

# The OLAF Regulation – Evaluation and Future Steps

Mirka Janda, Romana Panait



## Article

### ABSTRACT

The article reviews the 2017 evaluation of OLAF's legal framework (Reg. 883/2013) and sketches next steps. Using the EU's Better Regulation playbook, the Commission found OLAF delivers clear EU added value and largely effective cooperation (notably via AFCOS) –but its investigative powers are fragmented by dependence on national law, lack direct enforcement tools, and face uneven admissibility of OLAF reports in national proceedings. Differences in cooperation duties across Member States/IBOAs, governance frictions with the Supervisory Committee, and gaps around VAT and access to bank account information also emerged. With the EPPO launching, the Commission plans targeted amendments: align OLAF–EPPO relations, streamline and clarify references to national law, bolster report admissibility and cooperation duties, define OLAF's VAT remit, improve access to financial data, and tidy up coordination cases—aiming for a stronger, more coherent anti-fraud framework.

### AUTHORS

**Mirka Janda**

Policy Officer

European Anti-Fraud Office (OLAF)

**Romana Panait**

Acting Head of Unit

European Anti-Fraud Office (OLAF)

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## I. Introductory Remarks

Since its establishment in 1999, the European Anti-Fraud Office (OLAF) has had the purpose of increasing the effectiveness of the fight against fraud and other illegal activities detrimental to the financial interests of the Union.<sup>1</sup> It also has the double task of carrying out administrative investigations concerning fraud, corruption, and any other illegal activity affecting the EU's financial interests and of acting as Commission service responsible for developing EU anti-fraud policies.

In its investigative function, OLAF has been operating under a legal framework that has evolved over time. OLAF conducts external investigations into areas of EU expenditure and EU revenues as well as internal investigations into suspicions of serious misconduct by EU staff and members of EU institutions. In addition, it carries out coordination activities of the Member States' authorities in their fight against fraud. The necessity to adapt OLAF's investigative framework to the evolving anti-fraud policies and fraud trends in Europe has led to a number of legislative changes. The core features of OLAF, however, date back to its creation in 1999.

The current legal framework – the Regulation 883/2013 concerning investigations conducted by OLAF (hereinafter “the OLAF Regulation”),<sup>2</sup> which replaced Regulations 1073/1999 and 1074/1999, – was recently the subject of an evaluation of its application. The evaluation was required by the OLAF Regulation itself (Art. 19). The evaluation was concluded on 2 October 2017, and its results are contained in a report by the European Commission to the European Parliament and the Council (hereinafter “the evaluation report”).<sup>3</sup> The report is based on a Commission's staff working document<sup>4</sup> and is accompanied by an opinion of the OLAF Supervisory Committee on the application of the regulation.<sup>5</sup>

The evaluation coincided with a time during which important milestones in the Commission's ambitious agenda to strengthen the protection of the Union's financial interests were reached. In July 2017, the European Parliament and the Council adopted the Directive on the fight against fraud to the Union's financial interests by means of criminal law (the “PIF Directive”).<sup>6</sup> In October 2017, the Council adopted the Regulation establishing the European Public Prosecutor's Office (“the EPPO”) – in enhanced cooperation among 20 Member States.<sup>7</sup> The EPPO will be responsible for investigating, prosecuting, and bringing to judgment acts constituting criminal offences affecting the financial interests of the Union as provided for in the PIF Directive.<sup>8</sup>

The future shape of the OLAF Regulation should thus not only be based on the results of its evaluation but also take into account the changed landscape in which OLAF will operate in the EU anti-fraud area in the near future.

