other more complex techniques. The rest of the content is not subject to further processing by OLAF and does not go into the investigation file.

OLAF has a margin of discretion in conducting investigations, in particular in the field of complex technical operations, and the EDPS will only declare an infringement of data protection rules if OLAF has made a manifest error of assessment.

<sup>(15)</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

<sup>(16)</sup> [http://ec.europa.eu/anti\\_fraud/about-us/data-protection/guidelines/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/data-protection/guidelines/index_en.htm)

## 6. Supervisory Committee

The mandate of the Supervisory Committee<sup>(17)</sup> of OLAF is set out in Regulation (EC) No 1073/1999 and in Decision 352 establishing OLAF<sup>(18)</sup>. The Supervisory Committee is the guarantor of OLAF's independence and supervises its investigative function through regular monitoring in order to ensure the proper conduct of investigations. Its five members are outside experts, appointed by the common agreement of the European Parliament, the Council and the Commission, who take no instructions from any government, institution, body, office or agency.

In 2012, a new Supervisory Committee was established, composed of Christiaan Timmermans (Chairman January-October 2012), Johan Denolf (Chairman as of October 2012), Herbert Bösch, Catherine Pignon and Rita Schembri. In January 2013 the Supervisory Committee welcomed a new Member, Jens Madsen, who replaced Christiaan Timmermans while Tuomas Pöysti replaced Rita Schembri as from 27 March 2013.

The monitoring function of the Supervisory Committee is carried out according to its Rules of Procedure<sup>(19)</sup> and is based on examination of information on OLAF cases and other data available, as a result of which conclusions and recommendations may be communicated to the Director-General of OLAF and, where necessary, to the relevant Institutions.

In order to give a clear framework to the working relationship between OLAF and the Supervisory Committee, the Office and the Committee agreed in September 2012 on Joint Working Arrangements. They set out the procedure for the Committee to access information concerning OLAF's investigations.

The Supervisory Committee delivers opinions to the Director-General of OLAF at the request of the Director or on its own initiative concerning OLAF's activities without, however, interfering with the conduct of investigations in progress. In 2012 the Committee received information on all cases transmitted by OLAF to national judicial authorities and 188 OLAF reports on cases lasting more than nine months. The Committee examined the full case files for 38 investigative cases. Furthermore, it delivered two formal Opinions to the Director-General of OLAF. The first Opinion adopted on 26 June 2012 related to OLAF's Preliminary Draft Budget for 2013. The second Opinion adopted on 11 December 2012, was an analysis of a specific OLAF investigation. OLAF provided replies to these Opinions.

The activities of the Supervisory Committee are described in detail in its own annual report which covers the full year from its appointment at the end of January 2012 up to January 2013. This report, published on 22 April 2013, is available on the Supervisory Committee's website section<sup>(20)</sup> and was welcomed by the Director-General of OLAF<sup>(21)</sup>.

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<sup>(17)</sup> Supervisory Committee's dedicated section on OLAF's website: [http://ec.europa.eu/anti\\_fraud/about-us/supervisory-committee/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/supervisory-committee/index_en.htm)

<sup>(18)</sup> Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999, OJ L 136/20, 31.5.1999.

<sup>(19)</sup> Rules of Procedure (OJ L 308, 24.11.2011, p. 114).

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<sup>(20)</sup> Supervisory Committee's Activity Report: [http://ec.europa.eu/anti\\_fraud/about-us/reports/supervisory\\_reports/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/reports/supervisory_reports/index_en.htm)

<sup>(21)</sup> See OLAF's press release: [http://ec.europa.eu/anti\\_fraud/media-corner/press-releases/press-releases/2013/20130423\\_01\\_en.htm](http://ec.europa.eu/anti_fraud/media-corner/press-releases/press-releases/2013/20130423_01_en.htm)

