

# Procedural Rights of Persons under Investigation by OLAF

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## Article

### ABSTRACT

The article examines the investigative role of the European Anti-Fraud Office (OLAF) and the procedural rights implications arising from its anti-fraud activities.

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The budget of the EU for 2010 amounted to over €140 billion, a sum greater than the national budget of 20 of the 27 Member States of the Union for the same year.<sup>1</sup> Such a large amount of money calls for sound financial management and presents a significant risk of fraud and corruption. The European Anti-Fraud Office (OLAF) is the body tasked with safeguarding the financial interests of the EU. Established in 1999 by a Commission Decision,<sup>2</sup> its main task is to fight illegal activities that could have a detrimental effect upon the EU budget. Although formally a part of the Commission, OLAF enjoys full independence when conducting investigations. It must be noted, however, that in practicing its independence, the Office is accountable to a number of EU bodies. OLAF's accountability can be of a disciplinary, political, auditable, administrative, and judicial nature. Depending on the control mechanism prescribed by primary and secondary EU law, OLAF is answerable to the Commission, the Parliament, the Council, the Court of Auditors, the Supervisory Committee,<sup>3</sup> the European Ombudsman, and the Court of Justice.<sup>4</sup>

## Nature of OLAF Investigations

According to Regulations No. 1073/99 (EC) and No. 1074/1999 (EURATOM), OLAF has a mandate to conduct external investigations (carried out in the Member States of the EU and in third countries) as well as internal investigations (carried out in all institutions, bodies, offices, and agencies of the EU).<sup>5</sup> In practice, this means that OLAF can investigate both individuals and legal entities (economic operators, NGOs, state agencies and bodies, etc.). Investigations are aimed at preventing corruption, fraud, bribery, or other illegal activity or misconduct that could affect the financial interests of the EU.

With regard to external investigations, OLAF activities consist of on-the-spot inspections and checks, examination of financial transactions and business records, access to and copy of relevant documents, interviews, etc. The Member State on which territory the investigation is taking place must be informed and is obliged to provide assistance if sought by OLAF.<sup>6</sup> With regard to internal investigations, activities include immediate and unannounced access to any information, inspection of accounts, access to and copy or seizure of relevant documents, requests for information, interviews, etc.<sup>7</sup> These activities are aimed at drawing up a report containing OLAF's findings. If there is suspicion of illegal activity by the persons under investigation, the report – depending on the type of investigation – is transferred to either a competent disciplinary EU body or to national judicial, investigative, or administrative authorities of a Member State.

The above-mentioned regulations stipulate that OLAF investigations are strictly of an administrative nature and that they do not affect the powers of the Member States to initiate criminal proceedings. A number of authors have argued, however, that OLAF's investigations go beyond the realm of administrative law and touch upon the area of criminal law and justice.<sup>8</sup> The main arguments that can be raised in this regard are:

- OLAF reports may be used as admissible evidence in subsequent criminal proceedings in the Member States;<sup>9</sup>
- Fraud and corruption are usually criminal offences that entail imprisonment;
- OLAF uses its resources to investigate the most serious cases;<sup>10</sup>
- Two-thirds of the investigations are conducted independently (without assistance by national authorities of the Member States).<sup>11</sup>

Furthermore, if OLAF is indeed an office tasked to carry administrative investigations only, one would expect the majority of its investigators to have forensic accountancy and auditing expertise. In reality, however, the majority of OLAF investigators have a background as lawyers, public prosecutors, and magistrates. This

holds true for both the previous and the current Director-Generals. OLAF is also a frequent topic in contemporary criminal law literature.

It cannot be argued, however, that OLAF investigators are either police officers or public prosecutors. First of all, they are not authorised to order or use coercive measures such as restraint, arrest, or detention. If a person who is a subject to an external investigation refuses to cooperate with OLAF, the Office is obliged to ask for assistance from the authorities of the Member State in which the investigation is taking place.<sup>12</sup> Once the final report is prepared by OLAF, it is up to the national authorities of the Member State in question to decide whether it will continue the investigation, initiate administrative or judicial proceedings against the person under investigation, or refrain from taking further action. Reports regarding internal investigations are sent to the competent disciplinary EU body, which is supposed to take appropriate disciplinary or legal action and inform OLAF of the outcome. Additionally, if OLAF considers that the findings in the report after an internal investigation may lead to criminal proceedings, it will transfer the report to the Member State of which the person under investigation is a national.<sup>13</sup>