## II. The Evaluation as Part of the Better Regulation Policy

In order to ensure that the European *acquis* is fit for purpose, the Commission has committed itself to the so-called Better Regulation policy. The Better Regulation policy defines principles that need to be applied at every stage of the policy cycle: planning, proposal, implementation, evaluation, and subsequent revision. It is “a way of working to ensure that political decisions are prepared in an open, transparent manner, informed by the best available evidence and backed up by comprehensive involvement of stakeholders.”<sup>9</sup>

Over the past decade, growing emphasis was placed particularly on retrospective evaluation. The Commission applies the “evaluate first” principle. This principle ensures that a retrospective evaluation be available before work on a (revision of a) related initiative begins. The evaluation results then largely define the issues that are to be targeted by a proposal for a subsequent revision of the initiative.

In principle, evaluation provides a critical, evidence-based assessment of the following five evaluation criteria:

- – Effectiveness, i.e. have the objectives been achieved?;
- – Efficiency, i.e. were the effects achieved at reasonable cost?;
- – Coherence, i.e. is the intervention coherent with other initiatives in the given policy area?;
- – Relevance, i.e. do the objectives correspond to the current needs and to those also identified prior to the adoption of the regulation?;
- – EU added value, i.e. what is the additional value resulting from EU intervention that could not be achieved at the national level?

These criteria can be complemented by other ones as necessary for policy-making or as required by the legal basis of the evaluated initiative.

Evaluation timing is critical to the quality of evaluation results and their usefulness in the policy cycle. Ideally, there should be enough time between the start of the evaluated initiative and the moment the evaluation takes place to ensure that there has been enough time for the impacts of the initiative to materialise. At the same time, in order to be useful, the evaluation needs to fit well in the policy cycle and be available on time for work on any potential revision.

As regards the evaluation of Regulation 883/2013, its Art. 19 asked for an evaluation report also covering the assessment of the need to revise the regulation by 2 October 2017. The evaluation work was based on approximately three years of application of the regulation, and its timing was perfect from the point of view of policy developments that require a revision of the regulation as explained above.

The scope of the evaluation was defined in an evaluation roadmap<sup>10</sup> in compliance with said Art. 19 and the Better Regulation Guidelines. The evaluation assessed the following criteria: *effectiveness* and *efficiency* in the application of key elements of the regulation, as well as *coherence* and *relevance* of the regulation in accomplishing its objectives.<sup>11</sup>

Aspects related to the *future outlook* were also addressed. While covering the regulation as a whole, the evaluation focused in particular on the changes introduced in 2013 compared to the 1999 legal framework. It covered the period between October 2013 (when the regulation entered in force) and December 2016.

The evaluation was based on a wide-ranging consultation of a high number of stakeholders. Although consultation of stakeholders is an important aspect of any evaluation, it was especially important for the evaluation of the OLAF regulation, as little data and evidence were readily available due to the short implementation period since the entry into force. In order to gather the relevant evidence, the Commission contracted a study to an external contractor, who carried out online surveys, interviews, and expert workshops with relevant stakeholders across the anti-fraud spectrum. 267 representatives of different stakeholder groups were consulted – 160 through interviews and 168 via an online survey, with 61 of them being consulted through both channels. They included OLAF staff, the OLAF Supervisory Committee, EU in-

stitutions, bodies, offices and agencies (IBOAs), Member States' and third countries' authorities, international organisations, associations of lawyers, prosecutors, etc.<sup>12</sup>

Furthermore, on 1-2 March 2017, OLAF organised a conference on the evaluation of the OLAF Regulation, involving approx. 250 participants from the above-mentioned groups of stakeholders. The conference allowed for an interactive, open discussion on topics key to the evaluation: OLAF external and internal investigative activities, governance, and the future relationship between OLAF and the EPPO. Results of the discussion were fed into the evaluation report.<sup>13</sup> The evaluation's detailed findings and the methodology employed are described in the Commission staff working document accompanying the Commission's evaluation report.

### III. Main Findings of the Evaluation of the OLAF Regulation

OLAF's mandate and its investigative tools and powers (scrutinized from the perspective of their relevance, effectiveness, efficiency and coherence during the evaluation) contributed to defining its essential role in the protection of the European Union's financial interests.

