



# The **OLAF** report **2021**

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# The **OLAF** report **2021**

**Twenty-second report of the  
European Anti-Fraud Office,  
1 January to 31 December 2021**

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OLAF's report features case studies for illustrative purposes only. The fact that OLAF presents these case studies does not prejudice the outcome of any judicial proceedings, nor does it imply that any particular individuals are guilty of any wrongdoing.

**The European Anti-Fraud Office is commonly known as OLAF, which is the acronym of its title in French, Office européen de lutte antifraude.**

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European Anti-Fraud Office (OLAF)

### Reporting fraud to OLAF

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# Executive Summary

## OLAF: DETECT, INVESTIGATE, PROTECT

In 2021, fraudsters sought to take advantage of every opportunity that presented itself. These opportunities included the urgent need to buy COVID-19 vaccines, as well as medical and personal protective equipment; the consolidation of the massive increase in e-commerce; the disruption to global supply chains; and the release of public funds aimed at addressing the socioeconomic consequences of the pandemic.

The European Anti-Fraud Office (OLAF) continued to meet the challenge of protecting Europeans and their money despite the difficult circumstances. Travel restrictions hampered the capacity of OLAF's investigators to carry out on-the-spot checks and interviews in person, but OLAF remained effective at identifying and tackling fraud patterns such as double funding, collusion, conflict of interest, manipulation of tenders, money laundering, undervaluation of customs duties, smuggling and counterfeiting.

2021 was a crucial year for the future of Europe, in terms of preparing for the aftermath of the pandemic. The European institutions agreed on an unprecedented funding package, the Recovery and Resilience Facility, worth over €720 billion in loans and grants. OLAF worked closely with the European institutions to develop a strong anti-fraud framework to protect the facility and has begun working with Member States as they assess whether they meet the requirements on control and anti-fraud measures.

As Europe builds its future, climate change and environmental degradation remain a constant and existential threat. In 2021, OLAF investigated frauds and irregularities relating to green and environmental funding aimed at addressing that threat, and also helped prevent the illicit trade in environmentally damaging goods such as waste and hazardous gases. OLAF also began laying the foundations to ensure that the funds dedicated to Europe's green recovery are not lost to fraudsters.

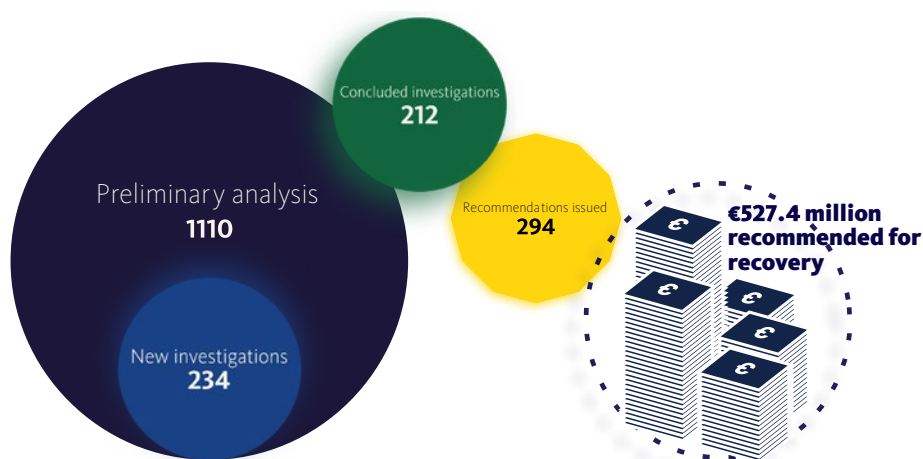
## OLAF'S INVESTIGATIVE PERFORMANCE IN 2021:

- ▶ OLAF concluded 212 investigations, issuing 294 recommendations to the relevant national and European Union authorities.
- ▶ OLAF recommended the recovery of €527.4 million to the EU budget.
- ▶ OLAF opened 234 investigations, following 1 110 preliminary analyses carried out by OLAF experts.

## TRENDS IN ANTI-FRAUD INVESTIGATIONS:

In 2021, fraudsters continued to profiteer from the pandemic and became even more sophisticated and adaptable, taking full advantage of the opportunities available by working across borders and jurisdictions, exploiting digital tools and professionalising their illicit business activities.

**Figure 1: OLAF's investigative performance in 2021**



With regard to expenditure, the most worrying phenomenon has been the infiltration of the economy by organised criminal groups seeking to get their hands on the grants and loans made available from the EU budget through patterns of administrative irregularities, such as double funding, conflict of interest, manipulation of tenders and other means.

In 2021, OLAF detected and investigated cases demonstrating that fraudsters are already developing new tactics to carry out frauds relating to green and digitalisation projects, which are the main priorities of the EU budget for the years to come.

In relation to revenue, fraudsters have coped with increased difficulties in moving large quantities of goods around by breaking up shipments of goods into smaller consignments, which are harder to detect and intercept. Complex patterns of shell companies established in many jurisdictions, including outside the EU, allow fraudsters to operate freely across the world, making undervaluation and origin fraud more difficult to tackle. Newly adapted fraud schemes emerged throughout the year involving COVID-19-related products, as well as imports of products pertaining to the green transition, and waste management. Human health and safety, and the environment, are increasingly likely to suffer collateral damage caused by ruthless fraud schemes with the sole objective of making illicit profits.

**OLAF’S FIGHT AGAINST COUNTERFEITING AND SMUGGLING OF DANGEROUS PRODUCTS**

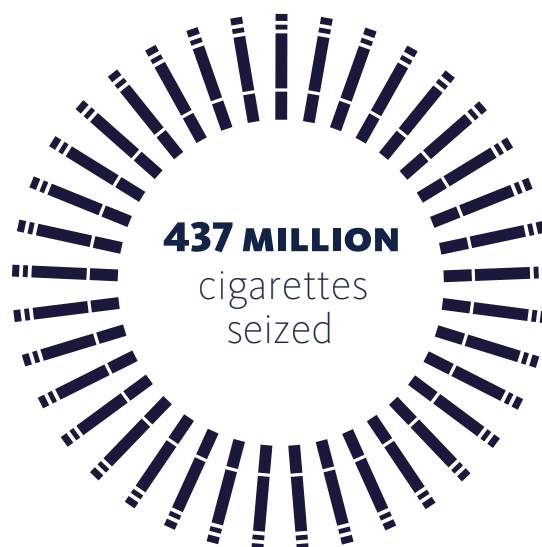
In 2021, OLAF co-organised or provided support to 13 joint customs operations and other operational actions with partners. Thanks to OLAF’s intelligence and capacity to connect the dots, millions of counterfeit and potentially dangerous items were prevented from entering Europe and destroyed.

**Figure 2: Joint customs operations**



These included fake medicines, counterfeit pesticides, counterfeit refrigerant gases, hazardous toys, dangerous foodstuffs and counterfeit spare parts that can cause serious road and domestic accidents. OLAF also made significant progress in its efforts to fight the illicit trade in tobacco products, the profits from which are often reinvested in criminal activities, by helping national authorities seize 437 million cigarettes.

**Figure 3: Seizure of cigarettes in 2021**



**CONTRIBUTION TO POLICIES TO FIGHT FRAUD**

In 2021, OLAF was in charge of rolling out the new Union Anti-Fraud Programme, which supports Member States in building up their national anti-fraud capacities. The programme has a budget of €181 million for 2021–2027.



## Foreword

It is with great pleasure that I present the latest edition of the annual report of the European Anti-Fraud Office (OLAF).

2021 proved to be another challenging year for all, as its events played out in the shadow of the pandemic, with associated restrictions on work and travel. However, OLAF staff showed great adaptability and ingenuity in managing to carry out their work and I am extremely proud and impressed by the results achieved during the year under such difficult circumstances.

Despite the challenges, OLAF's investigative performance in 2021 remained strong. We opened 234 investigations, concluded 212 cases, issued 294 recommendations – and, most importantly, we recommended that €527 million be recovered to the European Union budget from serious irregularities and fraud.

In this report, you will read about how OLAF investigated complex cases of fraud, gave guidance on developing safeguards for the Recovery and Resilience Facility (RRF), exposed fake offers from fraudsters for COVID-19 vaccines and tackled the illicit trade in waste, tobacco and other substances that are dangerous to our health and environment.

The examples contained in this report are just a snapshot of what OLAF achieved in 2021, as the report does not list all the cases in which OLAF was involved. Yet what these cases show is an organisation that delivers positive outcomes, is rich in experience and expertise and has a truly global reach and an excellent track record of cooperating with partners, whether they be in Europe or on the other side of the world. The report highlights some of the work that OLAF undertook to help combat fraud, corruption, customs undervaluation and smuggling during 2021.

OLAF's work can provide direct support to the main priorities of the European Commission; an illustrative example is the work that OLAF carried out in 2021 to help ensure the EU's green recovery.

In 2021, the European Commission started to make the first payments from the RRF. 37 % of all RRF funding will be invested in measures to support the green transition, making unprecedented amounts available to support Europe's ambitious climate goals and future resilience.

However, as we are only too well aware in OLAF, this amount of funding risks attracting fraudsters. OLAF has worked to develop safeguards against fraud, corruption and conflict of interest that could affect the RRF.

2021 was marked by environmental disasters across Europe. Ferocious forest fires, temperatures exceeding 40 degrees and devastating floods caused deaths and huge environmental damage. These disasters were an uncomfortable reminder that we are living through a climate emergency.

More and more funding has been made available in recent years with the aim of achieving climate neutrality. OLAF has put an increasing focus on protecting this form of funding from patterns of fraud and corruption. The fight against the trafficking of waste, wildlife and products that harm the environment is another aspect of this vital area of work, which reflects the increasing importance that environmental issues play in today's EU.

This report offers an insight into some of the investigations undertaken to protect the environment, such as OLAF's work with others to target illegal waste shipments and prevent the import of harmful gases. OLAF's work in this area not only protected vital green budgets but also had a direct impact on reducing harmful environmental activity.

There are many threads that run through this report. However, one that stands out is that of cooperation. It is clear that since its creation in 1999 OLAF has worked best when it works with other partner organisations, authorities, institutions and Member States.

2021 marked the arrival of the European Public Prosecutor's Office, a natural operational partner for OLAF. Operational cooperation started from day one and we are already seeing concrete results. It is with great pleasure that I welcome the newest body in the EU anti-fraud architecture. Working together – with our strategic partners, including Europol and Eurojust will show just how effective we are in protecting EU money and putting fraudsters away.

What this report shows is where OLAF adds value, be it by leading actions or complementing those of our partners. We have come a long way in 23 years and we are always learning more about how best we can fulfil our mission to detect, investigate and protect – protecting both the EU budget and citizens against fraud and corruption.

**Ville Itälä**  
**Director-General of OLAF**





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*The seat of the European Anti-Fraud Office, in Brussels*



# 1. Mission and mandate

## MISSION

Detect, investigate and work towards stopping fraud affecting the European Union budget (see Figures 4 and 5).

## MANDATE

The mandate of the European Anti-Fraud Office (OLAF) is to:

- ▶ conduct independent investigations into fraud and corruption involving EU funds to ensure that EU taxpayers' money reaches projects that can stimulate the creation of jobs and growth in Europe;
- ▶ investigate serious misconduct by EU staff and members of the EU institutions, thus contributing to strengthening citizens' trust in the EU institutions;
- ▶ develop EU policies to counter fraud.

## COMPETENCES

OLAF investigates matters relating to fraud, corruption and other illegal activities affecting EU financial interests and concerning:

- ▶ all EU expenditure – the main spending categories are European Structural and Investment Funds, agriculture and rural development funds, direct expenditure and external aid;
- ▶ some areas of EU revenue, such as money from customs duties or value added tax (VAT).

OLAF also carries out investigations into suspected serious misconduct by EU staff and members of the EU institutions.

OLAF is also in charge of implementing Council Regulation (EC) No 515/97 setting out how national authorities must cooperate with each other and with the European Commission to implement EU customs and agricultural legislation.

OLAF is part of the Commission and, as such, under the responsibility of the Commissioner for Budget and Administration, Johannes Hahn.

However, in carrying out its investigative mandate, OLAF acts in full independence.