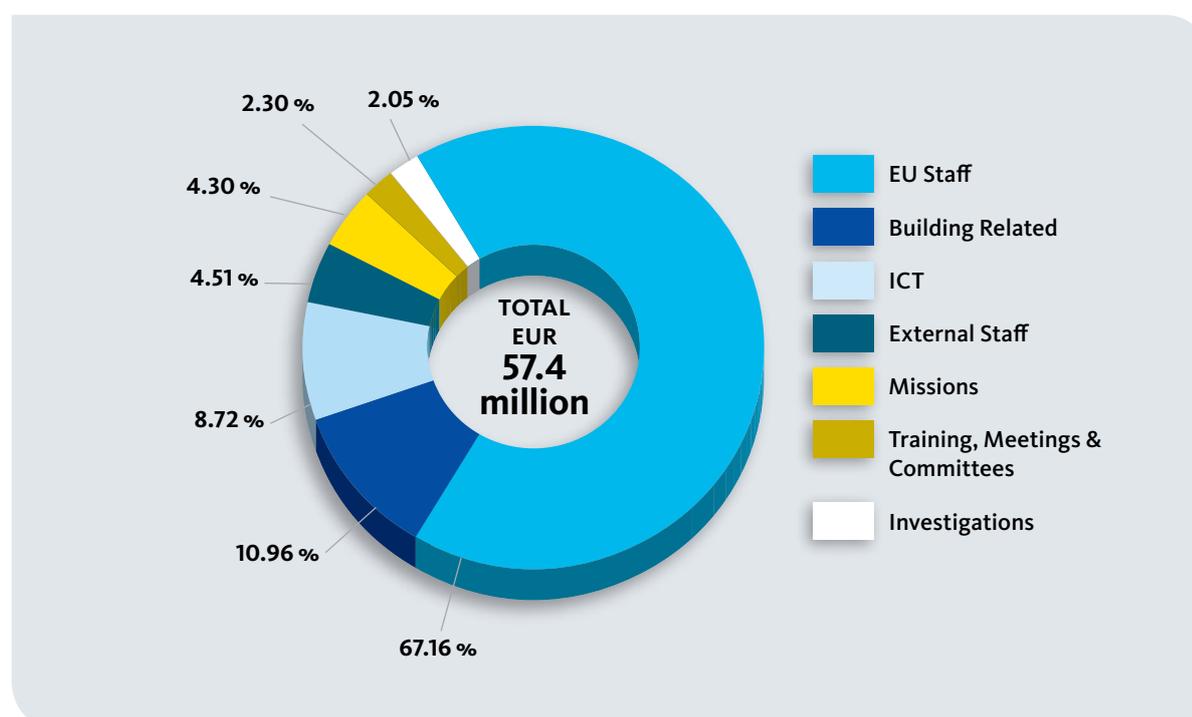


## 7. Resource management

### 7.1 OLAF's Budget

In 2012, OLAF's administrative budget was €57.4 million. This was allocated as follows:

**Chart 17:** OLAF's administrative budget in 2012



### 7.2 Human resources

The new organisational structure of OLAF, implemented in February 2012, focuses on two core tasks: investigation and anti-fraud policy. The intention is to improve efficiency and effectiveness, while making best use of existing human resources. The number of staff dedicated to the core tasks has been increased significantly by internal redistribution, so that more than two thirds of staff are now working either on fraud investigations or

on the support of investigations. This is against a background of reductions in the overall number of posts available to OLAF of 2 % in 2012, with further cuts foreseen in 2013.

In 2012, OLAF reinforced its senior management team through the appointment of three new Directors. The three newly appointed Directors are women.

OLAF pays close attention to improving gender balance at all levels in order to reinforce the organisational effectiveness of the Office.

**Table 9:** Overview of OLAF personnel on 31 December 2012

	Permanent and Temporary posts	External Personnel	Total
Fight against fraud	303	42	345
Administrative support	30	5	35
OLAF Policy strategy and coordination	49	6	55
<b>Total</b>	<b>382</b>	<b>53</b>	<b>435</b>

## 7.3 Training

In the framework of OLAF's reorganisation and given the introduction of new investigative procedures, the main focus of the in-house training in 2012 concerned the changes and the implementation of these new procedures. All OLAF's staff participated in this training. With the internal redistribution of staff due to the reorganisation, more specific training courses were also given to those joining investigative units.

The reorganisation also reinforced the role of the training Unit by clarifying its main focus on investigative training in order to maintain and improve further the high standards of OLAF in the investigative fields (including the forensic area).

In order to share widely throughout the Office the expertise and know-how acquired by OLAF's experts

and investigators, training sessions for investigative staff were sometimes given directly by OLAF's own experts or investigators, for example relating to on-the-spot check or the use of IT tools.

Equally, in order to deepen their knowledge, OLAF staff were also given training by other Commission services (Directorate-General for Agriculture and Rural Development) or specialised Institutions or bodies (the European Investment Bank).

OLAF is also contacted regularly by other Commission services, institutions or bodies to give trainings on specific topics relating directly to its competences, expertise or methods of work. In the framework of the Commission's Anti-Fraud Strategy, OLAF supports the Commission services in their efforts to raise awareness about fraud issues and develop appropriate anti-fraud training.



## 8. Outlook: 2013 and beyond

2012 was a year in which OLAF's new investigative procedures and organisation were implemented. These changes will continue to have a considerable impact on the work of the Office in the coming years.

The reform of Regulation (EC) No 1073/1999, which has been the subject of negotiation for several years, is much needed by the Office in order to provide a clear and stable legal framework for its activities<sup>(22)</sup>. Once adopted it will reinforce the governance of OLAF, safeguard fundamental rights of the persons concerned in OLAF's investigations and strengthen its cooperation with the Member States.

As for OLAF's contribution to anti-fraud policies, major challenges await the Office and the European Commission in 2013:

- ▶ In the fight against illicit trade of tobacco products, following the development of the Eastern Border Action Plan (2011-2012), the Commission will come forward with a broader initiative encompassing the whole EU. OLAF is preparing, on behalf of the Commission, this overall EU Strategy against illicit tobacco trade, to be adopted mid-2013.
- ▶ It will integrate the achievements and ongoing initiatives under the Eastern Border Action Plan and will propose new actions based on an analysis of the seizures reported by the Member States. On an international scale, the signature and conclusion of the FCTC Protocol is one of the key objectives for the EU.
- ▶ The negotiations for the new Hercule and Pericles programmes under the new MFF are ongoing and should be finalised by the end of 2013.
- ▶ OLAF, in cooperation with the Directorate-General for Justice, is working on a proposal for a regulation on setting up a European Public Prosecutor's Office (EPPO), to be presented in 2013. Article 86 of the Treaty on the Functioning of the European Union<sup>(23)</sup> allows for the possibility of establishing the EPPO, which would be responsible for investigating, prosecuting and bringing to justice those who damage assets managed by or on behalf of the EU.

<sup>(22)</sup> See Position (EU) No. 2/2013 at first reading with a view to the adoption of a Regulation of the European Parliament and the Council concerning investigations conducted by OLAF, adopted on 25 February 2013, OJ C 89E/ 27.03.2013.

<sup>(23)</sup> Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community [2007] OJ C306/01.



European Commission

**The OLAF report 2012**  
**Thirteenth report of the European Anti-fraud Office**  
1 January to 31 December 2012

Luxembourg: Publications Office of the European Union

2013 — 36 pp. — 21 × 29.7 cm

ISSN 1977-4834

ISBN 978-92-79-27894-5

doi:10.2784/71720



Publications Office

ISBN 978-92-79-27894-5



9 789279 278945

doi:10.2784/71720