## OLAF Investigations and Procedural Rights

From the considerations discussed above, it is evident that OLAF inspections may lead to violations of the rights of persons subject to investigation. Since its establishment, the Office has come under fire, not only by those affected by its investigations (EU staff, private individuals, legal entities, and other third parties) but also by EU bodies authorised to supervise its activities. The way in which OLAF conducts its investigations has been criticised by the Court of Auditors, the Supervisory Committee, and the European Ombudsman. Moreover, the Office has lost a number of cases before the General Court (previously Court of First Instance “CFI”), which has resulted in compensatory damages being awarded to persons whose rights have been violated.

In a Special Report on OLAF prepared in 2005, the Court of Auditors noted that there is no independent control of the legality of investigative actions and recommended that OLAF codify its procedural measures.<sup>14</sup> A Follow-up Report published in 2011 noted that OLAF has accepted the recommendation but is implementing it only partially.<sup>15</sup> In its last Activity Report of 2011, the Supervisory Committee noted that investigations are lengthy, but it could not find an explanation for long periods of inactivity (up to one year in length) by OLAF investigators.<sup>16</sup> Pursuant to an OLAF report in which a journalist was accused of bribery and purchasing confidential data by an OLAF employee, Belgian authorities decided to search the journalist’s office, seizing a large number of his documents. Prior the search, OLAF published a press release accusing an unnamed journalist of bribery. Although the identity of the journalist was not revealed, it was easy to discover who he was, as his newspaper was first to publish the confidential data. Following a complaint addressed to the European Ombudsman by the journalist concerned, the Ombudsman released a Special Report confirming that OLAF went beyond what is proportional and criticising its maladministration.<sup>17</sup>

A number of persons under investigation by OLAF, for which a report was prepared, have initiated proceedings before the CFI and the European Court of Justice (ECJ). In their complaints, they accused OLAF of violating their procedural and defence rights such as the presumption of innocence, data protection, legality and judicial supervision, confidentiality of the investigation, protection of journalistic sources, the right to information, access to the case file, etc. Consequently, many of them have requested annulment of the OLAF report on them as well as compensation for damages resulting from the alleged violations. Requests for annulment of the OLAF report are submitted pursuant to Art. 230 of the Treaty on EU (now Art. 263 of the Treaty on the Functioning of the EU “TFEU”), but the ECJ has repeatedly held them inadmissible.<sup>18</sup>

With regard to external investigations, the reasoning of the Court is that the decision by OLAF to transmit a report to national authorities of a Member State is merely a preparatory measure. A final decision is ultimately made by national authorities who are free to decide whether to instigate judicial proceedings or simply disregard the report. The report is to be seen as either a recommendation or an opinion and does not have a legally binding effect. As such, it does not affect the legal position of the person under investigation and is not a formal part of later criminal proceedings before national courts. The situation is similar with regard to internal investigations. The ECJ has held that OLAF investigations are preparatory measures that might not even lead to any proceedings against a civil servant of the EU and are therefore not subject to judicial review.<sup>19</sup> As a result, persons affected by the investigations or the report may only rely on Art. 340 TFEU regarding damages caused by the institutions of the EU or its civil servants.

## 1. EU Law and Procedural Rights

Art. 2 TFEU states, *inter alia*, that the EU is founded on the values of respect for the rule of law and respect for human rights. Art. 6(3) TFEU stipulates that fundamental rights, as guaranteed by the European Convention on Human Rights (ECHR) and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law. The first paragraph of the same article gives a legally binding character to the Charter of Fundamental Rights of the EU (CFREU), while the second paragraph states that the EU shall accede to the ECHR. The envisaged accession of the EU to the ECHR will be addressed below from the perspective of the possible legal implications it may have for OLAF.

Arts. 47-50 of the CFREU guarantee the procedural rights to effective remedy, fair trial, access to legal aid, and the presumption of innocence. Art. 52 states that in so far as the Charter contains rights that correspond to rights guaranteed by the ECHR, the meaning and scope of these rights shall be the same as those laid down by the said Convention. Furthermore, Art. 41 guarantees the right to good administration, stipulating that every person's affairs with the EU will be handled impartially, fairly, and within a reasonable time by the institutions and bodies of the Union. The latter right includes the right to be heard, the right to access to one's file as well as protection of confidentiality and of professional and business secrecy. It furthermore obliges the administration to give reasons for its decisions, guarantees the right to compensation for damages caused by the EU, and grants to all persons the right to communicate with the Union in one of its official languages.