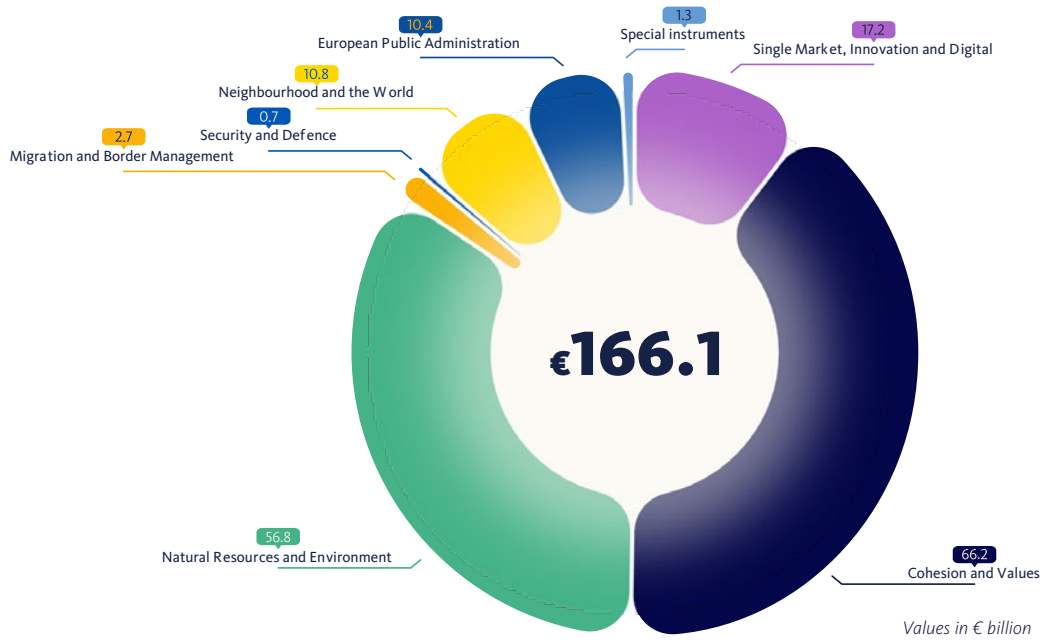
## WHAT WE DO

OLAF's investigative work broadly involves:

- ▶ assessing incoming information of potential investigative interest to determine whether there are sufficient grounds for OLAF to open an investigation;
- ▶ conducting administrative anti-fraud investigations, where appropriate in cooperation with national criminal or administrative investigative authorities and with EU and international bodies;
- ▶ supporting the anti-fraud investigations of national authorities;
- ▶ coordinating the actions of national authorities and sharing knowledge on fraud with its partners in order to prevent losses and protect health and safety;
- ▶ recommending actions that should be taken by the relevant EU or national authorities;
- ▶ monitoring the actions taken by these authorities, in order to assess the impact of OLAF's work on the fight against fraud and better tailor the support that OLAF provides to national authorities.

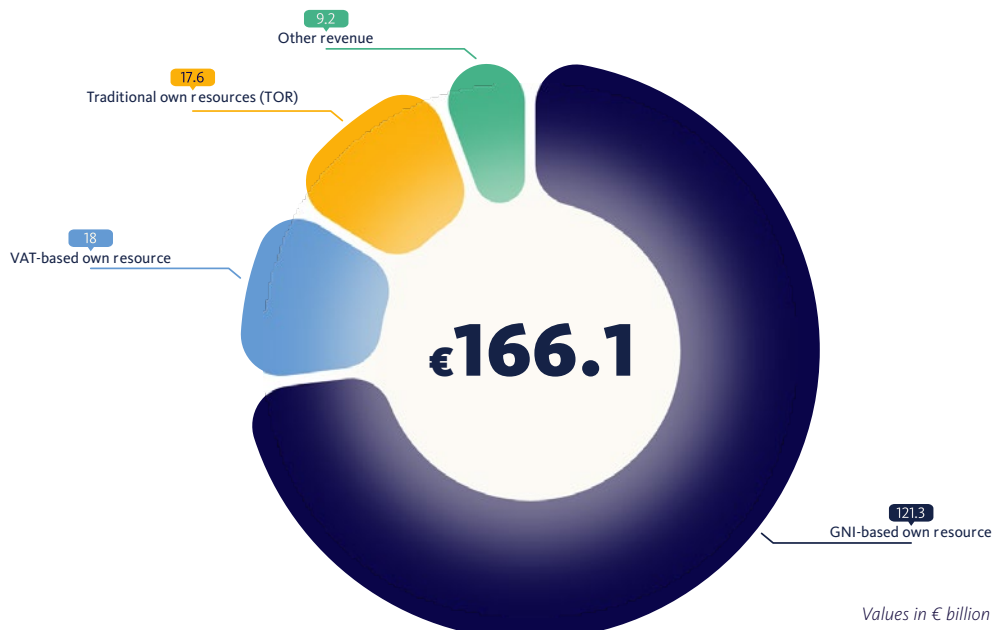
The responsibility for much of EU spending is shared between European, national, regional and local levels. Even where EU institutions manage funds directly, the money is often spent across national borders, and sometimes outside the EU. The same applies to the parts of EU revenue that come from customs duties and VAT. The detection, investigation and prosecution of fraud against the EU budget and the recovery of unduly spent amounts or evaded customs duties are therefore conducted in cooperation with a wide range of partners, at national, European and international levels.

Figure 4: EU expenditure in 2021



Source: OJ L 93, 17.3.2021, p. 14.

Figure 5: EU revenue in 2021



Source: OJ L 93, 17.3.2021, p. 41.



### OLAF CASES FREQUENTLY COVER:

- ▶ cross-border procurement fraud or corruption in public procurement procedures involving EU financing;
- ▶ double funding, where, through deceit, a project is funded several times by different donors who are unaware of the contributions the others have made;
- ▶ subsidy fraud in various forms, as fraudsters take advantage of the difficulties of managing and controlling transnational expenditure programmes;
- ▶ customs fraud, where fraudsters attempt to avoid paying customs duties, for instance by smuggling goods into the EU.

OLAF analyses data that give it a unique overview of fraud trends and patterns. This big picture is essential not only to investigate fraud but also to prevent it from happening. Cross-border fraud exploits gaps in knowledge and in cooperation among national authorities. OLAF joins the dots of these fraud schemes, shares its knowledge, organises joint operations, and gives early warnings that allow national authorities to take action to prevent losses.

This focus on prevention is one of OLAF's strengths. Preventing losses to revenue and preventing fraud relating to expenditure is the most effective way of

ensuring that every euro is well spent. Preventing the arrival in Europe of dangerous products is the most effective way of protecting citizens' health and safety and the environment. Examples of OLAF's prevention work, through investigations and operations, are given in Section 2.2.2.

OLAF's main role as a knowledge centre frequently concerns:

- ▶ fraud patterns and modi operandi;
- ▶ cross-border fraud trends;
- ▶ anti-fraud measures.

EU institutions, bodies, offices and agencies are, like other employers, at risk of fraud by their members and staff in relation to remuneration, travel and relocation allowances, social security, and health entitlements. They may also be at risk of corrupt activity by members and staff in procurement procedures and of other forms of corruption such as illicit attempts to influence decision-making and recruitment procedures. To some degree, these risks are increased by the transnational nature of EU business. OLAF has therefore a unique mandate to carry out so-called internal investigations into any allegations of misconduct involving staff and members of the EU institutions, bodies, offices and agencies.

## 2. OLAF’s investigative activity: trends in anti-fraud investigations

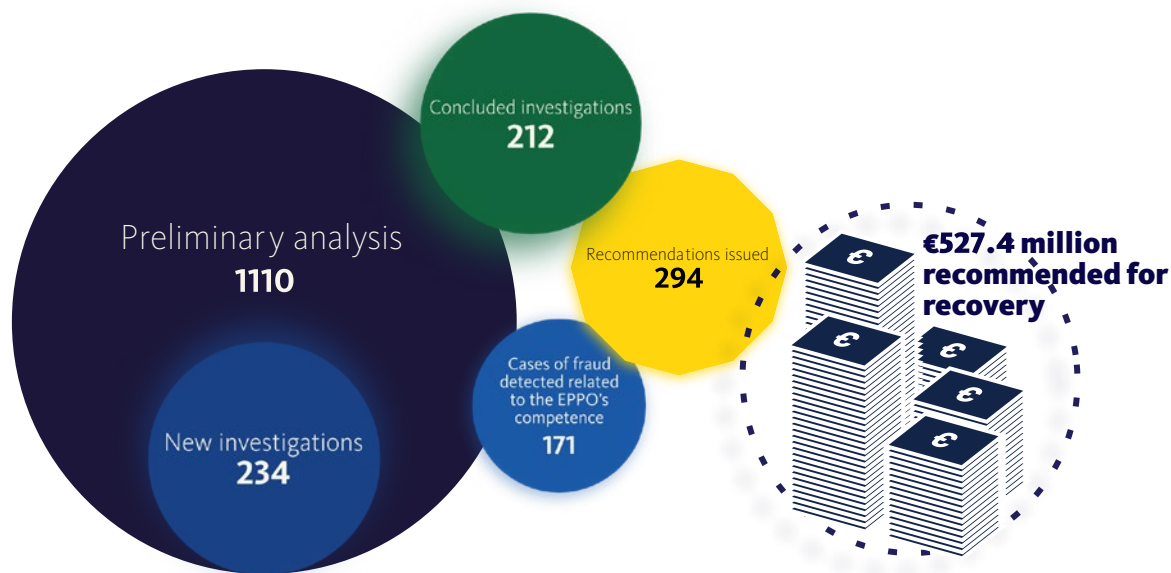
### 2.1. Summary of OLAF’s investigative performance in 2021

OLAF’s investigative performance in 2021 was again strong. After analysing more than 5 300 pieces of new incoming information from private and public sources, as well as from OLAF’s own knowledge, some 1 100 selections were made during the year, leading to 234 new investigative cases being opened. A total of 212 investigations were successfully concluded during the year, leading to OLAF issuing 294 financial, judicial, disciplinary and administrative

recommendations to competent authorities at EU and national levels. The majority of these recommendations concerned the recovery of EU funds by the relevant authorities at EU and Member State levels – €527.4 million in 2021. For a detailed presentation of these and other performance indicators, please refer to the statistical annex to this report (Chapter 12).

In 2021, OLAF worked closely with the European Public Prosecutor’s Office (EPPO), which became operational in June. Chapter 4 of this report provides more information on OLAF–EPPO cooperation.

Figure 6: OLAF’s investigative activity in 2021, including cases related to the EPPO’s competence



NB: EPPO: European Public Prosecutor’s Office.



**Table 1: Investigations into the use of EU funds managed or spent in whole or in part at national or regional level concluded in 2021**

Country	Cases concluded	
	Total number per country	from which closed with recommendations
Italy	11	6
Bulgaria	10	6
Poland	10	7
Slovakia	10	4
Hungary	9	5
Macedonia	8	3
France	5	1
Romania	5	4
Portugal	4	4
Armenia	3	2
Greece	3	2
Croatia	2	1
Moldova	2	2
Serbia	2	1
Sweden	2	1
Ukraine	2	0
Afghanistan, Albania, Algeria, Austria, Azerbaijan, Cambodia, Chad, Cyprus, Czech Republic, Democratic Republic of Congo, Denmark, Ecuador, Estonia, Ethiopia, Germany, Guinea, Kazakhstan, Kosovo, Latvia, Lithuania, Malawi, Mozambique, Pakistan, Spain, Syria, Turkey, United Kingdom	27 (1 per country)	13
<b>Total</b>	<b>115</b>	<b>62</b>

**Table 2: Investigations opened by main investigative area**

Area details	2017	2018	2019	2020	2021
Internal Matters	40	27	36	46	25
Direct Management	36	38	26	48	50
Indirect Management	47	48	21	42	29
Shared Management	62	78	92	98	94
<i>European Agricultural Guarantee and Rural Development Funds</i>	10	23	25	39	27
<i>European Regional Development Fund</i>	40	36	36	34	41
<i>Cohesion Fund</i>	6	4	9	8	6
<i>European Social Fund</i>	4	12	14	8	12
<i>Other</i>	2	3	8	9	8
Own Resources	32	28	40	48	34
Illicit Trade	5	2	11	13	5
<b>Total area details</b>	<b>222</b>	<b>221</b>	<b>226</b>	<b>237</b>	<b>237</b>

NB: Investigations occasionally relate to two main areas and are then counted twice. This is why the table shows a slightly higher number of investigations opened in 2021 (237) than Figure 3 (234).

## 2.2. Combating fraud: the main trends in OLAF's work in 2021

In 2021, OLAF's investigations showed a number of new trends in fraudulent activity, such as fraud affecting the environment and biodiversity.

The year also saw large-scale natural disasters. Floods, droughts and wildfires were an uncomfortable reminder that we are living in a climate emergency.

The EU is playing a leading role in the fight against climate change, the promotion of a circular economy and the protection of the environment. This has resulted in massive EU financial support for environmental projects and more stringent rules for goods produced in the EU or traded with non-EU countries. New opportunities have thus been created for fraudsters coveting EU funds and those who are trying to circumvent the legislation in force to make easy and considerable profits.

Meanwhile, the continuing global pandemic and the roll-out of COVID-19 vaccines in 2021 diversified the range of opportunities for fraudsters, not least related to the vaccines and to counterfeit medical and personal protective equipment.

In 2021, the European Commission's funding package NextGenerationEU came into force. The centrepiece of that package is the Recovery and Resilience Facility (RRF). The RRF is a game-changer, making over €720 billion available to Member States in loans (€385.8 billion) and grants (€338.0 billion).

This unprecedented amount of money will play a crucial role in helping Europe to recover from the pandemic and bringing about the green and digital transitions. However, as we know in OLAF, where such amounts of money appear, so too do fraudsters, intent on lining their own pockets.

Given the pressing nature of the climate emergency and the historic funding announcement, Chapter 3 will detail OLAF's work on protecting funds related to the green recovery.

