

25 Years of OLAF: Looking Back and Ahead



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Article

ABSTRACT

The article examines the evolution of the European Anti-Fraud Office (OLAF) over the past 25 years from its establishment in 1999 to its current role as a pivotal player in the fight against fraud affecting the EU's financial interests. It starts by tracing OLAF's origins to its predecessor, the Unit for the Coordination of Fraud Prevention (UCLAF), and the circumstances surrounding OLAF's creation as a response to major corruption scandals. The article goes on to analyse the legal framework underpinning OLAF's mandate, in particular Regulation (EU, Euratom) No. 883/2013 and Directive 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law, which expanded OLAF's scope and facilitated its cooperation with the European Public Prosecutor's Office (EPPO). Furthermore, OLAF's evolving relationship with the EPPO is explored and significant case law that has shaped OLAF's investigative powers and procedural safeguards highlighted. The article concludes by reflecting on OLAF's achievements and the challenges it faces in combating fraud in an increasingly complex and multifaceted international financial landscape.

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I. The Creation of OLAF: Historical Context and Predecessor UCLAF

The **Office Européen de Lutte Anti-Fraude** (European Anti-Fraud Office – OLAF) celebrates its 25th anniversary as a crucial actor in protecting the financial interests of the European Union (EU). OLAF's origins date back to its predecessor, the **Unité de Coordination de la Lutte Anti-Fraude** (the Task Force "Anti-Fraud Coordination Unit" – UCLAF), created in 1987 by the Commission within its Secretariat General. UCLAF laid the groundwork for what was to become a more robust and autonomous body. Established in 1999, OLAF's very formation marked a watershed moment in the EU's battle against fraud, corruption, and irregularities that threaten its financial system. As an independent body with investigative powers, OLAF's mandate covers investigations of administrative nature against fraud and irregularities that concern EU-related revenues and expenditures. This includes the general budget of the EU, budgets administered by the Union or on its behalf, and certain funds not covered by the budget but administered by the Union's agencies for the agencies' account. OLAF also extends its powers to all measures affecting or liable to affect the Union's assets. Lastly, OLAF is mandated to detect and investigate cases of serious misconduct of permanent employees (officials), other servants of the Union, and members of EU institutions¹ as well.

OLAF replaced and succeeded UCLAF. Although UCLAF was instrumental in introducing fraud prevention mechanisms, its scope was limited in several ways due to its lack of operational independence and narrower investigative powers. The widespread allegations of fraud, mismanagement, and nepotism that surrounded the Santer Commission and led to its collective resignation in 1999 further highlighted the need for an independent body that could investigate both internal and external fraud affecting the EU's budget. In response to these crises and scandals, OLAF was established by European Commission Decision 1999/352 on 28 April 1999.²

OLAF has had a hybrid status since its establishment: while it is formally part of the Commission, enabling it to exercise Commission powers, it is endowed with budgetary and administrative autonomy, designed to make it operationally independent.

Specifically, Commission Decision 1999/352 delegated to OLAF the Commission's powers to execute all operational activities relating to safeguarding Community interests against irregular conduct liable to result in administrative or criminal proceedings. This decision further granted OLAF a significant level of independence from the Commission. It empowers OLAF to conduct internal (EU institutions, bodies, offices, and agencies) and external (economic operators in the Member States) administrative investigations to detect fraud, corruption, and other illegal activities against the Union's financial interests, and to carry out investigative assignments in other areas at the request of EU institutions.

OLAF's investigations result in recommendations (judicial, financial, and administrative) to competent authorities. With these recommendations, OLAF asks the competent authorities to take action in order to redress the problems uncovered by its investigations. OLAF's recommendations always intend to protect the EU budget and to uphold the rule of law.

In addition, in line with its mandate, OLAF is the leading stakeholder when it comes to strengthening cooperation efforts with the Member States in the field of fraud prevention, preparing legislative initiatives designed to advance the fight against fraud, maintaining direct contact with national law enforcement and judicial authorities, and representing the Commission in fraud prevention matters in general.

