

# SPEECH FOR OLAF DIRECTOR-GENERAL

## COLAF Plenary

Rome, 13 March 2019

### 1. INTRODUCTION ON OLAF

- Ladies and Gentlemen, I am very pleased to be here today and participate in this meeting with all of you.
- I will start by sharing with you some thoughts on OLAF, the Office that I have been leading for seven months now.
- First of all, I would like to recall that OLAF mission is **to detect, investigate and stop fraud and irregularities** affecting the financial interests of the European Union. OLAF performs this mission not only by **investigating** fraud against the EU budget, corruption and serious misconduct within the European institutions, but also by **developing anti-fraud policy** for the European Commission.
- OLAF has a **hybrid status**: on the one hand, it is a Directorate-General of the European Commission, currently under the responsibility of Günther Oettinger, Commissioner for Budget and Human Resources. On the other hand, **in its investigative functions, OLAF acts in full independence.**

- In recent years, OLAF has focused on tackling **complex cases**, where its unique investigative capacity has brought real added value in uncovering fraud and delivering tangible results to EU taxpayers.
- However, OLAF conducts **administrative investigations, and gives recommendations to EU institutions and to national prosecutors**: it has **no judicial powers to prosecute** or oblige national law enforcement authorities to follow-up on its **recommendations**. This is why OLAF very much relies on cooperation with its partners, both at the EU and the national level.

## **2 . OLAF RELATIONS WITH EU INSTITUTIONS**

- OLAF works closely with the **European Parliament**, regularly reporting on its activities - mainly through its annual Report and upon ad-hoc request of Members of the Parliament. Of course, this is done in full respect of the confidentiality of its investigations and of data protection legislation.
- As a Commission service, OLAF also closely works with the **Council** in drafting anti-fraud legislation. In this context, it provides the relevant **Council's Working Party on Combating**

**Fraud** with regular information on its activities and results. But I will come back to this later.

### **3. OLAF COOPERATION WITH THE MEMBER STATES**

- As **EU finances are mostly managed by the Member States**, the protection of the EU budget is a responsibility that the Commission shares with the Member States.
- OLAF cooperates closely with its national counterparts at all levels - administrations managing EU finances, tax and customs authorities, police, financial police, judicial bodies, etc. Indeed, **its efficiency greatly depends on cooperation with relevant authorities in the Member States**.
- And of course, when we speak about relevant authorities in the Member States, the AFCOS, the Anti-Fraud Coordination Services, are our natural partners in the Member States and our privileged allies in the fight against fraud.
- For OLAF, the fact that the **Italian AFCOS** can benefit from the presence of **Guardia di Finanza officers** among its staff represents a significant advantage from the operational point of view.
- I am glad that the cooperation with the Italian AFCOS is very good not only at operational level. OLAF is proudly endorsing

the objectives of the **Cooperation Project 2**, a good initiative of the Italian AFCOS, laying down the foundation for an enhanced and innovative investigative approach. Such an approach, based on raising awareness in the anti-fraud sector, encourages a prompt and smooth exchange of information at multiple levels.

- OLAF deems extremely important the handling of the **Irregularities Management System database**, also managed by the Italian AFCOS. This system is a crucial tool in the anti-fraud policy at the EU level, used for analysis and reporting purposes, for audit planning and preparation, or for ultimately deciding whether to sign off the accounts for operational programmes.

#### **4. The revision of Regulation No 883/2013 (the OLAF Regulation)**

- But let's turn to the future now, and speak about the revision of the OLAF Regulation, which is decisive for OLAF's role in the coming years. I will give you a **general overview** of the state-of-play of the negotiations, and focus on some aspects of the revision that are most relevant for **Italy**, including the cooperation with Member States and with the AFCOS.

#### **[State of play]**

- In the **Council** Working Party on Combating Fraud, the Romanian Presidency has announced its intention to obtain a mandate to

begin negotiations with the European Parliament before the end of its Presidency in June. **Italy has been an active and constructive participant in the Working Party discussions.** Thank you for this and I would like to encourage my Italian colleagues to continue contributing to our work in this spirit.

