

RULES OF PROCEDURE

THE EUROPEAN ANTI-FRAUD OFFICE (OLAF) RULES OF PROCEDURE OF THE OLAF SUPERVISORY COMMITTEE

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THE SUPERVISORY COMMITTEE,

Having regard to Article 11(6) of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽¹⁾,

Having regard to Article 11(6) of Council Regulation (Euratom) No 1074/1999 of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽²⁾,

HEREBY ADOPTS THESE RULES OF PROCEDURE:

TITLE I

ROLE AND RESPONSIBILITIES OF THE OLAF SUPERVISORY COMMITTEE

Article 1

Tasks

1. The Supervisory Committee of the European Anti-Fraud Office shall carry out the tasks laid down in Regulation (EC) No 1073/1999 and in the Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF) ⁽³⁾.

2. To reinforce OLAF's independence in performing its tasks, the Supervisory Committee shall regularly monitor OLAF's investigative role and shall assist the Director-General of OLAF in carrying out his tasks.

Article 2

Powers

1. In conducting the regular monitoring of the implementation of the investigative function of OLAF, the Supervisory Committee shall access all the information and documents the Committee considers are needed to perform its functions.

2. The Supervisory Committee shall regularly monitor the information forwarded to it by the Director-General of OLAF in accordance with the provisions of Article 11(7) of Regulation (EC) No 1073/1999.

3. The Supervisory Committee shall process the information provided to it by OLAF's staff concerning any fact, possible unlawful activity or inappropriate conduct in OLAF in accordance with Article 22a of the EU Staff Regulations.

⁽¹⁾ OJ L 136, 31.5.1999, p. 1.

⁽²⁾ OJ L 136, 31.5.1999, p. 8.

⁽³⁾ OJ L 136, 31.5.1999, p. 20.

4. With regard to the information sent by OLAF to the national judicial authorities and previously notified to the Supervisory Committee, the Committee shall examine compliance with fundamental rights and procedural guarantees during the investigation.

5. The Supervisory Committee shall ensure that the information and documents provided by OLAF are treated confidentially.

6. The Supervisory Committee shall exercise its functions and powers in accordance with the provisions of Title III of the current Rules of Procedure.

TITLE II

COMPOSITION AND OPERATION

Article 3

Composition

1. The composition and method of appointment and the term of office of members of the Supervisory Committee are laid down in Regulation (EC) No 1073/1999.

2. On expiry of their term, Committee members shall remain in office until they have been reappointed or replaced.

3. Where a member of the Supervisory Committee is prevented from serving on the Committee or resigns his seat, he shall notify the chairman of the Committee accordingly so that appropriate measures can be taken.

Article 4

Ethics

1. In accordance with Article 11(5) of Regulation (EC) No 1073/1999, in carrying out their duties the members of the Supervisory Committee shall act independently and shall neither seek nor take instructions from any government or any institution, body, office or agency.

2. Likewise, as provided for in the Decision on their appointment, they shall not deal with a matter in which, directly or indirectly, they have any personal interest, in particular, any family or financial interests such as to impair their independence.

They shall treat the files submitted to them and their deliberations concerning them in strict secrecy.

3. The members of the Supervisory Committee shall inform it of any situation liable to compromise any of the principles governing its activity as referred to in paragraphs 1 and 2 so that the Committee may take appropriate measures.

Article 5

Chairmanship

1. The Supervisory Committee shall elect a chairman from among its members by a majority of its members.

2. The chairman shall be elected for a term of 1 year and may be re-elected. The election shall be held at the last meeting chaired by the outgoing chairman.

3. Where the chairman is prevented for any reason from performing his duties over a long period, he shall inform the Committee members of his situation. In that event, a new chairman shall be elected by the procedure set out in paragraph 1.

4. The chairman shall represent the Supervisory Committee and chair its meetings. He shall ensure that its proceedings are properly conducted. The chairman shall convene Committee meetings and determine where, on what date and at what time they shall take place. He shall draw up the draft agenda and ensure that the decisions of the Committee are implemented.

5. Where he is temporarily unable to perform his duties, the chairman may request a Committee member to deputise for him.

6. If the chairman is absent and the procedure referred to in paragraph 5 has not been employed, the office of chairman shall be exercised by the oldest member.