II. OLAF's Legal Framework

OLAF's mandate is governed by **Regulation (EU, Euratom) No. 883/2013**³ concerning investigations conducted by OLAF, which details investigative procedures and guarantees its independence.

The Commission has delegated to OLAF all of its powers of investigation for the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union, as well as serious matters relating to the discharge of professional duties by Union officials. The Office exercises in complete independence the powers of investigation conferred on the Commission by Union legislation and conducts administrative investigations within the institutions and bodies, in conformity with 883/2013 as well as through Regulations 2988/1995⁴ and 2185/1996⁵, which complement OLAF's Regulation by establishing general principles for administrative penalties and financial corrections, and outlining provisions for on-the-spot checks and inspections respectively.

Regulation 883/2013 emphasises OLAF's pivotal role in **administrative investigations**, while the European Public Prosecutor Office (EPPO) and national authorities are tasked with pursuing criminal conduct.

Under this Regulation, OLAF has the power to:

- Conduct internal administrative investigations within EU institutions, bodies, agencies, and offices to detect serious irregularities and misconduct by officials or their members;
- Conduct external administrative investigations in Member States and third countries in collaboration with national authorities, focusing on the misuse of EU funds;
- Perform on-site inspections and access documentation that may be relevant to investigations;
- Recommend action, including financial, disciplinary, and judicial measures, following the conclusion of an investigation.

OLAF's independence is further enshrined in its ability to open investigations autonomously without requiring approval from the Commission or any other institution. However, OLAF's investigative role is administrative in nature, meaning it can only recommend judicial action, with the decision to prosecute resting with the European Public Prosecutor Office (EPPO) and national authorities.

III. OLAF's Director-Generals and Their Role

According to OLAF's regulatory framework, the Office is headed by a Director-General. The OLAF Regulation particularly stresses the Director-General's independence (he or she shall neither seek nor take instructions from any government or any institution, body, office, or agency in the performance of his or her duties with regard to the opening and carrying-out of external and internal investigations or to the drafting of reports following such investigations).⁶ Since its establishment, OLAF has been led by three Director-Generals, each of which played a critical role in shaping the office's operational efficiency and independence: *Franz-Hermann Brüner* was OLAF's first Director-General, serving from 2000 until his death in 2010. Brüner built the foundational framework for OLAF's investigative independence, helping the Office to gain credibility and establishing key procedural safeguards. A major internal reorganisation of OLAF that took place in 2006 during his mandate aimed to place more emphasis on OLAF's operational work, improve internal communication, and strengthen its management. *Giovanni Kessler*, OLAF's second Director-General who took office in 2011, further solidified OLAF's role by intensifying its investigative activities and strengthening its cooperation with national authorities and EU institutions. Under his leadership, OLAF also pushed for more

transparency and accountability in its internal procedures,⁷ paving the way for closer alignment with the EPPO. Ville Itälä, who has been Director-General since 2018, has overseen OLAF's evolving role within the EU's broader anti-fraud landscape, focusing on modernising OLAF's investigative tools and reinforcing its collaboration with the EPPO and the European Delegated Prosecutors. The status of these Director-Generals is crucial, as OLAF must remain independent from political influence in order to ensure impartial investigations, a necessity highlighted in OLAF Regulation 883/2013 and in related case law concerning the protection of procedural fairness and fundamental rights.

IV. Supervision of OLAF

The Supervisory Committee of OLAF and the Controller of Procedural Guarantees are crucial mechanisms that ensure oversight and accountability in OLAF's investigative processes, balancing its robust powers with respect for individual rights. This has been confirmed by the case law, which reinforced the relevance of both the Supervisory Committee and the Controller of Procedural Guarantees in ensuring that OLAF operates within the bounds of EU law, respecting fundamental rights while carrying out its anti-fraud mandate. The Supervisory Committee, composed of independent experts, monitors OLAF's investigative activities, ensuring compliance with procedural standards and safeguarding OLAF's independence (Art. 15 of Regulation 883/2013.). Additionally, the Controller of Procedural Guarantees, a function that was introduced in the OLAF Regulation under its latest amendment by Regulation 2020/2223, plays a key role in protecting the rights of individuals involved in OLAF's investigations, such as ensuring access to defence services and the right to be heard (Art. 9a of Regulation 883/2013).