In 2021, OLAF identified patterns of fraud also observed in previous years and related to EU funds in other important sectors such as agriculture, fisheries and regional policy. These patterns included double funding, creation of artificial circumstances in order to gain EU funding, collusion, conflict of interest, manipulation of tenders, money laundering, undervaluation of customs duty, smuggling and counterfeiting.

What follows is a selection of cases closed by OLAF in 2021 that illustrates these various trends. It is not an exhaustive list of all the investigations completed by OLAF but rather an overview of the main types of fraudulent activity detected by the office during the year.

### 2.2.1. Protecting EU funds

#### A. AGRICULTURE AND COHESION POLICY

Agriculture and cohesion policy traditionally account for the largest shares of the EU budget. Alas, this type of funding is a common target for fraudsters. Cases that OLAF investigates typically involve issues such as creation of artificial circumstances in order to gain EU funding, collusion, manipulation of tenders, double funding, violation of the non-profit principle, fictitious working hours, irregular or non-existent project costs and conflict of interest.

#### Vineyard fraud

This case concerned alleged irregularities and fraud regarding the implementation of a project to restructure and convert vineyards in Bulgaria.

**Figure 7: Repartition of Recovery and Resilience Facility funds**







OLAF found that some of the local workers on the project did not have an employment contract. OLAF further uncovered that the main contractor had artificially inflated the costs of the works, part of which had actually been implemented by local workers employed by subcontractors at lower costs. OLAF subsequently discovered that an economic operator from another Member State had reverted part of the amounts invoiced to the main contractor, which possibly constituted money laundering activity.

OLAF recommended to the European Commission (Directorate-General for Agriculture and Rural Development) the recovery of nearly half a million euro.

### No room for fraud at the guesthouses

OLAF concluded an investigation into the construction of 377 guesthouses in Bulgaria, which had been co-financed by the European Agricultural Fund for Rural Development (EAFRD), by recommending the recovery of €23 million to the European Commission (Directorate-General for Agriculture and Rural Development).

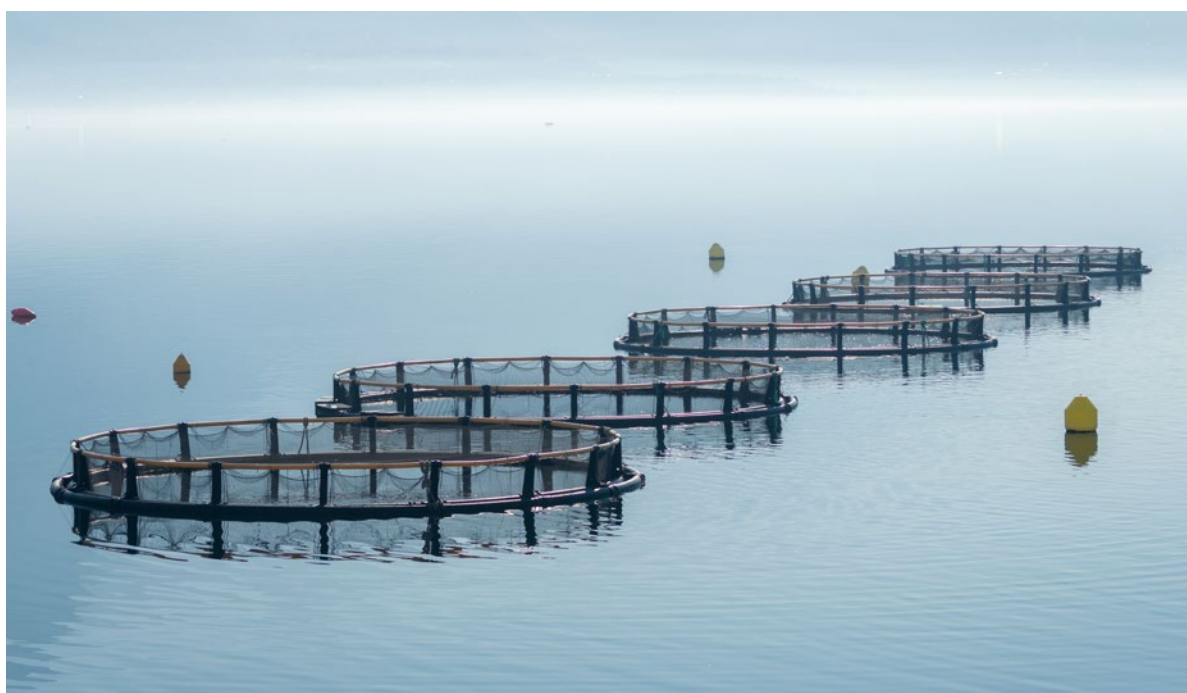
The fraud scheme in this case consisted in the use of EU funds for the construction of 'guesthouses'. In

reality these guesthouses were constructed but were not used in accordance with the objectives based on which this activity had been financed by the EAFRD (e.g. to improve the economic sustainability of the areas in question, generate employment and diversify economic activities). These objectives would have been achieved if the guesthouses had actually been used to host paying customers, such as tourists, and not for private use.

OLAF's investigation revealed that the project did not meet the objectives of the financing from the EAFRD, based on parameters such as numbers of overnight stays and existing and new employment contracts; financial revenues and overall rates of implementation were very low. Furthermore, a high level of irregularities affected almost all of the projects.

### 'Fishy' rural development projects

In this case, OLAF looked into information regarding a suspected illegal agreement by three companies to defraud two fisheries projects in Slovakia. In the course of its investigation, OLAF was able to reconstruct the bigger picture of the fraud scheme and to link the three companies concerned to an additional 26 rural development projects.



In each instance, OLAF reconstructed how the group manipulated procurement processes in favour of a member of the group and inflated the prices of the goods and services supplied to make illicit profits. In total, the group defrauded the EAFRD and the European Fisheries Fund of €4.7 million over a period of 5 years.

OLAF recommended full financial recovery on each project. It also recommended that the competent judicial authorities address potential infringements of the national criminal code involving subsidy fraud, manipulation of public procurement and damage to EU finances <sup>(1)</sup>.

### **Fraud in the promotion of agricultural products**

OLAF uncovered multiple irregularities and inflation of prices in a scheme funded under the European Agricultural Guarantee Fund in Bulgaria, which was meant to promote agricultural products such as wines, spirits, cherries and dairy products in the EU and in non-EU countries.

The contracts for the implementation of all 11 programmes were awarded to the same economic operator, which was based in Greece. The procurement procedures for the selection of the implementing bodies for the 11 programmes deviated substantially from the requirements for a competitive procedure. Other irregularities uncovered included the non-repayment of amounts borrowed in the form of loans by the implementing body to the beneficiaries in order to finance their own contributions to the project.

OLAF investigators also discovered that prices for the implementation of the programmes had been inflated, with substantial differences between the amounts invoiced by the service providers and the subcontractors. In some instances, no payments were made to the service providers.

OLAF recommended the recovery of the entire European Agricultural Guarantee Fund share in the financing for the 11 projects, which amounted to around €7 million.

### **Agricultural fraud at the airport**

This case relates to serious irregularities committed since at least 2005 regarding land located within the perimeter of Rome Fiumicino Airport in Italy.

The economic operator had applied for – and received – several tranches of EU aid in the framework of several EU agricultural programmes for the management and use of several parcels of land located inside the airport area. It turned out that this land has not been farmed at all.

Moreover, the economic operator had no right to request or receive EU funds, as it did not have a legitimate title to or exclusive use of the land for which it was claiming funding. The production of documents proving such rights, which did not exist in this case, is a key condition for EU aid to be granted.

OLAF concluded the investigation by recommending the recovery of the total amount of aid received by the economic operator, about €1 million.

### **Fake organic wine**

OLAF investigators uncovered a fraudulent case in Italy targeting European agricultural funding aimed at promoting organic wine production.

A fake agricultural company was set up to purchase crops and harvest them for the organic production of wine. This company did not respect its obligations to keep the land in good agricultural and environmental condition: to avoid using chemical products and to abide by the rules on organic farming on all the hectares of land covered by the project. These were pre-conditions for it to receive EU aid from agricultural funds.

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<sup>(1)</sup> The events took place between 2012 and 2016, pre-dating the EPPO's entry into operation.



OLAF received crucial information from the European Investment Bank alerting the office that a red flag had been raised when a local bank had issued the company concerned with a loan granted by the European Investment Fund.

OLAF concluded the investigation in 2021 by issuing a financial recommendation to the European Commission (Directorate-General for Agriculture and Rural Development) for the recovery of EU agricultural subsidies that totalled about €200 000. OLAF worked on this case in close cooperation with the national prosecutor in charge of the criminal investigation.

## **B. INFRASTRUCTURE AND MODERNISATION**

Infrastructure projects (within and outside the EU) typically attract fraudsters and organised crime because of the usually large amounts of money involved, which can be fraudulently obtained by means of administrative irregularities.

At the same time, with digital Europe in the making, fraudsters saw in 2021 new opportunities to steal EU funds related to modernisation projects.

### **Clean drinking water in Chad**

OLAF uncovered fraud that had occurred during the building of an approximately 20-km-long drinking-water supply pipeline connecting wells to a reservoir in the Republic of Chad. Two contracts fully financed by the European Development Fund had been awarded in connection with this project in 2014.

OLAF found that the pipeline measured 250 mm in diameter, instead of the required 400 mm, thus resulting in higher operating costs and meaning that the capacity of the grid would not continue to satisfy needs, given the expected growth in the population around the areas served by the pipeline. Documents had been forged to cover this up. To make matters worse, the water reservoir collapsed in April 2020 before it could even be used. The investigation revealed that concrete of suboptimal quality had been used in the construction of the reservoir, which may well have been one of the causes of its collapse. The technical assistant in charge had failed to carry out the required controls, which facilitated or even triggered the fraud.

OLAF also found other irregularities committed by the construction company, the technical assistance team and by at least four individuals. OLAF recommended the recovery of nearly €1.7 million.



### Promoting energy efficiency and interregional cooperation

OLAF received information referring to alleged conflict of interest concerning two projects co-financed by the European Regional Development Fund (ERDF) and Interreg Europe and implemented in Germany. During the investigation, OLAF was able to identify conflict of interest issues affecting eight additional projects co-financed under different Interreg programmes and linked to energy efficiency and interregional cooperation.

In each of the projects, a German association was a partner or a lead partner in a consortium of entities. This association outsourced most managerial, communication and administrative tasks to a German company using a simplified tendering procedure. The OLAF investigation revealed that the chair of the association and the CEO of the company that had

been the beneficiary of the outsourcing were in fact the same person.

OLAF made a financial recommendation to the European Commission (Directorate-General for Regional and Urban Policy) on the recovery of €200 000 for the seven projects for which it could establish conflict of interest.

### Fraud goes digital

OLAF received several allegations of irregularities and fraud concerning the implementation of numerous software projects co-financed from the EU budget in Poland.

OLAF established that a group of companies had artificially created conditions for obtaining public funding and made false declarations to the national authorities to conceal its behaviour. In some of the projects, members of the group of companies had acted as beneficiaries, consultants, suppliers and service providers, thereby creating a situation of conflict of interest. In other projects, the group had drafted applications for funding for its clients, after agreeing with them that the group’s members would later become project suppliers.

One of the eligibility conditions for participation in the tender being the involvement of an accredited consulting company and qualified suppliers (scientific institutions), the group also persuaded eligible companies to participate in some projects and then transferred to the group members (acting as suppliers) most of the funding received.

The case was closed with financial, judicial and administrative recommendations being made. The total financial impact of the irregularities established in 95 projects amounted to more than €11 million.

### 2.2.2. Protecting EU funds by preventing losses

#### Preventing the loss of €1 million aimed at increasing the competitiveness of enterprises

In 2021, OLAF concluded an investigation in Portugal relating to a potentially fraudulent structure involving three private companies and an association.



The association and the three companies were beneficiaries of the ERDF and the European Social Fund (ESF).

The three companies had established the association and were managing it directly. The association had no own material or human or financial resources, and the employees concerned worked for the association and at the same time for the companies. The service providers for the association were the very same companies that had set it up. In addition, OLAF also discovered a series of further irregularities, such as cross-invoicing and inflated costs.

OLAF's investigation was concluded with recommendations to the European Commission (Directorate-General for Regional and Urban Policy and Directorate-General for Employment, Social Affairs and Inclusion) that it undertake appropriate measures to ensure the recovery of €222 650 and with judicial recommendations to the competent national judicial authorities.

OLAF's investigation prevented over €1 million, approved but not yet paid for the projects investigated, from being unduly spent.

### **€330 million for pensions? But not from EU funds**

Following an exchange of information with the Italian Court of Auditors, OLAF discovered that an Italian region had earmarked over €330 million from the ESF and the ERDF for a social assistance scheme for low-income pensioners.

The initiative taken by the region was intended to last 2 months, which just happened to coincide with the date of regional elections. Further suspicions were raised when it was confirmed that the regulations governing the use of ESF and ERDF funds did not contain provisions allowing the income of older people in receipt of pensions from national social security systems to be increased.

OLAF's investigation made clear that the measure that was to be financed by the region consisted of granting economic support to older people in receipt of social pensions, social allowances or old-age pensions amounting to less than €1 000 per month.