Only a small number of safeguards exist in secondary EU law. Art. 8 of Regulation 1073/1999 guarantees the protection of confidentiality and personal data. The article states that information forwarded or obtained in the course of internal investigations shall be subject to professional secrecy and its release to persons other than those within the institutions of the EU or to authorities in the Member States whose functions require them to know is forbidden. A Proposal<sup>20</sup> for amendment of Regulation 1073/99 was prepared by the Commission in 2011. 7a and 7b are the most important articles with regard to procedural rights. The first addresses procedural guarantees while the latter envisages a new review procedure, which should offer a semi-judicial overview of the way OLAF conducts its investigations. Arts. 16 and 339 of the TFEU as well as Directive 95/46/EC<sup>21</sup> regarding data protection apply to both external and internal investigations.

Finally, although not legally binding, the OLAF Operation Manual<sup>22</sup> contains a chapter entitled "Individual Rights and Information Duties" that addresses the procedural rights of persons under investigation. It covers the right to be informed as well as defence rights (protection against self-incrimination, legal counsel, the right to use one of EU's official languages, and access to the case file) and envisages an opportunity for the person under investigation to express his views on the facts that concern him. It is interesting to note that, in the latest revision of the Manual, there is an obligation for OLAF investigators to respect the rights enshrined in both the ECHR and the CFREU.

## 2. Accession of the EU to the ECHR

As the Council of Europe recently noted, EU institutions are “the only public authorities operating in Council of Europe member states that are outside the jurisdiction of the European Court of Human Rights”<sup>23</sup> (ECtHR). Once the EU accedes to the ECHR, the ECtHR will assume jurisdiction over OLAF investigations regarding their compliance with the procedural guarantees afforded by the Convention. It is to be expected that the question of whether OLAF reports constitute a “criminal charge” as prescribed by Art. 6 ECHR will be brought before the ECtHR. The legal notion of a criminal charge is assessed in an autonomous manner by the ECtHR, and even administrative proceedings<sup>24</sup> can be qualified as criminal.

In the *Engels* case, the ECtHR stated that it is not bound by national qualifications with regard to the type of proceedings; what is of importance is “the very nature of the offence” and “the degree of severity of the penalty that the person concerned risks incurring.”<sup>25</sup> Given that fraud and corruption are usually criminal offences that may lead to imprisonment – under the criteria established by the ECtHR – it seems that OLAF investigations might be considered part of a criminal rather than administrative procedure. Such a finding would have tremendous implications for OLAF and the EU. Procedural guarantees contained in Art. 6 ECHR such as the rights to a fair and public hearing, information on the nature and the cause of the accusations, adequate time and facilities for the preparation of the defence, legal counsel, the examination of witnesses, and translation and interpretation will have to be afforded to the persons under investigation. Additionally, the set of directives relating to procedural rights in criminal proceedings already adopted or envisaged for adoption<sup>26</sup> by the EU in the near future will also apply to OLAF. Without venturing into speculation whether this will happen or not, a number of ECtHR cases relating to the rights of persons under OLAF investigation will be discussed below, where appropriate.

## 3. Presumption of Innocence

The presumption of innocence is one of the most fundamental human rights. It can be found in Arts. 6(2) ECHR and 48(1) CFREU which stipulate that anyone charged with an offence shall have the right to be presumed innocent until proven guilty according to law. In *Franchet and Byk*, a case against OLAF, the CFI stated that the presumption of innocence is breached by statements or decisions which reflect the sentiment that the person is guilty, which encourage the public to believe in his guilt or which influence the assessment of the facts by the competent court.<sup>27</sup> Following an internal investigation, OLAF released a press release implying that the complainants were guilty of a criminal offence before a judgment was passed in their case. Consequently, the CFI found a violation of the right of the complainants to be presumed innocent and ordered the Commission to pay financial restitution and thus compensate the damages for non-material loss caused by OLAF. It would appear that the CFI followed the reasoning stemming from ECtHR case law,<sup>28</sup> in which it is stated that the presumption of innocence can be breached not only by judges, prosecutors, ministers or police officers but also by public officials.