V. The PIF Directive

Since OLAF was established, the EU has made significant progress in adopting legislative texts pertaining to criminal law aimed at protecting its budget.

Specifically, Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law (**the PIF Directive**)⁸, which replaced the former Convention-based PIF framework,⁹ significantly reinforced the EU's ability to address fraud and corruption by defining and harmonising criminal offences that directly affect the EU's budget, such as fraud, corruption, money laundering, and misappropriation.

One of the most important developments introduced by the PIF Directive is the criminalisation of VAT fraud affecting the Union's financial interests when the damages exceed €10 million. This advancement was crucial as it expanded the scope of offences that OLAF is entitled to investigate in coordination with national authorities, enabling more robust protection of EU resources.

The PIF Directive also laid the groundwork for the establishment of the EPPO, which investigates and prosecutes the crimes defined in the Directive, thus representing a further step in the integration of anti-fraud efforts at the EU level.

VI. OLAF and the European Public Prosecutor's Office

As mentioned in Sections I and II, OLAF investigates EU-wide fraud schemes, but lacks prosecutorial powers. However, the European Public Prosecutor's Office (EPPO) has now closed this gap. The body was specifically created to investigate and prosecute criminal activities that harm the EU's financial interests, effectively complementing OLAF's administrative mandate with criminal investigative powers. Intense preparations by OLAF preceded the creation of the EPPO, and both Offices work in close partnership to increase the level of

protection of EU citizens and of their money. The establishment of the EPPO in 2017 and its operational start in June 2021 have transformed the landscape of EU anti-fraud architecture, in which Eurojust and Europol are also key partners.

While OLAF and the EPPO operate in tandem, their roles are distinct. As mentioned in Section II, OLAF focuses on administrative investigations; when it uncovers evidence of criminal activity, it refers the case to the EPPO for criminal prosecution. The cooperation is governed by Regulation (EU) 2020/2223, amending the OLAF Regulation 883/2013 and the administrative arrangements between OLAF and the EPPO, which establish clear guidelines for cooperation – ensuring that OLAF's investigations feed into EPPO's criminal prosecutions efficiently. OLAF's experience in conducting investigations and gathering evidence provides further invaluable support to the EPPO's prosecutorial function. For instance, OLAF's investigations often result in substantial findings that the EPPO can leverage in criminal courts across the EU. It is important to note that OLAF investigates its cases in relation to EPPO Member States in a way to avoid any duplication with EPPO investigations. OLAF strives for maximum complementarity with the EPPO and focuses on financial recovery and preventive administrative measures. For the efficiency of the fight against fraud, it is promising to see that OLAF and the EPPO have developed good working practices that have led to positive results, and continue to deepen their cooperation and trust.

Nevertheless, OLAF continues to play a key role in conducting investigations where the EPPO does not have jurisdiction, bridging any gaps in the protection of the EU's financial interests – for example, in Member States not participating in the EPPO scheme or in relation to fraud in third countries and in international organisations. Furthermore, OLAF is still responsible for non-PIF related offences (e.g. cases of harassment) by staff or members of EU institutions, bodies, agencies, and offices which do not fall within the EPPO's competence. OLAF also continues to investigate non-fraudulent irregularities, which can cause significant financial damage to the EU, and is determined to step up its efforts in discovering fake and unsafe goods, unhealthy food stuffs, and environmentally dangerous goods – areas that are not covered by the scope of the EPPO as well.

VII. OLAF's Achievements

In this quarter of a century, OLAF has carried out and closed a total of over 6,000 investigations and recommended around €16 billion for recovery to the EU budget.¹⁰

In the last 13 years alone, OLAF has completed over 2,800 investigations, and recommended the recovery of over €9.4 billion to the EU budget. It issued over 3,700 recommendations for judicial, financial, disciplinary, and administrative action to be taken up by the competent authorities of the Member States and the EU. As a result of its work, sums unduly spent were gradually returned to the EU budget, criminals faced prosecution before national courts, and better anti-fraud safeguards were put in place throughout the Union. As highlighted in its recent annual report, in 2023 alone, OLAF concluded 265 investigations, issuing 309 recommendations to the relevant national and EU authorities, opened 190 new investigations and recommended the recovery of €1.04 billion to the EU budget.¹¹ These figures underscore OLAF's effectiveness in identifying and addressing fraudulent activities that threaten the financial integrity of the European Union.