In a letter sent to OLAF, the region explained that the scheme had been amended several times and that the amount allocated to low-income pensioners had been reduced to EUR 142 million. The region also specified that it no longer intended to finance the initiative with either ESF or ERDF funds but instead using national funds.

However, subsequent OLAF checks found that the original notice promoting the scheme remained on the region's official website, stating that income support for pensioners was being financed by the ESF and the ERDF and still quoting the original figure of over €330 million.

Given that the amount earmarked by the region to support low-income pensioners was not eligible for ESF or ERDF financing and that the original scheme was still advertised on the region's official website, OLAF concluded that there was a high risk that the amounts paid to beneficiaries would come from either ESF or ERDF funds.

Consequently, OLAF sent a financial recommendation to the Directorate-General for Employment, Social Affairs and Inclusion of the European Commission that it should undertake all appropriate measures to prevent the amount of €331 067 557 from being unduly spent.

### **2.2.3. Protecting EU revenue**

By falsely declaring the value or the origin of goods imported into the EU, fraudsters evade paying the correct duties and taxes on those goods.

In recent years, OLAF has worked successfully with customs services in the EU and across the world to help detect and prevent such frauds from occurring. 2021 was no exception.

Undervaluation and origin fraud are difficult to detect as they occur across several jurisdictions. Fraudsters are increasingly mobile and can quickly relocate their business and reconfigure their logistical chain to escape the scrutiny of public authorities. The global pandemic has changed the ways in which frauds are carried out; this has meant that OLAF has had to adapt in order to tackle more agile and sophisticated fraud patterns.

The following cases show how much money can be lost to the budgets of Member States and the EU, and they highlight the complexities and cooperation involved in trying to solve this type of fraud.

### **Textiles, shoes ... and a €27 million customs fraud scheme**

OLAF concluded a case in 2021 involving allegations of customs undervaluation of certain quantities of textiles and shoes imported to the EU, primarily to Belgium and the Netherlands. The products were imported mainly from China by organisations based there and which had logistical hubs in the EU. They arranged the shipping from China, customs clearance in the EU and EU-wide distribution.

OLAF's investigation found that one China-based organisation was using a German shell company that was responsible for undervaluing the products and evading VAT once the goods arrived in the EU. The role of this shell company was to act as a fake importer, and as a conduit company within a wider, related VAT fraud. The shell company never actually owned the goods, the goods were never delivered to its premises and the company did not even have a warehouse or any distribution capacity. Once the goods arrived in the EU, they were immediately passed to other companies and delivered to other Member States with no VAT payments being made.

OLAF concluded the case by making financial recommendations for the recovery of €27.2 million, of which €4.6 million to Belgium and €22.6 million to the Netherlands.





### A €12.7 million bicycle import fraud

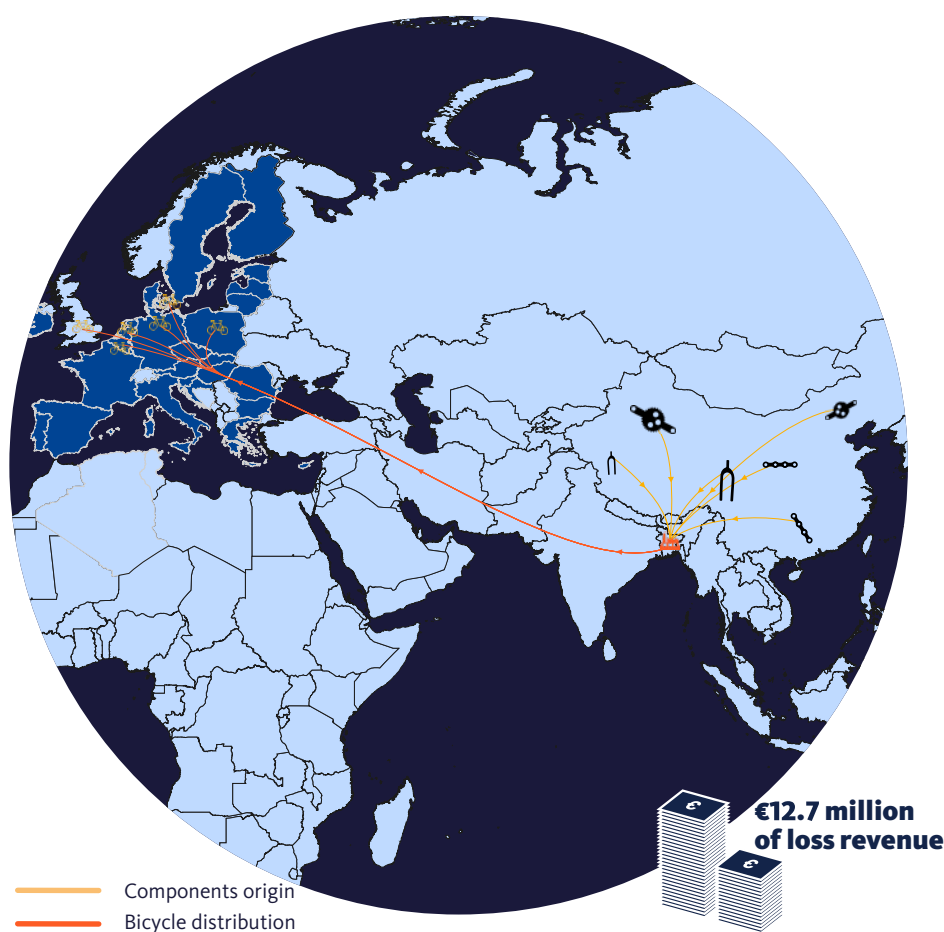
Bangladesh is the third-largest exporter of bicycles to the EU, and Bangladeshi bicycles are exempt from EU customs duties. However, in order to benefit from this exemption, bikes from Bangladesh must meet strict EU criteria on the origins of the components used in making the bike and the value added. In short, the bikes must be sourced and manufactured in Bangladesh in order to qualify for the customs exemption.

OLAF received information alleging that a Bangladeshi manufacturer might have been circumventing these strict criteria. It was alleged that many of the component parts originated from China, so much so that the bike itself should be considered to be a Chinese bike and therefore not exempt from EU customs duties.

During the investigation, OLAF established that the application documents submitted to obtain certificates of Bangladeshi origin contained inaccuracies concerning the origin of certain parts of the bicycle, namely the frames, front forks, handlebars and rims. It transpired that many of these parts originated in China. As a result, 416 843 bicycles had to be relabelled as of Chinese origin and were therefore subject to the payment of duties.

This fraud cost the EU budget €12.7 million in lost revenue. OLAF sent financial recommendations for the recovery of these amounts to six countries – Belgium, Denmark, Germany, the Netherlands, Poland and the United Kingdom.

**Figure 8: Bicycle fraud**



### Joint customs operation SNAKE II

Because of the sensitivity of undervaluation of textiles and footwear imported from China, which has generated massive fraud schemes over the years, OLAF organised a second joint customs operation (JCO), codenamed SNAKE II, in cooperation with the Anti-Smuggling Bureau of China Customs. A total of 25 Member States participated.

This JCO concluded that customs undervaluation continues to be a very serious issue that must continue to be challenged by Member States and EU services.

The JCO also reaffirmed that timely and transparent information sharing is the key ingredient in creating a coherent EU-wide strategy to confront what continues to be a very serious issue for both EU and national budgets.

#### 2.2.4. Protecting health and safety during the pandemic

At the beginning of the pandemic in 2020, OLAF opened an investigation into the illicit trade in personal protective equipment and other materials linked to the COVID-19 pandemic.

In 2021, OLAF's investigations in this field continued and led to the identification of suspicious operators and seizures of many COVID-19-related products. These included consignments of hand sanitisers containing a high volume of methanol, substandard face masks and fake testing kits.

To tackle this issue at global level, OLAF teamed up with almost every customs and enforcement authority in Europe and worldwide, as well as Europol, Interpol and the European Union Intellectual Property Office (EUIPO). This cooperation led to the identification of more than 1 250 suspicious companies acting as intermediaries or traders in counterfeit or substandard products linked to the COVID-19 pandemic.

Fraudsters created artificially long chains of intermediary shell companies to take advantage of the situation. There were many opportunistic companies trying to settle in to a profitable new business but having no record of being operational in this field and no control over their supply chain.

The identification and prevention of these types of fraud were a high priority for OLAF. Several different types of fraud schemes were exposed during OLAF's investigations and the information shared with Member States and non-EU countries.

OLAF also identified 270 companies using forged or invalid EU declarations of conformity and shared the relevant information with the EU Member States. The work of OLAF investigators and analysts enabled Member States to stop the distribution of over 100 million items of counterfeit or substandard medical supplies during 2021.





## Exposing fake offers of vaccines

OLAF received reports from governmental sources in EU Member States about offers from supposed intermediaries offering large quantities of COVID-19 vaccines. The aim of these scams – as OLAF established – was to convince public authorities to make large down payments to secure the sale, after which the fraudsters would disappear with the money.

These hoaxes were organised to defraud national authorities looking to step up the pace of vaccination to keep their citizens safe.

OLAF's analysts established that these offers were suspicious and shared the information with Member States and Europol. Where necessary, OLAF also worked with international partners.

The intermediaries were opportunistic companies that were inactive or trading in very different types of goods until shortly before their offers. These companies were often located in countries outside the EU to make it more difficult to identify and investigate them.

Together with its partners, OLAF managed to thwart these scams. It also managed to help enforcement services to determine the true identity of the individuals and companies behind these attempted frauds, which put at risk human health and public finances at a time of great hardship.

In an unprecedented move, OLAF issued a stark public warning against these attempted frauds, which in 2021 together **represented almost 1.2 billion vaccine doses for a total asking price of over €16.4 billion**. OLAF also responded to numerous questions from journalists, citizens, private companies, and EU and non-EU countries' authorities, raising awareness of this unscrupulous type of fraud and thus reducing fraudsters' opportunities to swindle national authorities.

Representatives of OLAF also shared their expertise in this field by contributing to numerous European and international conferences, seminars and workshops on how to spot potential red flags related to fake offers of COVID-19 vaccines. This participation helped OLAF investigators to make contact and build relationships with international stakeholders, which strengthens the global fight against fraud. OLAF's cooperation with EUIPO was instrumental in that respect.

Thanks to OLAF's continued work on this matter and its engagement in raising awareness, and the very controlled methods of distributing vaccines throughout Europe, all EU Member States were well prepared to assess offers of vaccines. Not a single EU Member State has reported falling victim to a fake offer of COVID-19 vaccines.



### Joint customs operation S'care Face

OLAF organised a JCO, in close coordination with other directorates-general of the European Commission (the Directorate-General for Taxation and Customs Union; the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs; the Directorate-General for Health and Food Safety; and the Directorate-General for Justice and Consumers), to improve knowledge across Europe on the process for allowing face masks into the EU.

The JCO S'care Face ran from January to March 2021 and aimed to:

- ▶ map the routes of imported face masks into the EU;
- ▶ map the flows of the distribution of face masks across the EU from their point of entry;
- ▶ map the types of controls that were being carried out at the point of entry (and at the final destination);
- ▶ systematically share information among customs and market surveillance authorities in the EU Member States about consignors/ consignees whose shipments failed the controls carried out by customs authorities and/or failed the tests carried out by market surveillance authorities.

During the operation, the participating Member States prevented 49 million counterfeit or substandard face masks from entering the EU market.

### 2.2.5. Tobacco smuggling and counterfeiting

Tobacco products account for a large share of the smuggled or counterfeit goods targeted by OLAF each year. Whether they are genuine cigarettes sold on the black market or fake cigarettes passed off as the real thing, sales of these products line the pockets of criminal organisations and lead to the loss of millions of euro that could otherwise be used to finance projects and programmes for the benefit

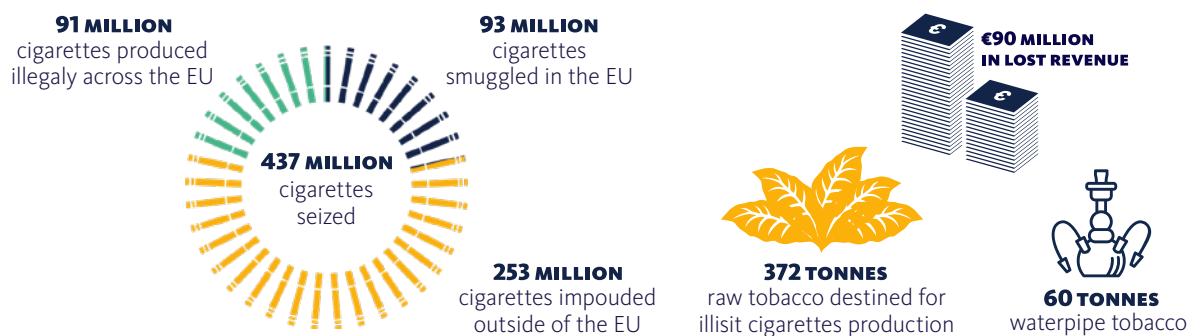
of citizens across the EU. Moreover, tobacco fraud undermines efforts to protect the health of EU citizens and generates undue revenue for criminal organisations, which is a threat to our society.