## 4. Right to be Informed and Heard

Art. 41(2) CFREU stipulates that every person has a right to be heard before any individual measure that would affect him adversely is taken. In the *Hoffman* case, the ECJ noted that observance of the right to be heard requires that, during an administrative procedure, the persons concerned must be afforded the opportunity to make known their views on the truth and relevance of the alleged facts and circumstances and on the documents used by the commission to support its claim that there has been an infringement.<sup>29</sup> Pursuant to Art. 4 of Commission Decision 1999/396,<sup>30</sup> an EU civil servant must be informed that he is under investigation as long as this would not be harmful to the investigation. In the *Franchet and Byk* case discussed above, OLAF transmitted its report to the national authorities, implicating the complainants without first

hearing them. As a result, the CFI noted that OLAF committed a sufficiently serious breach of a rule of law conferring rights on individuals<sup>31</sup> and found a breach of Decision 1999/396. In the *Nikolaou* case, the CFI stressed that OLAF must inform a person under investigation of all the facts in his case, either verbally or in writing. Additionally, OLAF is obliged to record any comments that person might make.<sup>32</sup> Given that this was not observed by OLAF, financial damages were awarded to the complainant. The requirement to be informed and heard can be found in Art. 7a of the proposal for amendment of Regulation 1073/99, which follows the reasoning of the CFI discussed above. It requires that information is provided in writing. After an interview has been conducted, a record will be prepared and the person under investigation will be given the opportunity to state whether he approves of it or to add personal observations.

## 5. Defence Rights

Provisions regarding the rights to defence are to be found in Arts. 41, 42, 47, and 48 CFREU. In the *Michelin* case, the ECJ stressed that the rights of the defence represent a fundamental principle of Community law.<sup>33</sup> In a later case, it was stated that non-observance of the rights of the defence can lead to the imposition of penalties.<sup>34</sup>

### Principle against self-incrimination

The principle against self-incrimination is a safeguard which protects persons under investigation from self-accusations. Although not specifically contained in the ECHR, the ECtHR has addressed the principle against self-incrimination stating that it is an internationally recognized standard that lies at the heart of the notion of a fair procedure.<sup>35</sup> When determining whether the principle against self-incrimination has been violated, attention should be paid to factors such as the nature and degree of compulsion used to obtain the evidence; weight of the public interest in the investigation and punishment of the offence in issue; existence of any relevant safeguards in the procedure and use to which any material so obtained is put.<sup>36</sup> The ECJ has also addressed the principle against self-incrimination noting that an economic operator may be compelled to provide all necessary information in its possession but may not be compelled to provide answers which might involve an admission on its part of the existence of an infringement which is a responsibility of the Commission to prove.<sup>37</sup> Art. 7a of the proposal for amendment of Regulation 1073/99 offers protection against self-incrimination.

### Representation by a legal council

Art. 47 CFREU stipulates that everyone shall have the possibility of being advised, defended and represented. The ECJ has stated that the rights to legal representation and the privileged nature of correspondence between a lawyer and a client must be respected as from the preliminary-inquiry stage.<sup>38</sup> In its last Activity Report, the Supervisory Committee stated that in practice, OLAF generally offers interested parties the option of being assisted by a person of their choosing.<sup>39</sup> There is currently no case law regarding OLAF and legal representation.

#### d. Access to the case file

Art. 41(2) states that every person has a right to have access to his file, while the EU must respect the legitimate interests of confidentiality and of professional and business secrecy. In *Imperial Chemical Industries*, the ECJ stated that the right to access to the file is one of the procedural safeguards intended to protect the rights of the defence in all proceedings and circumstances, even if the proceedings in question are administrative.<sup>40</sup> However, in the cases regarding OLAF investigations, EU courts have repeatedly stated that OLAF's independence with regard to its effectiveness and the confidentiality of its mission could be undermined if access to the case file of the person under investigation is granted before the investigation is

concluded.<sup>41</sup> The argument once again is that, since the report is not a document adversely affecting the person under investigation, the right of the defence as defined in *Imperial Chemical Industries* does not apply to OLAF investigations.