On top of that, OLAF has been investigating cases of misconduct by EU staff or members, detecting smuggling networks, tracking down counterfeit products, and developing policies that prevent fraud from happening in the first place.¹²

VIII. Significant Case Law Shaping OLAF's Role

Over the past 25 years, several landmark cases heard by the Court of Justice of the European Union (CJEU) have confirmed, defined, and emphasised the scope and limits of OLAF's investigative powers and its relationship with national authorities and EU institutions. The very first judgment of the CJEU that highlighted the fact that "Member States are required to take action against infringements of Community law in conditions analogous with those applicable to infringements of national law and to confer on the sanction an effective, proportionate and dissuasive character" concerned the landmark *Greek Maize* case (Case 68/88).¹³

The following section outlines some of the most significant judgments that have shaped OLAF's role:

- Case T-193/04, *Hans-Martin Tillack v Commission* (2006):¹⁴ This case addressed OLAF's handling of information leaks to the press and involved an OLAF investigation into alleged corruption. The European Court of First Instance ruled that OLAF was justified in providing national authorities with information leading to a journalist's home and office being searched. However, the judgment emphasised the need for OLAF to adhere to procedural guarantees and the fundamental rights of individuals during investigations, including safeguarding journalists' sources. This ruling helped reinforce the protection of procedural guarantees and the fundamental rights of individuals during investigations.
- Case T-48/05, *Franchet and Byk v Commission* (2008):¹⁵ This case concerned OLAF's investigation into alleged financial irregularities within Eurostat. The applicants, former Eurostat officials, argued that OLAF officials had violated their rights by leaking confidential information. The General Court found that OLAF had failed to properly manage the confidentiality of its investigations, emphasising the importance of ensuring the rights of defense and data protection throughout its processes.
- Case C-11/00, *Commission v European Central Bank* (2003):¹⁶ In this case, the European Central Bank (ECB) challenged OLAF's jurisdiction over its internal matters. The Court of Justice ruled that OLAF did not have the authority to conduct internal investigations within the ECB, as the ECB is distinct from the other EU institutions. This ruling helped clarify the scope of OLAF's mandate in relation to certain independent EU bodies.
- Case C-15/00, *Commission v European Investment Bank* (2003):¹⁷ Similar to the ECB case, this ruling concerned OLAF's ability to conduct investigations within the European Investment Bank (EIB). The Court of Justice held that OLAF's mandate covered the EIB, ensuring that its financial dealings would be subject to scrutiny under OLAF's investigative powers, and reinforcing the principle that EU funds must be protected across all EU bodies.
- The *Vialto* cases,¹⁸ the actions for annulment brought by Poland and Hungary against the regime of conditionality for the protection of the EU budget,¹⁹ and the *Sigma Orionis* case²⁰ underscore OLAF's critical role in investigating and combating fraud affecting the financial interests of the European Union. In the *Vialto* cases, OLAF's efforts focused on ensuring compliance with EU regulations and preventing misuse of EU funds, particularly in cross-border projects. The cases against the regime of conditionality attacked by Poland and Hungary further emphasised the need for transparency in the allocation of funds, especially in the context of cohesion policy, where OLAF has frequently intervened to mitigate irregularities. Finally, the *Sigma Orionis* case, involving fraudulent mismanagement of research and innovation funds, illustrates OLAF's vigilance in the Horizon 2020 programme framework, and highlighted the importance of accountability in EU-funded research initiatives. These cases collectively reflect OLAF's strategic mandate to investigate and protect EU funds, uphold financial integrity, and ensure that EU taxpayers' money is spent correctly and efficiently.