7. The chairman shall have full power to send or reply to letters concerning Supervisory Committee activities. The chairman shall inform Committee members of the letters which he has received or to which he has replied.

8. The chairman shall inform the Supervisory Committee of the work done by the Secretariat and its Head in order to periodically check that it is functioning properly.

Article 6

Meetings

1. The Supervisory Committee shall exercise its powers when meeting as a body. It shall meet at least 10 times per year. It shall be quorate only if the majority of its members are present. It shall also meet on the initiative of the chairman or at the request of a majority of its members.

2. Other than in cases which the chairman considers urgent, notices of meetings shall be sent in sufficient time to reach the recipients at least 1 week before the meeting in question. The notice shall include the draft agenda and the documents required for the meeting, unless the nature of the documents is such that they cannot be attached. The final agenda shall be adopted at the beginning of each meeting.

3. Any member may request the chairman to place items or specific matters on the draft agenda or add such items thereto.

4. At the request of the Director-General of OLAF, the chairman may convene the Supervisory Committee or place items on the agenda. The proposals of the Director-General shall be accompanied by the necessary documents.

5. The Supervisory Committee may invite the Director-General of OLAF to take part in meetings and activities connected with its work. Other members of OLAF may be invited to take part in a meeting of the Committee if their presence is deemed necessary. Such invitations shall be made through the Director-General of OLAF.

The Director-General of OLAF shall be informed of items on the agenda relating to participation by the persons referred to in the first subparagraph.

6. Any representative of the institutions, bodies, offices or agencies of the European Union, Member States or associated States may be invited to participate in the Supervisory Committee's work relating to a particular item on the meeting's agenda.

Article 7

Working methods

1. Meetings of the Supervisory Committee shall not be held in public. Its proceedings and the Committee's internal documents on which they are based shall be confidential, unless the Committee decides otherwise.

Documents and information submitted by the Director-General of OLAF shall be subject to the provisions of Article 339 of the Treaty on the Functioning of the European Union on the protection of confidentiality and of Article 8 of Regulation (EC) No 1073/1999.

2. The Supervisory Committee shall adopt a maximum of three working languages. Documents and draft opinions, reports or decisions shall be drawn up in the working languages adopted by the Committee. Where necessary, a member may request that any document be translated into his own language.

3. Opinions, reports and decisions shall be adopted at meetings of the Supervisory Committee in plenary session.

4. However, by way of exception to that principle, certain decisions may be taken by written procedure where the Supervisory Committee has approved the use of such a procedure at an earlier meeting.

In urgent cases, the chairman may consult members of the Committee in writing.

In either of those cases, he shall forward a draft decision to the Committee members. If the members raise no objections to the draft decision within a time limit to be specified by the chairman, namely 5 working days following receipt of the proposal, the proposal shall be deemed to have been adopted. If, within 5 working days of receipt of the draft decision, a member requests that it be discussed by the Committee, the written procedure shall be suspended.

Article 8

Rapporteurs

1. To prepare for its discussions or proceedings, the Supervisory Committee, on a proposal by the chairman, may appoint one or more rapporteurs from among its members.

2. If the matter to be dealt with is urgent, the chairman may make the appointment on his own initiative. In that event, he shall inform the Committee members forthwith.

3. The rapporteur shall consider matters entrusted to his responsibility and submit a draft report to the Supervisory Committee. Where necessary, he shall be assisted by the Committee Secretariat.

Article 9

Voting procedure

1. Decisions shall be taken by a majority of the members of the Supervisory Committee on a proposal by the chairman.

2. On a proposal by a member, a vote may be taken by secret ballot.

Article 10

Minutes

1. Minutes shall be taken of every Supervisory Committee meeting. They shall be drawn up in the Committee's working languages and shall contain the decisions adopted under each item on the agenda.

2. The draft minutes shall be drawn up by the Secretariat under the supervision of the chairman and submitted to the members of the Supervisory Committee with a view to their approval at its next meeting.

3. Any member may propose at the time of approval that the minutes be amended. Members may likewise request that any written statements or documents deemed useful be attached to the minutes.