## Information Management

As mentioned above, Art. 8 of Regulation 1073/1999 guarantees the protection of confidentiality and personal data with regard to OLAF investigations. In the course of its investigations, OLAF manages data that might be used in the preparation of its reports. Given the particularities of OLAF investigations, the data often contains sensitive information. Besides data management, OLAF frequently transmits information to other bodies of the EU as well as to Member States and third countries.<sup>42</sup> An internal Data Protection Officer is in charge of ensuring adherence to the personal data protection provisions stipulated in Regulation 45/2001.<sup>43</sup>

There are a number of cases in which OLAF has been found to be in breach of personal data protection and other provisions of EU law concerning information management. In the *Nikolaou* case, the CFI found a breach of Regulation 45/2001 after it deduced that OLAF must have leaked information regarding an internal investigation to the press. The CFI concluded that OLAF committed a serious breach of rule of law and that it gravely and manifestly exceeded its limits.<sup>44</sup> The CFI once again found that OLAF had leaked information to the press in the *Franchet and Byk* case. CFI reiterated that the administration must avoid giving the press information concerning disciplinary proceedings that might damage the official concerned and take all necessary measures to prevent any form of dissemination of information that might be defamatory concerning that official.<sup>45</sup> In this case, OLAF was found to be in breach of the principles of confidentiality, presumption of innocence, and good administration.

In the *Franchet and Byk* case, the CFI ruled that OLAF should always inform its Supervisory Committee whenever it sends information to Member States so that the Committee can ensure that the procedural rights of the persons under investigation were respected. Informing the Committee must take place before OLAF transmits information to Member States.<sup>46</sup> In its last Activity Report, the Supervisory Committee reported that 28 investigations that required transmission were examined by for a period of one year between 2009 and 2010.<sup>47</sup>

## Conclusion

It is undeniable that the role of OLAF in the fight against fraud and corruption in the EU is a very important one. Illegal activities against the EU budget from within or outside the EU can seriously undermine the whole European project. By safeguarding taxpayers' money at EU level, OLAF contributes to the credibility and reputation of the Union. Its independence, however, must be both factual and carefully supervised when it comes to respect for fundamental human rights, which the Office must observe when conducting investigations.

During the first 12 years of its existence, OLAF has been criticised by a number of individuals, legal entities, and EU bodies and institutions to which it is accountable. The length of its investigations and the lack of adherence to procedural rights have been a main cause of concern. It must be admitted, however, that part of that criticism stems from weak legal protection afforded by EU law when it comes to administrative investigations in the field of financial crime. It would appear that striking a balance between fighting serious crime against the EU budget and strong procedural rights is not an area in which the EU legislators have excelled.

Although officially “administrative”, – from a criminal law perspective – OLAF preliminary inquiries fall in the realm of criminal justice. If a person under investigation is convicted in a criminal trial following a report prepared by OLAF, it becomes apparent that the Office has played a major role in the case and has thus become an integral part of the criminal investigation chain. A fair balance between its particular status and the protection of procedural rights must therefore be achieved – ensuring a balance that would respect the most basic rights as enshrined in the ECHR.