IX. Outlook

OLAF's 25-year history has been marked by significant achievements in protecting the EU budget against fraud, corruption, and other illegal activities, both on the revenue and on the expenditure side of the budget. From its beginnings as a Commission task force service (UCLAF) to its current role as an independent investigative body, OLAF has played a pivotal role in safeguarding the EU budget as an integral part of the toolbox of an EU-wide rule of law mechanism that the Commission is implementing. OLAF continues to contribute to the sound financial management of the EU budget as well as the safety and security of Europeans, and to upholding the reputation of the EU institutions and bodies. Through its regulatory framework, notably Regulation 883/2013 (the OLAF Regulation) and Directive 2017/1371 (the PIF Directive), OLAF has been equipped with the tools needed to carry out its mission. At the same time, case law surrounding OLAF's work demonstrates that its actions must balance investigative efficiency with the protection of fundamental rights, ensuring that justice is served while respecting procedural safeguards. Moreover, its cooperation with the EPPO marks a new chapter in the Union's anti-fraud efforts, strengthening the EU's ability to prosecute criminal offences that threaten its financial system.

As OLAF moves into its next phase, it must continue to adapt to the evolving nature of financial fraud, particularly in an increasingly digitised and globalised world.

OLAF's complementarity to the EPPO should be reinforced in the future. Effective and efficient cooperation with the EPPO to protect the EU budget and to ensure the swift recovery of EU funds is needed. Information exchange between the various investigative (OLAF and EPPO) and law enforcement bodies (for example Eurojust, Europol, and the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA)) at the EU level, whose mandates cover the EU's financial interests, is the key to success.

Furthermore, the political priorities of the 2024–2029 Commission²¹ include the reinforcement of OLAF's mandate by supporting the enforcement of EU law across Member State borders. The Commission is continuously closing enforcement gaps in various EU policy fields, in particular in illegal shipment of waste²², entry and circulation of illicit (chemical) products, food fraud, fight against counterfeiting and piracy and circumvention of EU sanctions by entrusting OLAF with investigative powers to carry out inspections and coordinating actions.

In conclusion, OLAF remains a cornerstone of the EU's broader legal and institutional framework. It ensures that the Union's financial interests are protected and that fraudsters face appropriate consequences. OLAF's mission was, is, and continues to be the support of a competitive and fair Europe that protects its citizens and their money.

1. Which also include the members of the European Parliament.²³

2. For an analytical diagram containing all the major milestones of OLAF, see: OLAF, "History" <https://anti-fraud.ec.europa.eu/about-us/history_en>, accessed 2 December 2024.²⁴

3. Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No. 1074/1999, OJ L 248, 18.9.2013, 1. This Regulation replaced EP/Council Regulation (EC) 1073/1999 and Council Regulation (Euratom) 1074/1999.²⁵

4. Council Regulation (EC, Euratom) No. 2988/95 of 18 December 1995 on the protection of the European Communities financial interests, OJ L 312, 23.12.1995, 1.²⁶

5. Council Regulation (Euratom, EC) No. 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, OJ L 292, 15.11.1996, 2.²⁷

6. Cf. Art. 17 Regulation 883/2013, *op. cit.* (n. 3), in particular its para. 3.²⁸

7. For example, in 2013, the Guidelines on Investigation Procedures (GIP) were issued. This is a set of internal rules that staff have to apply in order to ensure that OLAF investigations are carried out in a consistent and coherent way.²⁹