OLAF's role in tackling smugglers focuses on two main areas: gathering intelligence from a variety of sources – including law enforcement and cooperating industries – on the people, companies and means of transport involved and, at the same time, monitoring the movements of suspicious consignments of tobacco products worldwide, in close cooperation with the relevant services both within and outside the EU.

These two elements combine to help OLAF identify containers and/or lorries loaded with cigarettes that have been or will be falsely declared as other goods at the EU borders – and to do so from among the thousands of containers and lorries of merchandise that enter the EU every day.



Figure 9: Statistics on cigarettes



In 2021, OLAF's operations led to seizures of 437 million illicit cigarettes, including 93 million cigarettes smuggled into the EU, 253 million cigarettes impounded outside its borders and 91 million cigarettes produced illegally at sites across the EU. Information uncovered by OLAF helped lead to the confiscation of 372 tonnes of raw tobacco that was destined for the illicit production of cigarettes.

Also in 2021, OLAF continued to be active on waterpipe tobacco smuggling and was able to identify suspicious consignments of over 60 tonnes of waterpipe tobacco.

These seizures saved EU Member States an estimated €90 million in lost revenue.

### Illegal cigarette production within the EU

OLAF is also active in tackling counterfeiters involved in the illegal production of cigarettes within the EU. This is a particularly difficult activity to detect, as there are no customs controls.

A surge in the illicit manufacturing of cigarettes within the EU has been observed over the past few years: it has partly replaced smuggling activities across the external border of the EU. The phenomenon affects most Member States but in particular Belgium – which is close to the markets with the highest retail prices (France and the United Kingdom) – and Poland.

These coordination activities led to the seizure of 91 million cigarettes. In addition, 372 tonnes of raw or processed tobacco destined for illicit production of cigarettes was also seized.

OLAF has been involved in operations targeting factories producing illicit cigarettes. The activities carried out by the office in that context were:

- ▶ collecting, analysing and exchanging information and documents;
- ▶ searching specialised databases;
- ▶ designing a common investigative strategy to be applied by all national investigative teams;
- ▶ coordinating the monitoring of suspicious movements of lorries and of the movements of suspicious persons (technicians, workers and others) through special watches;
- ▶ assisting in organising surveillance of suspicious warehouses and planning raids of illicit factories and other tobacco facilities.

### Illegal sales of waterpipe tobacco continue to grow

OLAF informed national authorities in Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and several EU Member States of suspicious imports, exports and further movements of waterpipe tobacco. OLAF's checks revealed a series of irregularities, including that the companies listed as sending and receiving the goods had never been involved in tobacco trading, several companies had

had no financial turnover in the past few years and consignments were officially imported but stored in warehouses for long periods. Following initial physical checks at the request of OLAF, it was established that the consignments were to be re-exported at a reduced cost.

Given the nature of re-exports of waterpipe tobacco consignments and due to long-term monitoring processes, information on potential seizures is pending. Sometimes waterpipe tobacco is illicitly taken out of warehouses and, during transport, replaced by products with counterfeit packaging and content, or the company pretends to re-export the waterpipe tobacco while in fact it remains on the black market in the EU.

### 2.2.6. Intercepting counterfeit goods and stopping them from entering Europe

OLAF participates in large-scale actions in the form of JCOs involving EU and international operational partners. JCOs are targeted actions of a limited duration that aim to combat fraud and the smuggling of sensitive goods in specific areas that are at risk and/or on identified trade routes.

In 2021, OLAF was involved in several operations working alongside Europol, EUIPO, Interpol and the World Customs Organization (WCO). OLAF has vast experience of organising these types of operational activities and providing Member States with financial, operational, analytical and logistical support, as well as contributing its unique expertise on the customs fraud landscape.

OLAF was able to provide analytical and intelligence support during all stages of the operation thanks to the EU-level data collected in its databases and based on the outcomes of its operational and investigative work.

OLAF's Permanent Operational Coordination Unit – located in OLAF's premises – is made available to participants in JCOs to facilitate coordination tasks. OLAF's Virtual Operations Coordination Unit, an IT

application forming part of the Anti-Fraud Information System, is used for the secure exchange of information among all JCO participants.

#### Postbox III

Co-organised by Italian customs and the Guardia di Finanza, the Italian financial crime police, with the support of OLAF, the collaboration of Europol and the participation of 20 Member States, the operation focused on the illegal trade in counterfeit products, pharmaceutical products, COVID-19-related goods, drugs, endangered animal and plant species (under the Convention on International Trade in Endangered Species of Wild Fauna and Flora) and undervalued goods, using both the open and the dark web. The operation led to the detention of more than 1 400 shipments of illicit goods, including over 35 000 items of counterfeit goods, counterfeit bank notes with an approximate value of €240 000, more than 1 500 items of COVID-19-related materials, 240 kg of smuggled cigarettes and tobacco, and over 20 kg of cannabis and marijuana.

#### Athena V

The JCO focused on the cash-smuggling situation in the EU using courier, postal and parcel services. This operation was coordinated by the Spanish customs administration with the support of OLAF and the involvement of 13 Member States and Europol. More than 14 000 packages were checked during the operation. The evaluation of the results is ongoing.





### Arktos 3

This joint action was led by the European Border and Coast Guard Agency (FRONTEX), and co-led by Lithuania and Poland, supported by Interpol, OLAF, Eurojust and Europol along with border guards, police officers and customs officers from Estonia, Latvia, Slovakia, Finland and Sweden.

It targeted excise fraud, and in particular tobacco smuggling, document fraud and migrant smuggling at selected border crossing points at the EU's eastern land borders. As a result of the action, law enforcement authorities detected more than 400 innovative tobacco products, such as electronic cigarettes and e-liquids. Among the seized illegal goods were 6.7 million illegal cigarettes and 2.6 tonnes of raw tobacco, along with half a tonne of illegal drugs. Fifteen smugglers were arrested and more than 200 forged documents detected.

### Joint CELBET Activity 8

This action was organised by the Customs Eastern and South-eastern Land Border Expert Team (CELBET) with the support of OLAF. It focused on controls of cash and the detection of illegal cigarettes and other tobacco products as well as counterfeit parts of vehicles, clothes, shoes and cosmetics entering the EU via its eastern border.

### SCORPION II

The SCORPION II operation was co-organised by the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) and OLAF. It targeted the smuggling of tobacco products at the EU's eastern border and resulted in the seizure of 8 500 million cigarettes.

### STOP II

Organised by the WCO, the STOP II operation was the largest-ever customs-led global operation, involving 146 national customs administrations and with the support of Europol, Interpol, the United Nations Office on Drugs and Crime (UNODC) and the World Health Organization (WHO), together with pharmaceutical companies and other private sector actors. The target of the operation was the illicit trade in medicines, vaccines and medical devices related to COVID-19.

The operation resulted in the seizure of 365.7 million units, of which 195.5 million were medicines related to COVID-19, 156.7 million were medical devices (e.g. COVID-19 testing kits, face masks, used gloves, sanitiser gel and oxygen cylinders) and around 13.5 million were doses of COVID-19 vaccines.

### LUDUS II

LUDUS II was organised by Europol with the participation of OLAF, EUIPO, the WCO and 21 countries. It led to the seizure of over 5 million fake and illegal toys, worth €18 million. The seized goods posed risks such as chemical exposure, strangulation, choking, electric shock, damage to hearing and fire hazards.



### OPSON X

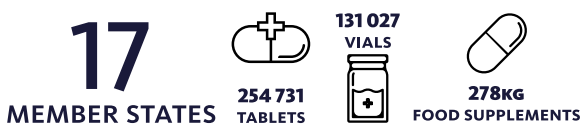
During OPSON X – a Europol/Interpol joint operation targeting fake and substandard food and beverages – OLAF led a targeted action on wine and alcoholic beverages, coordinating the work of 19 EU Member States and 3 non-EU countries. This action resulted in the seizure of nearly 1.8 million litres of wine and alcoholic beverages by European customs and police authorities, consisting of:

- ▶ 215 000 litres of counterfeit alcoholic beverages, mostly wine and vodka;
- ▶ 1 550 000 litres of various alcoholic beverages, wines and beers infringing fiscal rules or food safety standards.

## SHIELD II

In this operation organised by Europol, OLAF led a targeted action with 17 Member States against counterfeit hormonal substances, food supplements and medicines for erectile dysfunction, stopping in total 254 731 tablets, 131 027 vials of various medicines and 278 kg of food supplements from entering the EU.

Figure 10: Shield II



### 2.3. OLAF’s investigative mandate within the EU institutions

OLAF has a unique mandate to carry out internal investigations in EU institutions, bodies, offices and agencies for the purposes of fighting fraud, corruption, dereliction of duty and any other illegal activity affecting the financial interests of the EU. Its role is not only to make sure that EU taxpayers’ money is properly spent but also to help defend the reputation of the EU as a whole from the risk posed by any perceived lack of integrity within the institutions.

Although there are generally very few cases of irregular, inappropriate or fraudulent behaviour by EU staff, those that OLAF does investigate tend to follow roughly the same patterns. These include false declarations of expenses or other statements, especially in relation to allowances; undeclared external activities; and harassment or other inappropriate behaviour in the workplace.

### EU money allocated to Members of the European Parliament

In 2021, OLAF finalised an investigation related to possible unlawful financing of subsidies and gifts of a political nature using EU money allocated to Members of the European Parliament (MEPs) or political groups. The investigation involved four MEPs, five staff members and seven economic operators.

The budget in question (budget item 400) is intended to cover administrative and operational expenditure by the political groups / the non-attached members’ secretariat and expenditure on political and information activities conducted by the political groups / non-attached members in connection with the EU’s political activities.

Based on the evidence collected and its investigative activities, OLAF ascertained that some of the MEPs, staff members and economic operators in question were involved in serious irregularities and fraudulent schemes. These included conflict of interest situations, non-respect of procurement rules and non-compliance with the Financial Regulation. There were further irregularities regarding claims for reimbursement for personal expenses, diverting money from budget item 400 for national parties’ purposes and events, unauthorised external activities and ownership of private companies, acceptance of undeclared gifts and violation of rules on working conditions. It was also found that the economic operators had been reimbursed for non-eligible, inflated and/or fictitious services delivered.

The investigation further established serious matters in relation to the discharging of professional duties by staff members of the European Parliament and a political group. These irregularities were considered incompatible with the interests of the European Parliament and detrimental to its reputation.

OLAF forwarded the information obtained to the judicial authorities, as the matter may result in criminal proceedings. A financial recommendation for a substantial recovery of over €600 000 was made. A disciplinary recommendation was also sent to the European Parliament.



### Undue child allowance and unauthorised external activities

OLAF opened a case to investigate suspicions of fraud in relation to an EU staff member who had allegedly engaged in undeclared external activities and received undue child allowance on the basis of false information that the person concerned had submitted to an EU institution.

OLAF concluded that the staff member had, unbeknown to the institution, assumed the roles of managing director, founder, owner, board member and global legal director in three companies.

OLAF also established that the individual had unduly received child allowance, by means of submitting false information in an effort to mislead the institution as to the true duration of their relationship with their former partner.

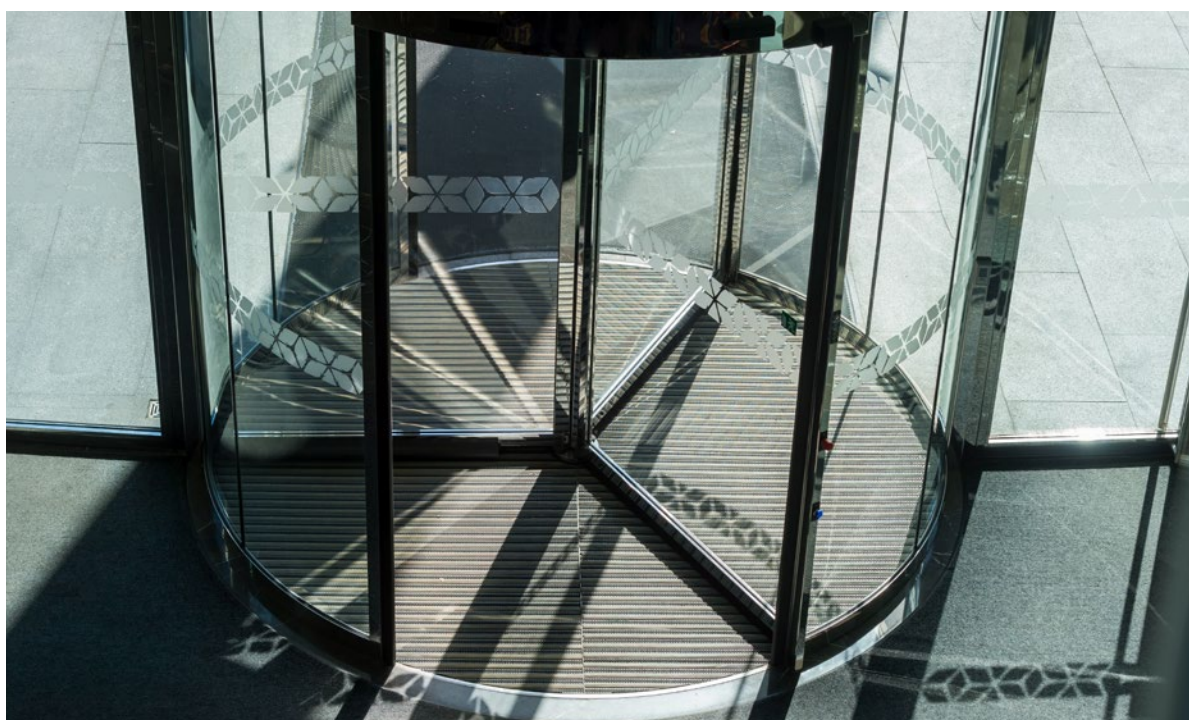
OLAF closed the investigation with a recommendation that the institution take appropriate disciplinary action against the individual, sent its findings to the competent public prosecutor to begin judicial proceedings for fraud and issued a financial recommendation that the child allowance unduly paid to the individual by the institution be recovered.