4. Once the minutes have been adopted, the chairman and the person responsible for the Secretariat shall sign them and they shall be archived in the records of the Committee Secretariat. The minutes may be made public if the Committee so decides.

Article 11

Secretariat

1. In accordance with Article 11(6) of Regulation (EC) No 1073/1999, the Supervisory Committee shall have a Secretariat to assist it in the performance of its duties. The Secretariat, working in complete independence under the chair of the Committee and its members, shall ensure that the Committee's work is carried out properly.

2. The Supervisory Committee shall inform the Director-General of OLAF of the Secretariat's needs as regards suitable staff and resources to ensure the performance of the Committee's duties and to guarantee the continuity of its work.

3. In any case, the Head of the Secretariat shall inform the Supervisory Committee about the candidates for membership of the Secretariat. Once the applications are known, the Committee shall discuss in the plenary session whether they meet the Committee's working needs with a view to submitting a proposal for their appointment to OLAF's Director-General.

4. The Head of the Secretariat shall report to the chairman of the Supervisory Committee. He coordinates the Secretariat's work and is responsible for the administrative and budgetary management of the Committee and its Secretariat.

The Supervisory Committee shall appoint from its members those who are to participate in the process of selecting the Head of the Secretariat. The Committee's members selected shall inform the Committee, in a plenary session, of the work carried out by the selection boards and the results obtained.

5. The Supervisory Committee shall periodically evaluate the work of the Head of the Secretariat and of the Secretariat members.

6. Secretariat staff shall be required to treat information in their possession confidentially. They shall remain bound by that obligation after leaving the service. If the Supervisory Committee becomes aware that a member of the Secretariat has infringed the obligation to respect confidentiality, the chairman of the Committee shall notify the Director-General of OLAF so that appropriate action may be taken.

7. The Secretariat shall contribute to the efficient performance of the tasks assigned to the Supervisory Committee with a view to reinforcing OLAF's independence, in particular with regard to its monitoring function. It shall in that respect assist the chairman in the preparation for and the conduct of meetings. It shall draw up a draft agenda for each meeting, draw up draft minutes of meetings, supply Committee members with information and documents relating to every sphere of their activities, assist, under the chairman's responsibility, in the drafting of texts, and assist Committee members, especially when they act as rapporteurs. For that purpose, members of the Secretariat shall attend meetings as necessary with rapporteurs in order to carry out those tasks.

TITLE III

EXERCISE OF POWERS

Article 12

Monitoring of investigations at the initiative of the Supervisory Committee

The Chairman of the Committee, in agreement with the appointed rapporteur, shall send a note to the Secretariat indicating the investigations to which access is requested in accordance with Article 11(1) of Regulation (EC) No 1073/1999.

Article 13

Action to be taken on information supplied by the Director-General

1. The Supervisory Committee, after examining the programme of activities forwarded to it by the Director-

General of OLAF each year, may deliver an opinion setting out relevant comments on any area that falls within its remit.

It shall also study the information sent to it regularly by the Director-General concerning OLAF's activities, and shall deliver opinions on that information in conformity with the second subparagraph of Article 11(1) of Regulation (EC) No 1073/1999.

2. In accordance with Article 11(7) of Regulation (EC) No 1073/1999, the Supervisory Committee shall be kept regularly informed of OLAF's investigations, the results thereof and the action taken on them. The Committee may make appropriate comments without, however, interfering with the conduct of investigations in progress.

3. The Supervisory Committee shall examine the reasons why it has not been possible to wind up an investigation that has been in progress for more than 9 months and shall also examine the expected time for completion.

4. The Committee shall examine cases where an institution, body, office or agency has failed to act on the recommendations made by the Director-General. It shall at the same time consider situations in which the work of OLAF investigators has been obstructed, delayed or prevented, with a view to taking appropriate action.

5. Cases requiring information to be forwarded to the judicial authorities of a Member State shall be examined on the basis of the information provided by the Director-General of OLAF and in accordance with Regulation (EC) No 1073/1999. Follow-up shall also be carried out on this basis.

In particular, before the information is sent, the Supervisory Committee shall request access to the investigations in question in order to ascertain whether fundamental rights and procedural guarantees are being complied with. Once the Secretariat has obtained access to the documents within a time period guaranteeing compliance with this function, the rapporteurs appointed to examine the cases shall prepare their presentation at the Committee's plenary session. The responsible staff of OLAF may be invited to this session in order to obtain full information.