8. OJ L 198, 28.7.2017, 29. On the Directive, cf. A. Juszczak and E. Sason, "The Directive on the Fight against Fraud to the Union's Financial Interests by means of Criminal Law (PFI Directive)", (2017) *eucrim*, 80-87; W. Van Ballegooij, "Protecting the EU's Financial Interests through Criminal Law: the Implementation of the 'PFI Directive", (2021) *eucrim*, 177-181. ↵
9. The PIF Directive drew upon the following legal instruments adopted on the basis of Title VI of the Treaty on European Union, signed at Maastricht on 7 February 1992 (provisions on cooperation in the fields of justice and home affairs):
 - The Convention on the Protection of the European Communities' Financial Interests, OJ C 316, 27.11.1995, 49;
 - The First Protocol to the Convention on the Protection of the European Communities' Financial Interests, OJ C 313, 23.10.1996, 2;
 - The Second Protocol to the Convention on the protection of the European Communities' Financial Interests, OJ C 221, 19.7.1997, 12;
 - The Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, OJ C 195, 25.6.1997, 1. ↵
10. See V. Itälä, Guest Editorial, *eucrim* 4/2024, in this issue. ↵
11. OLAF, "OLAF in figures" <https://anti-fraud.ec.europa.eu/investigations/olaf-figures_en>, accessed 2 December 2024. See also T. Wahl, "The OLAF Report 2023", *eucrim* 2/2024, 100. ↵
12. See also the regular reports on OLAF's operational work and cooperation with partners in the *eucrim* news section "Institutions > OLAF". ↵
13. ECJ, 21 September 1989, Case C-68/88, *Commission of the European Communities v Hellenic Republic*, ECLI:EU:C:1989:339. ↵
14. CFI, 4 October 2006, Case T-193/04, *Hans-Martin Tillack v Commission of the European Communities*, ECLI:EU:T:2006:292. ↵
15. CFI, 8 July 2008, Case T-48/05, *Yves Franchet and Daniel Byk v European Commission*, ECLI:EU:T:2008:257. ↵
16. ECJ, 10 July 2003, Case C-11/00, *Commission of the European Communities v European Central Bank*, ECLI:EU:C:2002:556. ↵
17. ECJ, 10 July 2003, Case C-15/00, *Commission of the European Communities v European Investment Bank*, ECLI:EU:C:2003:396. ↵
18. *Vialto* consisted of several cases before the General Court (GC) and appeals before the Court of Justice (ECJ). *Vialto Consulting* – a company incorporated under Hungarian law, which provides advisory services to undertakings and entities belonging to the private and public sectors – defended itself against OLAF investigations opened against the company on account of acts of corruption and fraud committed in connection with a project in Turkey financed by the Instrument for Pre-Accession Assistance (IPA). In detail, the CJEU rulings were as follows: ECJ, 30 May 2024, Case C-130/23 P (ECLI:EU:C:2024:439) – the case before the GC was T-537/18 (judgment of 21 December 2022, ECLI:EU:T:2022:852); ECJ, 28 October 2021, Case C-650/19 P (ECLI:EU:C:2021:879) – the case before the GC was T-617/17 (judgment of 26 June 2019, ECLI:EU:T:2019:446); and Case T-617/17 RENV, judgment of the General Court of 21 December 2022, ECLI:EU:T:2022:851. ↵
19. ECJ (Full Court), 16 February 2022, Case C-156/21, *Hungary v European Parliament and Council of the European Union*, ECLI:EU:C:2022:97, and ECJ (Full Court), 16 February 2022, Case C-157/21, *Republic of Poland v European Parliament and Council of the European Union*, ECLI:EU:C:2022:98. The judgments are summarised by T. Wahl, "CJEU Dismisses Actions against Rule-of-Law Conditionality to Safeguard the EU Budget", *eucrim* 1/2022, 21-22. ↵
20. GC, 3 May 2018, Case T-48/16 *Sigma Orionis SA v European Commission*, ECLI:EU:T:2018:245. ↵
21. European Union, "European Union Priorities 2024-2029" <https://european-union.europa.eu/priorities-and-actions/eu-priorities/european-union-priorities-2024-2029_en>. For the mission letter to the Commissioner-Designate for Budget, Anti-Fraud and Public Administration, see: <https://commission.europa.eu/document/db369caa-19e7-4560-96e0-37dc2556f676_en>. Both hyperlinks were last accessed on 2 February 2025. ↵
22. Within the scope of Regulation (EU) 2024/1157 on shipments of waste, Articles 67 to 71, the Commission is in the process of entrusting OLAF with investigative powers to carry out inspections and coordinating actions in respect of illegal shipments. See in this context S. Grassin and L.I. Garruto, "Fighting Waste Trafficking in the EU: A Stronger Role for the European Anti-Fraud Office - The Reviewed Waste Shipment Regulation and its Enforcement Provisions", (2024) *eucrim*, 143-145. ↵

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