Entrusted with a pan-European mission, OLAF performs specific tasks at the EU level, which could not be carried out at the national level alone. Its EU added value is acknowledged by stakeholders, and the relevance of its mandate was confirmed by the evaluation. In the evolving institutional landscape of the anti-fraud area, the added value of OLAF's administrative investigations will coexist alongside the EPPO's criminal investigations under the guiding principles of complementarity and of avoiding undue duplication.

While the EPPO will be competent for criminal investigations and prosecutions in the participating Member States<sup>14</sup> as regards the offences harmonised by the PIF Directive, OLAF's mandate encompasses administrative investigations into both fraudulent and non-fraudulent irregularities in all Member States. The distinct aspects of the fight against fraud affecting the EU's financial interests are thus covered by the EPPO and OLAF – criminal and administrative, respectively – making their activities largely complementary. The EPPO Regulation already governs the future relationship between the EPPO and OLAF on this basis. The evaluation of the OLAF Regulation has shown the continued relevance of its objectives after the creation of the EPPO.<sup>15</sup>

OLAF's investigative mandate is structured by an array of provisions in the regulation defining its tools and powers, procedural safeguards to be followed in investigations, the essential cooperation with its partners, and its governance. They have allowed OLAF to deliver concrete results, and the evaluation indicated a clear improvement in the effective conduct of investigations.<sup>16</sup> Taken individually, a number of these provisions clearly appear to contribute to an improved investigative function. For a number of others, the evaluation identified shortcomings impacting the application of the regulation.

One of the specific objectives pursued by the adoption of the current OLAF Regulation was the strengthening of OLAF's cooperation with its partners: Member States, EU institutions/bodies/offices/agencies, third countries, and international organisations. The creation of anti-fraud coordination services (known as "AFCOS") in the Member States, with the purpose of enabling a structured collaboration between OLAF and the Member States, was clearly a significant development. This has succeeded in spite of the considerable diversity in the role and profile of the AFCOS among the Member States, since the regulation only requires the Member States to designate the AFCOS<sup>17</sup> but leaves at their discretion what competences and powers are granted to them.

The evaluation concluded that OLAF's cooperation with its EU, national, and international partners is effective overall. However, certain duties to cooperate (either on the part of the Member States' authorities, as they are committed to national law, or on that of the IBOAs that sometimes differ from external to internal investigations<sup>18</sup>) appeared to impact the coherent exercise of OLAF's mandate across the Member States or in external, compared to internal, investigations.

As regards the exercise of OLAF's investigative powers, one of the most prominent results of the evaluation concerns their dependency on the national law of the Member States. In order to fulfil its mandate, OLAF operates on the basis of its European powers, but they are subject to conditions of national law. References to the national law of the Member State in which OLAF makes use of its competences are present in the OLAF Regulation at every stage of an investigation, e.g.: in the selection phase of incoming information with a view to opening investigations; in the cooperation and exchange of information with the national authorities; when carrying out investigative activities; and in the follow-up to OLAF's investigative work when its reports are to be used in national proceedings.<sup>19</sup>

It followed from the evaluation that the extent to which national law is applicable is not completely clear, and this emerged particularly as regards on-the-spot checks and inspections of economic operators and digital forensic operations conducted in the territory of the EU Member States.<sup>20</sup> The various interpretations of the relevant provisions in the OLAF Regulation referring to national law, and differences between the national legal systems, were identified as leading to a fragmentation in the exercise of OLAF's powers in the Member States. Similarly, as the regulation does not provide OLAF with tools to enforce its powers if there is resistance from the persons investigated, divergences arise across Member States, depending on the ability of national competent authorities to support OLAF with their own enforcement tools.<sup>21</sup>