The Committee shall appoint rapporteurs to examine these investigations and, if necessary, issue an opinion.

6. While assisting the Director-General of OLAF in discharging his responsibilities, the Supervisory Committee may deliver opinions on OLAF's contribution to the design and development of methods of fighting fraud and other illegal activity affecting the financial interests of the European Union.

Article 14

Checks, studies and expert advice

1. Within the scope of its powers, the Supervisory Committee may carry out appropriate checks, conduct any study and obtain the necessary expert advice. It may also request the assistance of officials or other servants of OLAF or of the institutions, bodies, offices and agencies of the European Union, Member States or associated states.

2. Concerning the information received in accordance with Article 22a of the EU Staff Regulations, the Chairman of the Committee shall report to the Committee so that the information provided can be studied. Once this preliminary analysis has been conducted, the Committee shall, if necessary, send the information to the relevant service.

Article 15

Activity report

1. In accordance with Article 11(8) of Regulation (EC) No 1073/1999, the Supervisory Committee shall adopt at least one report on its activities per year and send it to the institutions. The report shall cover the activities pursued in the exercise of the Committee's powers and contain an assessment of OLAF's activities and the implementation of its annual programme.

2. The report shall be submitted to the Supervisory Committee by one or more rapporteurs.

3. It may include an annex listing the opinions delivered by the Committee.

It may also be accompanied by any reports which the Committee has submitted, pursuant to Article 11(8) of Regulation (EC) No 1073/1999, to the European Parliament, the Council, the Commission and the Court of Auditors on the results of OLAF's investigations and the action taken thereon.

4. The Supervisory Committee shall take the necessary steps to have its activity report published in the *Official Journal of the European Union*, after sending it to the European Parliament, the Council and the Commission.

Article 16

Opinion procedure for appointment of the Director-General

1. The Supervisory Committee shall examine the applications for the post of Director-General of OLAF and shall participate in the selection process through the members appointed for that purpose at the plenary session. After discussing the results of the selection boards, the Committee shall issue an opinion explaining the criteria used by it to assess the candidates' merits and suitability.

The opinion shall contain the Committee's opinion on the candidates as provided for by Article 12(2) of Regulation (EC) No 1073/1999 and shall be sent to the institutions.

2. If no candidate has been given a favourable opinion, the chairman shall inform the Commission that the Committee has voted against the applications submitted.

Article 17

Disciplinary procedure applicable to the Director-General

Where it has been consulted in accordance with Article 12(4) of Regulation (EC) No 1073/1999, the Supervisory Committee shall issue a reasoned opinion.

Article 18

Confidentiality and processing of personal data

1. The Supervisory Committee shall ensure that Article 8 of Regulation (EC) No 1073/1999 is applied.

2. Acting on its own initiative or on the initiative of the Director-General of OLAF, the Supervisory Committee may decide to deliver an opinion.

Article 19

Budget

1. The Supervisory Committee shall deliver an opinion on the preliminary draft budget submitted by the Director-General of OLAF and addressed to the Commission's Directorate-General for Budget.

2. The Secretariat shall draw up annual budget proposals for the operating purposes of the Supervisory Committee, which shall be forwarded to the Director-General after they have been approved by the Committee.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS

Article 20

Review and amendment of the Rules of Procedure

Any member of the Supervisory Committee may propose amendments at any time and submit them in writing to the chairman. Amendments shall be put to the vote at the first meeting following their submission, in accordance with the voting procedure set out in Article 10.

Article 21

Entry into force and publication of the Rules of Procedure

1. These Rules of Procedure shall enter into force on the day following their adoption by the Supervisory Committee. These

Rules of Procedure replace the former Rules of Procedure published in the *Official Journal of the European Union* in 2006 ⁽¹⁾.

2. After they have been adopted, the Supervisory Committee shall take the necessary steps to have them published in the *Official Journal of the European Union*.

Done at Brussels, 29 June 2011.

For the OLAF Supervisory Committee

The Chairman

Diemut THEATO

⁽¹⁾ OJ C 311, 19.12.2006, p. 63.