- In the **European Parliament**, a vote in plenary is scheduled for 15 April, just before the end of the current term of the Parliament. Considering these developments, negotiations between the co-legislators will start in the autumn, after the parliamentary break. These negotiations are likely to be very complex, as there are significant differences between the positions of the Council and the Parliament. However, the Commission still pursues its objective to finalise the reform by 2020, when the European Public Prosecutor's Office, in short - the EPPO, will become operational.

### **[On the future relationship with the EPPO]**

- One of the primary objectives of the proposal to amend the OLAF Regulation is to set up the framework for the future cooperation between OLAF and the EPPO.
- A better protection of the financial interests of the Union will depend on strong **complementarity** between OLAF and the EPPO. Therefore, the Commission proposal includes provisions to allow **OLAF to complement the EPPO's criminal**

**investigations** through its administrative activity, aimed especially at ensuring financial recovery. This is crucial to ensure that all available instruments at Union level, both criminal and administrative, are used to protect the Union budget.

- In addition to its future support and complementarity to the EPPO's work, OLAF will **continue its mandate in areas where the EPPO does not act**. This concerns for example non-fraudulent irregularities, which represent the vast majority of reported irregularities, or investigations in the Member States that do not participate in the EPPO.
- OLAF's legal framework should therefore remain fit for purpose. To that end, we also need a number of **targeted changes to render OLAF's investigative activities even more effective**, especially in the way OLAF operates in the Member States. I refer here to the amendments proposed by the Commission concerning the conduct of on-the-spot checks and inspections, OLAF's main investigative tools.

**[On the amendments concerning the conduct of on-the-spot-checks and inspections]**

- The changes that we propose are meant to establish a common ground for OLAF's actions in all Member States. In short, the proposal clarifies that (1) the conduct of on-the-spot checks is

subject to **Union law alone** where economic operators **submit** to a check by OLAF, and (2) **national law** will apply when the assistance of national authorities is necessary, for example in case of **resistance** by economic operators.

- In the Council Working Party, **Italy** has been hesitant with regard to these changes, as the applicable law would be different in the two situations. However, checks and inspections by OLAF are already subject to different rules than checks by national administrative authorities, given the application of Union regulations on OLAF investigations and on-the-spot checks. Today, the reference in our legislation both to the Union law and to the national law is an important source of uncertainty for OLAF, national authorities and persons concerned. This is due to the lack of clarity about the situations where one or the other applies. And this leads to a fragmented framework across Member States. In some cases, it can even prevent OLAF from performing a check. This needs to be remedied through a coherent set of rules for OLAF across Member States, when it acts on its own. In this regard, the Commission proposal translates a recent judgment of the General Court into law.
- Similarly, it is currently sometimes questioned whether OLAF can conduct on-the-spot checks in investigations concerning value added tax (**VAT**). The proposal seeks to eliminate this ambiguity, and I am grateful for Italy's constructive support on that issue.

**[On cooperation with Member States, including access to bank account information and the relationship with the AFCOS]**

- We also want to be clearer about the degree of assistance that Member States should provide to OLAF. I refer here in especially to the amendment concerning the support that OLAF needs to **obtain bank account information**. Access to banking data is essential to trace the money flow in various types of fraud, and even more so in the context of new trends built on complex and sophisticated money fraud schemes.
- The proposal puts in place a system of access to bank account information through the competent national authorities. Several other options were discussed during the negotiations. But let me be clear: what is important for OLAF is **not the modality** of access, but the fact that **OLAF gets access** to information, on which the outcome of an investigation may depend. Italy has always been supportive of the principle that OLAF should have access to bank account information.
- Last but not least, the proposal further specifies the **role of the AFCOS**. The proposal continues to leave it up to the Member States to decide how the AFCOS will fulfil their obligations. However, it requires the AFCOS to be able to either provide themselves, or to obtain, or to coordinate the necessary assistance to OLAF. **Italy** has been supportive of strengthening the role of

AFCOS and I am very grateful for this support.

### **Concluding remarks**

- I am convinced that **current policy developments**, combined with **your valuable support and our continued dialogue and cooperation with the Member States** will help step-up the protection of citizens' money both at national and at EU level.
- Thank you.