At the end of the investigative chain,<sup>22</sup> the admissibility of OLAF's investigative reports in national judicial proceedings is subject to a rule in the regulation that puts them on a par with the administrative reports drawn up by national administrative inspectors.<sup>23</sup> According to the evaluation, this appeared to insufficiently ensure the "*effet utile*" of the provision, particularly in the Member States in which such equivalence is not specifically spelled out in the national legislation.<sup>24</sup>

OLAF's relationship with IBOAs operates within a different framework. At the European level, the EU institutions, bodies, offices and agencies are a key partner of OLAF in its investigative function; they share the responsibility for the protection of the EU's financial interests and their role is essential in both internal and external investigations. In the context of the EU institutional setting, the evaluation identified areas for even closer cooperation between OLAF and IBOAs. These areas are directly linked with the protection of the EU's budget during and at the end of OLAF's investigations: the use of precautionary measures<sup>25</sup> and the financial impact as established by the investigations and recommended to the IBOAs for financial recovery.<sup>26</sup>

In the overall context of the follow-up to OLAF's investigations, the discretion afforded to recipients of OLAF's recommendations to follow-up or not was a main factor leading to differences in the recipients' response. This is only one side of the coin, however, as the quality and timeliness of the OLAF's reports was also identified as another factor directly impacting the rate and quality of the follow-up.

The protection of rights of individuals subject to an OLAF investigation has been substantially increased by including new provisions on procedural guarantees in the OLAF Regulation.<sup>27</sup> The evaluation specifically assessed the balance between OLAF's powers and procedural rights and did not conclude that they are insufficient in the context of OLAF's current investigative powers and tools.

As regards the institutional governance of OLAF and the controls over its activity, the evaluation acknowledged that divergent views and practices with regard to the provisions regulating the role and mandate of

OLAF's Supervisory Committee, and of the Committee's access to case-related information held by OLAF,<sup>28</sup> impacted its work and its cooperation with OLAF. The Commission's evaluation report acknowledges the need for working arrangements between OLAF and its Supervisory Committee and indicates that the Commission will reflect on whether further measures are necessary.<sup>29</sup>

From the perspective of the internal and external coherence of the regulation, the evaluation identified that the legal basis, under which OLAF is to provide Member States with assistance in organising close and regular cooperation between their competent authorities, potentially gives rise to difficulties during so-called "coordination cases."<sup>30</sup> The evaluation observed different situations, depending on the areas: in structural funds, the lack of other acts of EU law providing OLAF with a supporting and coordinating role is particularly limiting; in the area of customs and intellectual property, the unclear relationship between the OLAF Regulation and other legal acts<sup>31</sup> was found to lead to complexity in their combined application.<sup>32</sup>

The evaluation also dealt with the operation of the OLAF Regulation in the wider context of EU policies for the protection of the financial interests, thus leading to an analysis of OLAF's role and mandate as regards VAT. The current legal framework appeared insufficient to enable OLAF to fulfil its mandate in the area of VAT. The same holds true for its duty to cooperate with and support the future EPPO. Both findings must be seen against the background of the evolving policy and legal framework for VAT since the adoption of the OLAF Regulation in 2013, that is mainly illustrated by the following:<sup>33</sup> The Commission adopted an Action Plan on VAT (entitled "Towards a single EU VAT area") on 7 April 2016<sup>34</sup> that includes actions to enhance co-operation between different authorities and calls for possible cooperation and partnership between Member States, Europol, and OLAF on the exchange of information. The PIF Directive of 5 July 2017 clarified that VAT is part of the EU's financial interests. Very recently, on 30 November 2017, the Commission adopted a proposal to amend Regulation 904/2010 on Administrative Cooperation in the area of VAT.<sup>35</sup> Its aim is to make the EU's VAT system more fraud-proof; an important element of the proposal is to strengthen the operational cooperation between Member States' tax administrations (in the Eurofisc network<sup>36</sup>) and relevant authorities at the EU level (OLAF, Europol, and the EPPO). In particular, the proposal provides a legal basis for the transmission of information on VAT fraud trends, risks, and serious cases from Eurofisc to OLAF and Europol, thus acknowledging OLAF as a key partner of the Member States in this area.<sup>37</sup>