### Revolving doors

Sometimes OLAF finds that there was no breach of the rules. However, OLAF's investigations can highlight areas where existing legislation is deficient and needs to be tightened up.

One such example happened in 2021 when OLAF investigated alleged breaches of Article 16 of the EU's Staff Regulations in relation to the approval given by an agency to a staff member to take up duties in an organisation during the first 2 years after leaving service. The authorisation was given even though the occupational activity in question was related to the work carried out by the member of staff during their last 3 years of service with the agency and could have led to a conflict of interest.

The elements uncovered by the investigation did not indicate any irregularity. In compliance with the relevant legal framework, the agency had taken into account the potential conflict of interest arising from the senior staff member's proposed occupational activity and nevertheless approved the job move with certain restrictions on the new employment.



The investigation also showed that the staff member's employment contract with the agency contained no provisions in terms of 'gardening leave' and/or a 'cooling-off period' in the event of the person leaving their employment or the existence of a right to compensation during such leave.

Regarding this finding, OLAF made a recommendation to the agency to take the appropriate administrative measures to address this concern.

### Unauthorised occupational activities of a pensioner

OLAF investigated allegations concerning a former senior staff member's unauthorised involvement in multiple companies less than 2 years after the individual had retired from an EU institution.

According to Article 16 of the Staff Regulations, former staff members are required to inform the EU institution of their intention to engage in any occupational activities, whether gainful or not, within the first 2 years after they have left the service.

OLAF concluded that, while the staff member had sought authorisation to carry out certain teaching and academic activities, the person had failed to seek prior approval for involvement in three companies as an expert, consultant and board member.

OLAF recommended that the institution initiate appropriate disciplinary proceedings against the former staff member in relation to the breaches of the statutory obligations.

**Table 3: Investigations into EU staff and members of the institutions concluded in 2021**

Institution	Cases concluded	
	Total	of which closed with recommendations
European Banking Authority (EBA)	1	1
European Central Bank (ECB)	1	1
European Commission	4	1
European Court Of Auditors (ECA)	1	1
European Economic and Social Committee (EESC)	1	1
European External Action Service (EEAS)	5	1
European Investment Bank (EIB)	4	2
European Ombudsman	1	0
European Parliament	10	7
European Police Office (Europol)	1	0
Other agencies and bodies	3	2
<b>Total</b>	<b>32</b>	<b>17</b>





### 3. Focus chapter: OLAF's role in preventing environmental damage and protecting the EU's green recovery

Climate change and environmental degradation are an existential threat to Europe and the world. Green recovery, sustainable development, tackling climate change and protecting our environment are key priorities for the EU, and OLAF plays its part in supporting these objectives.

During 2021, the climate emergency made itself felt across the EU. The floods of July devastated a large area of Europe, leaving over 200 people dead and causing untold damage to people's lives, homes and businesses. Wildfires, triggered by temperatures that exceeded 40 degrees in some areas and fanned by high winds, raged throughout Europe, destroying homes, communities and nature alike.

The EU is at the helm of many actions aimed at protecting the environment, achieving climate neutrality and creating a climate-resilient Europe.

Green projects will involve purchasing products such as solar panels, lithium batteries and refrigerant gases for heat pumps, which Europe imports from other parts of the world. Green funding, like all expenditure, is vulnerable to fraud. Energy efficiency, waste treatment and water management are primary targets for fraud in the EU.

This chapter gives an overview of OLAF's work in 2021 to prevent the arrival and entry into the EU of dangerous products that irreparably harm our environment and to prevent exports of waste to be disposed of illegally in other parts of the world with potentially severe consequences at planetary level.

It also aims to provide a snapshot of the interest of fraudsters in green projects, which will help in anticipating potential future fraud patterns.

From uncovering invisible forests to tackling waste trafficking, OLAF is fully committed to working towards Europe's successful green transition.

#### 3.1. Preventing movement of dangerous goods

##### TACKLING ILLICIT WASTE SHIPMENTS

The European Green Deal includes initiatives to encourage and foster the correct management of waste, promote its sustainable treatment and aid in the fight against illicit waste trafficking. The move towards a more circular economy in Europe has seen a rise in waste recycling rates; however, traffickers try to



take advantage of the gap between waste production and recovery capacities. It is estimated that up to 30 % of all waste shipments may be illicit, which is thought to be worth €9.5 billion annually for criminals.

In 2021, OLAF supported major investigations and operations against illicit waste shipments around the world. OLAF's investigators exchanged real-time information on suspicious waste shipments with the customs and environmental authorities of EU countries of origin and non-EU countries of destination. Together, they monitored both the original shipments and the returns of refused containers to make sure they were not diverted on their way back to the EU source country.

For example, OLAF's alerts and intelligence helped Italian authorities block the attempted international smuggling of some 800 tonnes of waste.

On two occasions, OLAF helped Italian customs block attempts to smuggle to Malaysia plastic waste that had been falsely declared as raw material. OLAF's support helped establish that the procedures regulating the export of waste had not been respected and that the exporters did not hold the necessary permits, as the Malaysian authorities also confirmed. Criminal reports were filed against the exporters in both cases.

In one case involving the port of Genoa, 71 tonnes of plastic waste were seized and returned to the manufacturer for proper management.

In another case, customs officials in Naples coordinated by the Central Anti-Fraud Directorate uncovered an attempt to smuggle waste from Naples via an intermediary company based in Hong Kong and intercepted a consignment of about 350 tonnes of plastic waste loaded into 12 containers.

OLAF was also able to assist the Italian Agency for Customs and Monopolies and the Carabinieri Command for Environmental Protection and Ecological Transition in blocking 350 tonnes of plastic waste in 16 containers being shipped to Turkey from Genoa by a Slovenian intermediary. OLAF's work with the Turkish authorities in this instance helped ascertain that the Turkish consignee could not

properly manage the waste and did not have the necessary authorisations for imports from abroad.

A further action in Italy carried out by the national authorities uncovered several hundred additional tonnes of various types of waste, taking the total intercepted to 1 200 tonnes.

### **RETURN TO SENDER**

In January 2021, thanks to an alert from OLAF, the Slovenian authorities prevented a consignment of 18 tonnes of plastic waste destined for Malaysia from leaving port.

The shipment originated from Hungary and was destined for Malaysia via the Slovenian port of Koper. The Malaysian importer was not authorised to import it and the transport documents necessary for a transnational shipment had been incorrectly filled out.

The container was shipped back to the Hungarian export company.

### **CONTAMINATED WASTE**

In December 2021, thanks to an OLAF alert, five containers declared as containing paper waste were stopped at the Indian port of Haldia and inspected by the Directorate of Revenue Intelligence of India. It turned out that the containers were made up of paper waste that had been contaminated with municipal/household waste (aluminium cans, plastic, packaging containing food residue, surgical masks). As a result, the containers were seized and an investigation by the competent authorities is ongoing.

### **OPERATION DEMETER VII**

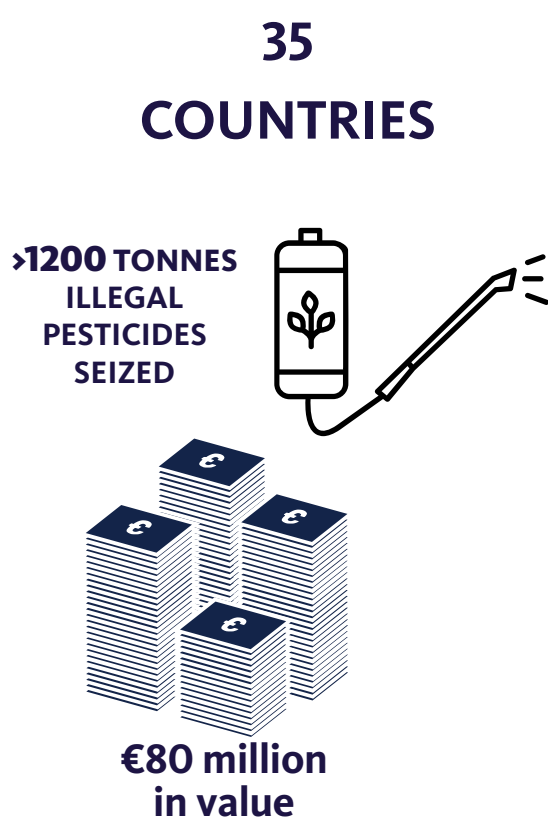
This operation, coordinated by the WCO, tackled the illicit trafficking of waste, ozone-depleting substances and hydrofluorocarbons. A total of 102 law enforcement agencies participated. OLAF's role was to liaise between EU and non-EU countries and to obtain information and intelligence, which led to the detection and seizure of over 4 000 tonnes of waste (e.g. used electronic items, waste batteries, used vehicles, printers ) and 493 items of ozone-depleting substances and hydrofluorocarbons.



## OPERATION SILVER AXE VI

OLAF participated in this annual Europol-led operation, providing its expertise in identifying and tracking suspicious shipments. In 2021, over 1 200 tonnes of illegal pesticides were seized in Operation Silver Axe VI, which involved 35 countries and led to seizures of illegal and counterfeit products worth an estimated €80 million.

Figure 11: Silver Axe



OLAF shared operational intelligence with the customs authorities of Member States, China, Colombia, Russia and Ukraine. The Office tracked suspicious live shipments of illegal pesticides, leading to the seizure of around 39 tonnes of the total 1 200 tonnes.

## Cooperation in the fight against illicit trafficking that endangers the environment

### OPFA WASTE PROJECT

In August 2021, OLAF became a supporting partner in the implementation of the project Operational Facility Fighting Illicit Waste Trafficking (OPFA WASTE). The EU-funded project, led by the Italian authority Arma dei Carabinieri, involves police forces, inspection authorities, customs administrations, EU agencies and the private sector. The aim of the project is to assist police operations that tackle waste trafficking. Another aim of OPFA WASTE is to develop standardised investigative methodologies and tools at EU level to monitor suspicious waste shipments.

### UNWASTE

OLAF is a member of the steering committee of the project UNWASTE, organised by the United Nations Office on Drugs and Crime in partnership with the United Nations environment programme. It also involves representatives of Indonesia, Malaysia, Thailand and Vietnam.

The overall objective of the project is to strengthen policy responses by South-East Asian countries to the issue of illicit trafficking in waste and illegal dumping of waste and to promote cooperation between member states of the Association of Southeast Asian Nations (ASEAN) and the EU. The investigative experience of OLAF in this domain is considered a valuable asset enabling it to analyse situations and propose effective solutions.

### ILLICIT IMPORTS OF REFRIGERANT GAS

Refrigeration is an essential part of everyday life, from chilling food to cooling homes and offices. However, F-gases are often potent greenhouse gases and, as such, their use has been phased out in the EU since 2014, with a quota limiting the amount of gases that can be imported by any one company, for example. As a result, there has been a rise in black market activity related to these substances.

Tackling this black market, especially illegal imports of these gases into the EU, is one of OLAF's operational priorities. Keeping harmful gases out of the EU is in line with the Commission's ambition to make Europe the first climate-neutral continent by 2050.

OLAF has taken part in a number of joint actions with a range of partners to help stop these gases from flooding into the EU. During 2021, OLAF supported cross-border investigations, passing on information to the competent authorities that led to significant seizures and detentions of illegal shipments. Some of these actions are listed below.

- ▶ Thanks to OLAF information, Polish customs stopped a container of refrigerant gases destined for a company not registered to receive such gases. Further information from OLAF led to the prevention of seven other containers being imported to Poland to companies that had used up their allotted quota.
- ▶ As part of operation Verbena, OLAF assisted the Spanish Tax Agency and the Spanish police in seizing 27 tonnes of F-gases and arresting five people. The operation also uncovered 180 tonnes of illicit hydrofluorocarbons that had been smuggled into Spain.
- ▶ The Italian customs office in Naples stopped a shipment of 5 tonnes of refrigerant gases coming from Turkey, following information on risk profiles established by OLAF. The importer was not authorised to import refrigerant gases, as it was not registered in the [EU F-gas portal](#).