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1. Own comparison, data extracted from The World Factbook 2010 (Field listing: Budget). Washington, DC: Central Intelligence Agency, 2010. URL: <https://www.cia.gov/library/publications/the-world-factbook/fields/2056.html>.↔
  2. 1999/352/EC, ECSC, Euratom, O.J. L 136, 31.5.1999.↔
  3. An internal but entirely independent body empowered with monitoring the way OLAF implements its investigative function.↔
  4. See also Strengthening OLAF, the European Anti-Fraud Office, London: House of Lords, 2004, pp. 18-20.↔
  5. O.J. L 136, 31.5.1999 (See Arts. 3 and 4 in both Regulations).↔
  6. Legal basis of these issues can be found in Regulation No. 2185/96 (Article 2) O.J. L 292, 15.11.1996 and Regulation No. 2988/95, O.J. L 312, 23.12.1995 (Article 9).↔
  7. Art. 4 in both Regulation No. 1073/99 (EC) and Regulation No. 1074/99.↔
  8. See, for example, Sabine Gleß and Helge Elisabeth Zeitler, Fair Trial Rights and European Community's Fight Against Fraud, in *European Law Journal*, Vol. 7, No. 2, June 2001, pp. 219-237, at 220; Mariane Wade, OLAF and the Push and Pull Factors of a European Criminal Justice System, in *eucrim*, Issue 3-4, 2008, p. 129.↔
  9. Art. 8(3) of Regulation No. 2185/96 and Art. 9(2) of Regulation No. 1074/99.↔
  10. Annual Report 2010, Brussels: OLAF, 2010, p. 14.↔
  11. *Ibid.*, p. 15.↔
  12. Art. 9 of Regulation 2185/96.↔
  13. Arts. 9 and 10 of both Regulation No. 1073/99 and Regulation No. 1074/99.↔
  14. O.J. C 202, 18.8.2005, para. 83.↔
  15. O.J. C 124, 27.4.2011 (URL link to the Report, p. 37).↔
  16. O.J. C 188, 28.6.2011 (See Annex 6, p. 40).↔
  17. URL: <http://www.ombudsman.europa.eu/special/pdf/en/042485.pdf>↔
  18. See, for example, Case C-521/04 P(R) Tillack v Commission; Case T-215/02 Gómez Reino v Commission, and Case T-29/03 Comunidad Autónoma de Andalucía v Commission.↔
  19. Case T-215/02 Gómez Reino v Commission, para. 62.↔
  20. COM(2011) 135 final, Brussels, 17.3.2011.↔
  21. O.J. L 281, 23.11.1995.↔
  22. URL: <http://ec.europa.eu/dgs/olaf/legal/manual/OLAF-Manual-Operational-Procedures.pdf>↔
  23. Recommendation 1744 (2006), Strasbourg: Parliamentary Assembly of the Council of Europe, 2006, para. 3.↔
  24. ECtHR Öztürk v. Germany 8544/79, 21.02.1984, para. 46-56.↔
  25. ECtHR Engels and others v. the Netherlands 5100/71; 5101/71; 5102/71; 5354/72; 5370/72, 8.6.1976, para. 82.↔
  26. Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings (already adopted). Proposals are prepared for a Directive on the right to information in criminal proceedings and a Directive on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest). A Directive on communication with relatives, employers, and consular authorities and a Directive on special safeguards for suspected or accused persons who are vulnerable are envisaged.↔
  27. Case T-48/05 Yves Franchet and Daniel Byk v. Commission, 8.7.2008, para. 210.↔
  28. See, for example, ECtHR Butkevičius v Lithuania 48297/99, 26 3 2002, para. 53.↔
  29. Case 85/76, 13.2.1979, para. 11.↔
  30. Commission Decision of 2 June 1999 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption, and any illegal activity detrimental to the Communities' interests, O.J. L 149, 16.6.1999.↔
  31. *Supra* note 27, para. 156.↔
  32. Case T-259/03 Nikolaou v. Commission, 9.12.2003, para. 238. in Xavier Groussot and Ziva Popov, What's wrong with OLAF? Accountability, due process and criminal justice in European anti-fraud policy, in *Common Market Law Review* Vol. 47, pp. 605-643, 2010.↔
  33. Case 322/81 Michelin v Commission 9.11.1983, para. 15. See also Case C-328/05 P, 10.5.2007, para. 70.↔
  34. Cases 46/87 and 227/88 Hoechst AG v Commission, 21.9.1989, para. 7.↔
  35. ECtHR John Murray v the United Kingdom 18731/91, 8.2.1996, para. 45.↔
  36. ECtHR Jalloh v Germany 54810/00, 11.7.2006, para. 117.↔

37. Case 374/87 Orkem v. Commission, 18.9.1989 para. 34 and 35.↵
38. Supra note 34, para. 16.↵
39. Supra note 17.↵
40. Case T-36/91 Imperial Chemical Industries plc v Commission, 29.6.1995, para. 69.↵
41. See, for example, Franched and Byk (supra note 27), para. 255-262, Nikolaou (supra note 34), para. 240-246, Gómez Reino (supra note 19), para. 65.↵
42. See also Agnieszka Aleksandra Murawska (Nowakowska), Administrative Anti-Fraud Measures within the European Union, Frankfurt/Oder: Nommos, 2007, p. 134.↵
43. O.J. L 8, 12.1.2001.↵
44. Supra note 32, para. 232.↵
45. Supra note 27, para. 214.↵
46. Ibid., para. 164.↵
47. Supra note 17.↵

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