Future adaptation of OLAF's investigative framework will build on these main findings of the evaluation. Taking into account the envisaged operational start of the EPPO in three years, the Commission announced an assessment with a view towards a legal proposal to amend the OLAF Regulation in spring 2018.<sup>38</sup>

## IV. Future Steps for the OLAF Regulation

The Commission's evaluation report sets out the main issues to be assessed in the preparation of the future proposal to amend the OLAF Regulation:<sup>39</sup>

- – Adaptation to the establishment of the EPPO;
- – Enhancement of the effectiveness of OLAF's investigative function based on the most unambiguous findings of the evaluation;
- – Clarification or simplification of certain provisions, or improved application through implementation measures.

A full overhaul of OLAF's legal framework is not envisaged at this point.

The first step to be taken in 2018 could be followed by a more far-reaching process to modernise the framework of OLAF investigations. In another, future step, account should be taken of the experience gained in the cooperation between EPPO and OLAF. This should also put the focus on aspects of the legal framework where further reflection and discussion may be needed. In line with Better Regulation principles, the Commission is currently preparing an assessment to underpin the legal proposal.<sup>40</sup> This primarily concerns the impact of the establishment of the EPPO.

Once the EPPO is established, OLAF's overall mandate will not change, but its operation will need to adapt to the existence of the EPPO in several ways. With the first-time creation of an EU-level body for criminal investigations and prosecutions, strong synergies need to be established between the EPPO and OLAF in order to allow both offices to perform their tasks in the most efficient and productive manner possible, thus ensuring a swift and effective response to cases of suspected fraud in the entire EU.

By amending the OLAF Regulation to mirror the EPPO Regulation, the Commission is pursuing its past strategy of reinforcing the fight against fraud affecting the Union's budget through an integrated policy of criminal and administrative investigations.<sup>41</sup>

Secondly, the Commission will consider targeted changes to streamline OLAF's investigative function, based on the most unambiguous findings of the evaluation. The Commission's evaluation report identifies the following main priorities for assessment:<sup>42</sup> coherent and more effective application of OLAF's investigative tools, by considering the current references to national law in the OLAF's Regulation; the admissibility of OLAF's reports as evidence in national proceedings in the Member States; the duties to cooperate where necessary to ensure a coherent and effective framework at all stages of an investigation; the clarification of OLAF's mandate and investigative tools in the VAT area; the better access to bank account information; and the conduct of coordination cases.

These future changes, both ambitious and pragmatic at the same time, will put into place a more coherent and overall stronger framework for the protection of the EU's financial interests.

1. See in this respect recital 6 of Commission Decision of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (SEC(1999) 802), 1999/352/EC, ECSC, Euratom, O.J. L 136, 31.5.1999, 20. ↵
2. 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, O.J. L 248, 18.9.2013, 1. ↵
3. Report from the European Commission to the European Parliament and the Council, "Evaluation of the application of 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", COM(2017) 589 final, 2.10.2017. The report is available in the Internet under: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2017:589:FIN> (accessed 14. December 2017). For a summary, see also T. Wahl, (2017) eucrim, p. 100-101. ↵
4. Commission Staff Working Document "Evaluation of the application of 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" Accompanying the document, Commission report to the European Parliament and the Council, SWD(2017) 332 final, 2.10.2017 (hereinafter the "Staff Working Document"). It is available in the Internet under: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1507191059043&uri=CELEX:52017SC0332> (accessed 14. December 2017). The preparation of the Staff Working Document was supported by a study by an external contractor. See ICF Consulting Services Limited, "Evaluation of the application of Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), Final report", 2017, <[https://ec.europa.eu/anti-fraud/sites/antifraud/files/evaluation\\_of\\_the\\_application\\_regulation\\_883\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/evaluation_of_the_application_regulation_883_en.pdf)> accessed 14. December 2017. ↵
5. Opinion No 2/2017 "Accompanying the Commission Evaluation report on the application of Regulation (EU) of the European Parliament and of the Council No 883/2013 (Article 19)" <[http://europa.eu/supervisory-committee-olaf/sites/default/files/opinion\\_2\\_2017.pdf](http://europa.eu/supervisory-committee-olaf/sites/default/files/opinion_2_2017.pdf)> accessed 14 December 2017. The opinion of the Supervisory Committee of OLAF was adopted pursuant to Article 19 of the OLAF Regulation. The evaluation report of the Commission and the opinion of the Committee are independent documents and were drafted in parallel. See also T. Wahl, (2017) eucrim, 101-102. ↵
6. Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, O.J. L 198, 28.7.2017, 29. See for an explanation of the Directive A. Juszczak and E. Sason, (2017) eucrim, 80-87. ↵

7. Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office, O.J. L 283, 31.10.2017, 1 (hereinafter "the EPPO Regulation").[←](#)
8. Art. 4 of the EPPO Regulation.[←](#)
9. Better Regulation Guidelines, p. 4<[http://ec.europa.eu/smart-regulation/guidelines/toc\\_guide\\_en.htm](http://ec.europa.eu/smart-regulation/guidelines/toc_guide_en.htm)>.[←](#)
10. The scope of the evaluation was set out in the evaluation roadmap, which was open to stakeholder feedback during the evaluation on the following website: [http://ec.europa.eu/smart-regulation/roadmaps/docs/2017.olaf\\_001\\_evaluation\\_of\\_regulation\\_883\\_2013\\_en.pdf](http://ec.europa.eu/smart-regulation/roadmaps/docs/2017.olaf_001_evaluation_of_regulation_883_2013_en.pdf).[←](#)
11. A further criterion required by the Better Regulation Guidelines, EU added value, was considered addressed. It was not covered by the evaluation, as OLAF ensures the protection of the EU's financial interests by performing specific tasks at the EU level that cannot be performed at the national level.[←](#)
12. For the study conducted by ICF, see endnote above n. 4.[←](#)
13. All available presentations from the conference are available on the Commission website at [https://ec.europa.eu/anti-fraud/policy/olaf-regulation-evaluation/conference\\_en](https://ec.europa.eu/anti-fraud/policy/olaf-regulation-evaluation/conference_en), accessed 14 December 2017.[←](#)
14. 20 Member States are currently participating in the EPPO.[←](#)
15. See, in this respect, the Commission's Staff Working Document, op. cit. (n. 4), section 5.1, p. 12.[←](#)
16. See, in this respect, the Commission's evaluation report, op. cit. (n. 3), for example, p. 3 andp. 6.[←](#)
17. Article 3(4) of OLAF Regulation; see, in this respect, section 5.2.2.2 of the Commission's Staff Working Document, op. cit (n. 4), p. 24.[←](#)
18. For example, OLAF's powers to access relevant information in IBOAs are stronger in internal investigations, compared to external investigations, according to Articles 4(2)(a) and 3(5), respectively.[←](#)
19. See, in this respect, Articles 3(3), 4(3), 7(3), 8(2)-(3), 11(2) and 12(3) of the OLAF Regulation.[←](#)
20. OLAF carries out on-the-spot checks and inspections of economic operators and digital forensic operations based on a combined legal framework composed of the OLAF Regulation, Council Regulation (Euratom, EC) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests, O.J. L 312, 23.12.1995, 1, and 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, O.J. L 292, 15.11.1996, 2, to which the OLAF Regulation makes a number of references.[←](#)
21. For more details, see the Commission's Staff Working Document, op. cit (n. 4) section 5.2.1.2, pp. 15-16. For example, as indicated therein, information collected by OLAF by means of a questionnaire in Member States on the conduct of on-the-spots-checks in 2015, reveals that the possibility to use coercive powers to assist OLAF in conducting a check was possible (at the time of the questionnaire) in approx. half of the Member States as regards both revenue and expenditure; in the remaining Member States, coercive powers to support OLAF were available only in revenue cases, only in expenditure cases, or not at all.[←](#)
22. It must be noted that the evaluation has also shown that, during the investigations, references to national law result in considerable differences across the Member States as regards cooperation with judicial authorities. It can lead to one-way exchanges from OLAF to the judicial authorities, which do not share information in return; see, in this respect, the Commission's Staff Working Document, op. cit. (n. 4), section 5.2.2.2,p. 25.[←](#)