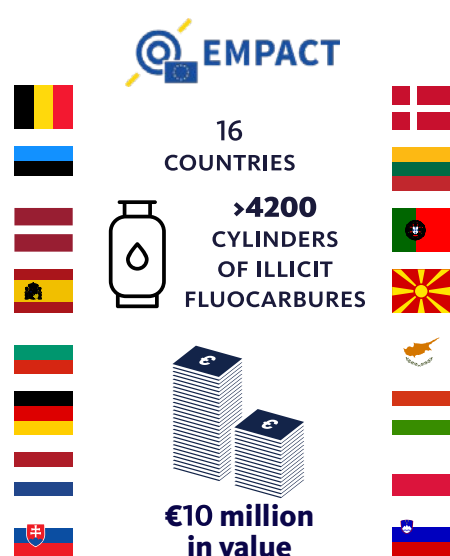




- ▶ The Estonian customs authorities stopped a shipment of approximately 9 tonnes of refrigerant gases packaged in 415 cylinders. OLAF provided the Estonian authorities with additional information regarding the transit movement. OLAF also alerted the authorities that the company had used up its quota of imported F-gases.
- ▶ Spanish customs and the national police, with the participation of OLAF investigators, seized approximately 10 tonnes of refrigerant gases in bulk and in small refillable cylinders.
- ▶ Supported by Europol, OLAF participated in a Joint Inspection Week aimed at addressing the illicit import of fluorinated gases (F-gases) used in refrigeration into the EU, which was coordinated by the European Multidisciplinary Platform against Criminal Threats (EMPACT). The Joint Inspection Week involved representatives of 16 countries – Belgium, Bulgaria, Cyprus, Denmark, Estonia, Germany, Hungary, Lithuania, Latvia, the Netherlands, North Macedonia, Poland, Portugal, Slovenia, Slovakia and Spain.

OLAF provided information and intelligence on suspicious shipments and operators. This action led to the seizure of more than 4 200 cylinders of illicit hydrofluorocarbons and of pre-charged equipment, with an estimated value of over €10 million.

**Figure 12: Illicit import of fluorinated gases**



## 3.2. Protecting EU green projects

### FUNDING FOR ALTERNATIVES TO TRADITIONAL PESTICIDES

The LIFE+ programme is the EU's funding stream for the environment, climate action and sustainable development. In 2021, OLAF investigated irregularities relating to several projects co-funded under the programme in Italy.

The projects mainly concerned new innovative and environmentally friendly solutions in the leather and agricultural industries, in particular alternatives to traditional pesticides for soil.

OLAF established that some beneficiaries of this funding had inflated their subcontracting costs in order to submit fraudulent receipts, reporting much higher costs than those they had actually incurred. They managed to claim for consultancy services even though funding rules forbade them from doing this. The beneficiaries pulled off this deception by labelling the consultancy fees 'dissemination costs' and keeping their consultancy agreements confidential.

Based on the findings of the investigation, OLAF issued one judicial recommendation and ten financial recommendations and proposed that the beneficiaries be placed on the EDES <sup>(2)</sup> database (thus excluding them from participation in EU procurement procedures and projects for a maximum of 4 years). OLAF also recommended the recovery of around €220 000.

The collaboration with the national authority was key to uncovering this well-planned fraud. Only a few months after OLAF's recommendations, the contracting authority had already finalised 9 out of 10 financial recovery orders.

<sup>(2)</sup> The Early Detection and Exclusion System (EDES) is a tool established by the European Commission to protect the EU's financial interests against unreliable persons and entities applying for EU funds. EDES ensures early detection of persons or entities posing a risk, exclusion from EU funding and imposition of financial penalties.

### SEEING THE WOOD FOR THE TREES

OLAF wrapped up a case concerning the misuse of EU funds that were to be used for planting forests where no forests had previously existed, or 'afforestation' as it is known. The programme was financed by the EAFRD.

OLAF investigators identified and confirmed fraud and irregularities in the three main project activities: initial afforestation, maintenance and replanting of trees.

The evidence collected revealed that the afforested land in Bulgaria was smaller than the area declared by the beneficiary. Some parts of the land were private properties and erosion gullies, and trees therefore could not be planted there. However, according to the project documents the entire project area was included in the funding application – meaning money was claimed for areas that never saw the shadow of a tree.

The investigation also uncovered possible fraud related to the declaration of maintenance activities. There was no visible sign of maintenance in most of the project area during a 5-year period, despite declarations to the contrary.

Similarly, the replanting activities were not fully implemented by the beneficiary, despite being reported to be complete in the project documentation.

As a result, OLAF recommended the recovery of the full amount of €180 000 received from the EAFRD and made a judicial recommendation to the national authorities to initiate proceedings against the beneficiary.

### GREEN AIRCRAFT

OLAF investigated a case that concerned a claim of fraud related to EU funding for the development and delivery of more environmentally friendly aircrafts.

An Italian company was a co-beneficiary of such a grant. However, OLAF discovered that the company was registered several times under the same Chamber of Commerce number at several different addresses and had gone bankrupt on more than one occasion. Furthermore, the company did not exist at its registered address and its previous address was in an abandoned building.

In cooperation with the Guardia di Finanza, OLAF found documents related to the company at the premises, but no trace of ongoing business activities.

The official Italian registry mentioned the company as 'inactive'. As if that were not suspicious enough, the coordinator of one of the projects unsuccessfully attempted to recover the pre-financing from the Italian company after the termination of its participation in the project because of lack of results.

OLAF obtained the records of transactions (bank statements) of the company and its legal representative during the time of the implementation of the projects. OLAF's investigators saw that the balance of the company's account had initially been very small (about €4 000), had then increased significantly (when the projects started) and at the end of the projects had contained only a few euro (despite the fact that the company had received about €1.5 million from the EU in different tranches for the projects).

OLAF discovered that €700 000 in EU funding had been withdrawn in cash by the former CEO of the beneficiary and transferred to his private account.

On the basis of the evidence collected, OLAF issued a financial recommendation to ensure the recovery of all the money paid to the Italian company as a beneficiary of EU-funded projects, amounting to around €2 million.

OLAF also issued a judicial recommendation to the public prosecutor's office in Italy that it should initiate proceedings against the former director of the company in relation to potential misappropriation of EU funds.



## 4. The European Public Prosecutor's Office

### 4.1. Creation of the European Public Prosecutor's Office

On 1 June 2021, the EPPO, the missing pillar in the EU anti-fraud architecture, became operational. Based in Luxembourg, it can prosecute fraudsters in 22 EU Member States. The EPPO's mandate to conduct criminal investigations and prosecutions in the anti-fraud field is achieved by means of criminal law enforcement, and OLAF remains the body responsible for administrative investigations at EU level. By working together, they can both ensure the full financial protection of the EU budget.



The creation of the EPPO has changed the way fraud is detected, investigated and prosecuted in the EU. This has in turn required revisions to Regulation (EU, Euratom) No 883/2013, which is the main legal instrument governing the investigative activity of OLAF. The revised Regulation entered into force on 17 January 2021, setting out how OLAF and the EPPO will work together, as well as further reinforcing the investigative capacity of OLAF.

The arrival of the EPPO adds another layer to the protection of the EU's financial interests. The legal frameworks of OLAF and the EPPO clearly provide for the two offices to work in close cooperation while respecting their individual mandates, powers and competences, and the two offices will combine their investigative and other capacities to improve the protection of the financial interests of the EU. Part of this mutual cooperation involves OLAF conducting 'complementary investigations' and acting in support of the EPPO's criminal investigations.

Acting in complementarity to the EPPO's investigations means that OLAF can conduct administrative investigations into the same facts as the EPPO. This allows OLAF to address essential aspects of the protection of the EU's financial interests, such as recommendations for speedy recovery, the adoption of administrative precautionary measures and the development of systemic recommendations for improvement where shortcomings are identified in administrative investigations (e.g. with regard to procurement procedures). These investigations are carried out in close cooperation with the EPPO upon mutual agreement.

OLAF may support the EPPO in its investigations by means of operational, forensic and analytical expertise and tools, with a view to enhancing OLAF's and the EPPO's activities in full respect of applicable procedural guarantees. In 2021, OLAF's investigators provided support to the EPPO by serving as expert witnesses in complex cases, and they provided forensic analysis and substantial documentation of relevant EU projects and programmes.

This cooperation will ensure that OLAF becomes a reliable operational partner for the EPPO and that all available means are put into practice to safeguard taxpayers' money from fraud and other irregular activities.

The updated Regulation (EU, Euratom) No 883/2013 also gives OLAF better tools to investigate fraud against the EU budget. For example, OLAF can access records of banking transactions under the same conditions as those that apply to national competent authorities. The new Regulation has clarified that OLAF should be able to request access to privately owned devices used for work purposes if the office has reasonable grounds to suspect that their content may be relevant for the investigation. The rules that govern how OLAF conducts on-the-spot checks have also been made clearer, while the way in which the office cooperates with national authorities has also been enhanced. These improvements go hand in hand with the reinforcement of procedural guarantees for persons under investigation.

Additionally, OLAF has been actively engaging with Commission services in the framework of the Commission–EPPO working agreement. In its liaison role, OLAF has provided the necessary assistance to EPPO and Commission staff to help shape this new cooperation, using its operational experience and understanding of the EU budget architecture.

#### 4.2. Optimising cooperation between OLAF and the EPPO

OLAF has adjusted its investigative procedures to optimise cooperation with the EPPO. A working arrangement between OLAF and the EPPO was signed on 5 July 2021. OLAF also adopted new [Guidelines on Investigation Procedures for OLAF Staff](#) in October 2021. The new text transposes provisions of the revised Regulation (EU, Euratom) No 883/2013 and aligns OLAF’s practice with the requirements of cooperation with the EPPO.

OLAF was ready to begin operational cooperation with the EPPO from day one. In the first 7 months of the EPPO’s operational activity, OLAF contributed considerably to the opening of criminal investigations by the EPPO: some 85 criminal investigations were opened by the EPPO based on OLAF’s investigative reporting.

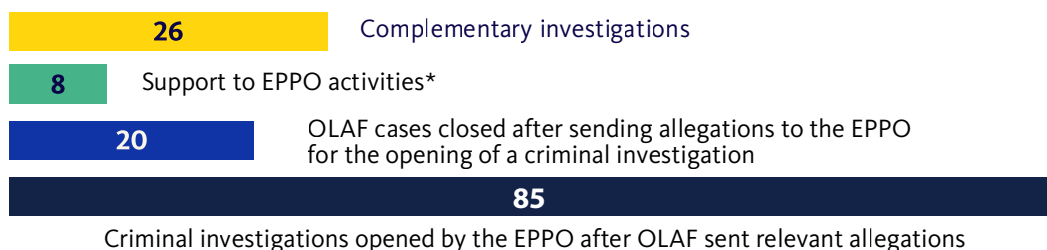
For each case reported to the EPPO, OLAF made an assessment of the damage caused or likely to be caused at the stage of reporting. Of the 85 criminal investigations opened by the EPPO as a result of OLAF’s reporting, the total damage was estimated at €2.2 billion <sup>(3)</sup>.

This is not to be confused with the amounts recommended for recovery by OLAF at the end of its investigations, when all relevant facts have been established (see Figure 3).

OLAF invested considerable efforts in successfully detecting fraud cases for the EPPO and engaging with the newly appointed European prosecutors and European delegated prosecutors. As part of this, OLAF provided training for representatives of each Member State participating in the EPPO to familiarise them with OLAF’s work, capabilities and cooperation methods to ensure that the available tools were put to use from day one. In addition, OLAF’s staff have provided significant training on the EU’s common agricultural policy, the new RRF funds and centralised expenditure.

What follows is a breakdown of the OLAF–EPPO cooperation in figures.

Figure 13: OLAF’s cooperation with the EPPO



\* OLAF’s support to the EPPO in the framework of Article 12e of revised Regulation (EU, Euratom) No 883/2013

<sup>(3)</sup> The estimated total damage is calculated based on the values taken into account at the time of reporting to the EPPO. The assessment of damage includes the best estimate of financial impact on the EU’s financial interests as per the information available at the stage of reporting. This financial impact is calculated on the basis of specific contracts, projects or entire programmes or other estimated amounts likely to be involved in fraudulent activities, depending on the management mode in question.



**Table 4: EPPO investigations opened by main investigative area**

Management modes	EPPO investigations opened
At selection	11
Internal investigations	25
Direct expenditure	34
Shared management	63
Illicit trade, health and environment	2
Customs and trade	7
International investigations	25

**Table 5: EPPO investigations opened per Member State**

Member States to which OLAF's cases were assigned by the EPPO	EPPO investigations opened
Austria	3
Belgium	30
Bulgaria	13
Croatia	7
Cyprus	2
Czechia	3
Estonia	3
France	18
Germany	6
Greece	18
Italy	16
Latvia	4
Lithuania	3
Luxembourg	1
Netherlands	2
Portugal	5
Romania	7
Slovakia	11
Slovenia	1
Spain	14

### 4.3. Results of OLAF's cooperation with the EPPO

Some successes of the OLAF–EPPO cooperation are already evident. Throughout 2021, and in addition to their detection work, OLAF investigators and forensic analysts provided substantial support to EPPO investigations, most notably by participating in witness interviews as experts and providing detailed analysis of customs matters.

OLAF and the EPPO agreed to work together on a number of cases, which led OLAF to open several complementary investigations that yielded some important results in financial and criminal justice terms.