23. Art. 11(2) of the OLAF Regulation.[←](#)
24. See the Commission's Staff Working Document, op. cit. (n. 4), section 5.2.1.3,p. 20-21.[←](#)
25. Art. 7(6) of the OLAF Regulation.[←](#)
26. See, in this respect, the Commission's evaluation report, op. cit. (n. 3), point 5.3.[←](#)
27. Art. 9 of the OLAF Regulation.[←](#)
28. These aspects have also largely been developed in the Opinion of the Supervisory Committee (op. cit. (n. 5)), in particular in chapter V.[←](#)
29. See, in this respect, the Commission's evaluation report, op. cit. (n. 3), points 5.3 and 5.4.[←](#)
30. These are currently regulated by Art. 1(2) of the OLAF Regulation.[←](#)
31. Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, O.J. L 82, 22.3.1997, 1, last amended by Regulation (EU) 2015/1525 of the European Parliament and of the Council of 9 September 2015, and Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003, O.J. L 181, 29.6.2013, 15.[←](#)
32. See the Commission's Staff Working Document, op. cit. (n. 4), section 5.4.2,p. 34.[←](#)
33. For more details, see Commission's Staff Working Document, op. cit. (n. 4), section 5.4.5.2, pp. 38-39.[←](#)
34. Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT "Towards a single EU VAT area – Time to decide", COM(2016) 148, 7.4.2016.[←](#)
35. Amended proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax, COM(2017) 706 final, 30.11.2017.[←](#)
36. The EUROFISC network was established by Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combatting fraud in the field of value added tax, O.J. L 268, 12.10.2010, 1. EUROFISC is a mechanism provided for Member States to enhance their administrative cooperation in combating organised VAT fraud and especially carousel fraud; it allows for quick and targeted sharing of information between all Member States on fraudulent activities.[←](#)
37. Linked with OLAF's role in the VAT area, but not exclusively, the evaluation pointed out the need to assess the need for and possibility of better access to bank account information under appropriate conditions, which could be central to uncovering many cases of fraud or irregularity.[←](#)
38. The Roadmap is available for feedback on <[https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5676334\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5676334_en)> accessed 14 December 2017.[←](#)
39. The possible way forward for the OLAF legal framework was set out in the Commission's evaluation report, and it is described mainly at point 5 therein.[←](#)
40. This assessment will also take into account the opinion of the OLAF Supervisory Committee, op. cit. (n. 5).[←](#)

41. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "On the protection of the financial interests of the European Union by criminal law and by administrative investigations – An integrated policy to safeguard taxpayers' money", COM(2011) 293 final, 26.5.2011. ↪
42. Point 5.3 of the Commission's evaluation report, op. cit (n. 3). ↪

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eucrim is the leading journal serving as a European forum for insight and debate on criminal and "criministrative" law. For over 20 years, it has brought together practitioners, academics, and policymakers to exchange ideas and shape the future of European justice. From its inception, eucrim has placed focus on the protection of the EU's financial interests – a key driver of European integration in "criministrative" justice policy.

Editorially reviewed articles published in English, French, or German, are complemented by timely news and analysis of legal and policy developments across Europe.

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