For example, in June 2021 OLAF informed the EPPO about a potential fraud committed concerning a project co-funded by the ERDF in Croatia. During its complementary investigation and in close cooperation with the EPPO, OLAF conducted two on-the-spot checks combined with digital forensic operations in Croatia. In November 2021, four suspects were arrested at the request of the EPPO.

#### **A €107 million EU-wide customs evasion scheme**

In 2021, OLAF finalised an investigation into a sophisticated EU-wide fraud scheme involving imported goods from China. This revealed a suspected fraud amounting to €14 million in underpaid customs duties and an estimated €93 million evasion of VAT.

After being alerted by the Guardia di Finanza, OLAF started to investigate almost 2 000 consignments of textiles and shoes that had arrived in Italy having originated in China.

Working closely with the Guardia di Finanza and the customs authorities of Hungary, Slovenia and Slovakia, OLAF built up a picture of how the consignments had entered the EU and been distributed within it.

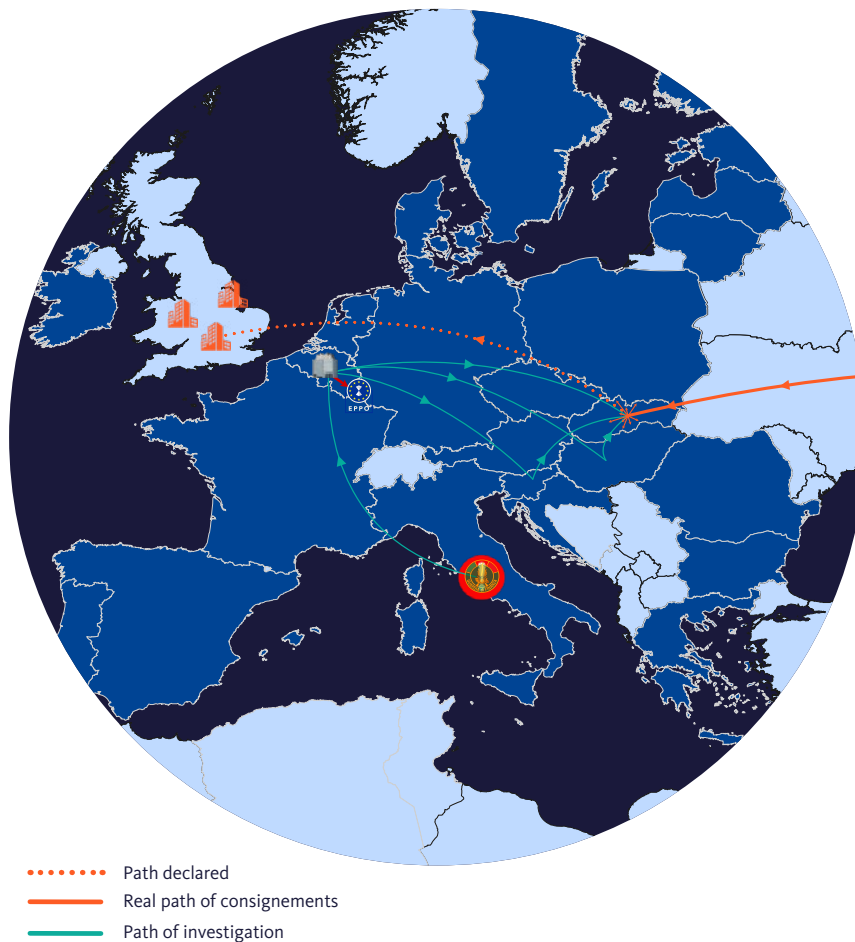
Three companies operating from the United Kingdom arranged for the import of the consignments into the EU, through different points of entry. The consignments were eventually traced back to Slovakia.

In Slovakia, their customs value was underdeclared, causing a suspected initial loss to the EU budget of €14 million. The goods had originally been declared as being destined for the United Kingdom, with the regime applicable at the time meaning that the VAT payments due on them were suspended; however, it turned out that they were rerouted from Slovakia to other destinations throughout the EU.

OLAF carried out a thorough and detailed examination of the transport records of the consignments, which established that at least 11 Member States had been affected. Further investigation showed that some of the goods had vanished and had probably been sold on the black market. OLAF estimated that the loss in VAT for the consignments could be as high as €93 million.



**Figure 14: €107 million EU-wide customs evasion**



Following the investigation, OLAF issued financial recommendations to the 11 Member States affected so that appropriate action could be taken at national level. This fraud cost EU taxpayers €107 million, distorted the single market and damaged legitimate businesses.

The criminal aspects of the case were reported to the EPPO for a possible criminal investigation in respect of the Member States concerned. OLAF also issued a judicial recommendation to the Office of the Prosecutor General in Hungary for follow-up of the criminal aspects identified in respect of that Member State.

## 5. OLAF on the European and international scene

The effectiveness of OLAF's work depends on efficient cooperation with its partners across the EU and beyond. OLAF works continuously with the police and judicial, customs and other authorities in the Member States and at EU and international levels to ensure the success of its investigations.

Examples of successful and expanded cooperation with many of these partners can also be found elsewhere in this report.

### 5.1. OLAF's relations with its partners

#### COOPERATION WITH NATIONAL PARTNERS BEYOND INVESTIGATIONS

Efficient cooperation with national partners and stakeholders is essential for OLAF's investigative and policy work. OLAF performs a number of activities to foster good relations and cooperation in the Member States.

In 2021, the continuing pandemic affected the way in which OLAF cooperated with its partners and Member States. The modus operandi for investigations and many meetings and events continued to be virtual. Despite the challenges, OLAF and its national partners maintained and further developed their positive working relationships.

OLAF cooperates directly with EU Member States to improve fraud prevention policy and practice through the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF). The Committee holds several meetings a year in various formats.

In 2021, two plenary meetings were organised, in June and December, and three meetings took place with the subgroups on reporting and analysis of fraud and other irregularities and on fraud prevention. These meetings were good opportunities to discuss

the latest trends in irregularities and fraud and the IT tools used for the management of EU funds. They also served as an important link between OLAF and its partners during the pandemic, keeping lines of communication open and allowing participants to share information and best practices.

In September 2021, OLAF organised its annual meeting of Member States' anti-fraud coordination services; for the second time, the meeting took place virtually. The discussions focused on the RRF.

#### ADMINISTRATIVE COOPERATION ARRANGEMENTS WITH PARTNERS IN THE EU AND BEYOND

Administrative cooperation arrangements are a key tool in helping OLAF to foster close relationships with investigative bodies and other partners engaged in the fight against fraud. Their scope is to define the practical means of implementing existing rules on good cooperation, to encourage operational exchanges and make it easier to share useful experiences.

An administrative cooperation arrangement with the Prosecutor's Office of Bulgaria was signed in January 2021 and another one was signed with the Prosecutor General's Office of Ukraine in February 2021. These agreements were intended to provide a framework for OLAF to work together with the two offices on fighting fraud and other illegal activities involving the EU's financial interests.

In June 2021, OLAF signed a new administrative cooperation arrangement with the WCO. The new arrangement will see the exchange of information between the organisations expanded to cover a wider range of fraudulent activity (tobacco, counterfeiting, illicit trade in protected species and more) and will help the two bodies to work more closely and effectively together on joint operations.



## COOPERATION WITH THE EUROPEAN COURT OF AUDITORS



OLAF and the European Court of Auditors (ECA) continued to engage in regular contact on operational and general cooperation matters. At the start of 2021, OLAF provided successful training on

interviewing techniques to ECA auditors, and the ECA invited OLAF staff to its cycle of induction training for new auditors. This led to OLAF and the ECA setting up shared training and creating a training route map, jointly developed and focusing on fraud reporting and red flags.

## COOPERATION WITH THE EUROPEAN PARLIAMENT

In 2021, OLAF continued to develop and maintain good relations with MEPs from different political groups to facilitate common work on the protection of EU financial interests, for example in the context of the budgetary discharge procedure.

The Director-General of OLAF, Ville Itälä, presented the activities of OLAF at several meetings of the European Parliament Committee on Budgetary Control. OLAF was represented at 13 meetings of the committee throughout the year.

Members of the Committee on Budgetary Control visited OLAF in October 2021. The idea behind the visit was to explain to members of the committee what OLAF does and to discuss how its investigations work in practice. Notably, OLAF presented examples of cases involving both sides of the EU budget – expenditure and revenue – as well as how OLAF's data analysis and forensics activities can support the investigation of a case.

In addition, the Director-General of OLAF also regularly met members of the Parliament's committees on budgets; civil liberties, justice and home affairs; and regional development. He also met with working groups dealing with matters of interest to OLAF, such as the RRF or the rule of law.

## TEAMING UP TO PROTECT THE EU'S RECOVERY FUNDS

OLAF will investigate fraud or attempted fraud against the RRF, as it does for other areas of EU funding. OLAF is already teaming up with national authorities to make sure that the RRF is effectively protected from fraud.

In addition, OLAF is continuing to participate in Europol's Operation Sentinel, which provides a forum for intelligence sharing, information exchange and coordination of operations concerning the dangers of infiltration of organised crime into the economy by



abusing the RRF. The operation involves the EPPO, Eurojust and – at the time of writing – 22 EU Member States (Belgium, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Lithuania, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Finland and Sweden).

### COOPERATION WITH EUROJUST

As a result of OLAF’s cooperation with Eurojust, a new [Joint Investigation Teams \(JIT\) practical guide](#) was published in December 2021. The legal framework and applicable procedure for OLAF when participating in joint investigation teams are detailed in Section 3.3 of the new guide.

Extensive training was given to the Eurojust College <sup>(4)</sup> in July 2021. During this training, prosecutors from Eurojust had the chance to focus on practical examples of joint investigation teams with OLAF involvement and the role of the Eurojust liaison prosecutors. Presentations were also made on what and how OLAF investigates, data analysis in OLAF and the new OLAF Regulation.

## 5.2. Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products

The Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products is an international agreement aimed at significantly reducing the illicit tobacco trade worldwide.

OLAF represented the EU and the participating Member States at the second meeting of the parties to the convention, which took place in November 2021. During this meeting, the conclusions of two working groups (on tracking and tracing and on assistance and cooperation) were approved, and a new assistance strategy to support the implementation of the protocol was proposed. Moreover, all the parties involved agreed to continue working on a global information-sharing system.



<sup>(4)</sup> The Eurojust College is formed of the national members, one from each of the EU Member States (with the exception of Denmark, which by virtue of Protocol No 22 is not bound by the Eurojust Regulation), who include judges, prosecutors and other judicial professionals of equivalent competence.



## 6. Monitoring the outcome and impact of OLAF's recommendations

When OLAF concludes an investigation, it often issues recommendations to the competent national and European authorities. OLAF invites these authorities to take action to redress the fraud, corruption or other illegal activity uncovered by the investigation. OLAF's recommendations are intended to protect the EU budget and to uphold the rule of law. They help to ensure that OLAF's investigations act as a deterrent to potential fraudsters.

More specifically, OLAF's recommendations aim to serve several purposes:

- ▶ **Financial** recommendations invite competent EU or national authorities to recover amounts that were unduly spent from – or, in customs matters, not duly collected for – the EU budget as a result of fraud or irregularities.
- ▶ **Judicial** recommendations invite a Member State's judicial authorities to start criminal prosecution.
- ▶ **Disciplinary** recommendations aim to sanction wrongdoing by EU staff or members of EU bodies.
- ▶ **Administrative** recommendations aim to set in train administrative measures other than, or going beyond, financial recovery or disciplinary action. With these recommendations, a *specific administrative action* can be suggested (e.g. excluding an entity from future EU funding, or performing an audit or administrative verification) or a *systemic weakness* can be addressed, in order to prevent future fraud or irregularities (e.g. by making a recommendation to improve financial procedures).

While OLAF has no powers to enforce its recommendations, recipients are obliged to report to OLAF on the action taken. OLAF systematically monitors this feedback. This monitoring helps to measure the success of OLAF's investigations, to evaluate the work of OLAF's partners and, most importantly, to highlight areas for improvement.

In order to anchor this essential function in OLAF's organisation and workflows even more firmly, OLAF's Director-General decided to create a dedicated monitoring and reporting unit in June 2021. The unit works closely with the monitoring network, which replaces the previous task force monitoring team and brings together a broad spectrum of skills and expertise from across OLAF with a view to streamlining the monitoring process, coordinating data collection and analysing monitoring results.

In 2021, in response to the Commission's initiative to reinforce follow-up on OLAF's recommendations, OLAF undertook two stocktaking exercises. In cooperation with the Commission's Directorate-General for Budget, OLAF examined how around 1 700 financial recommendations issued between 2012 and 2020 and approximately 200 administrative recommendations issued between 2016 and 2020 had been followed up. The stocktaking of administrative recommendations is still ongoing in 2022 and therefore the results of the monitoring of recommendations will be included in next year's OLAF annual report.

## 6.1. Financial monitoring

It is important for the EU to ensure that funding is spent correctly and for the benefit of all and to effectively recover any amount that may have been put to fraudulent use. This plays an important part in retaining the trust of citizens in the wider EU project.

The sum recommended by OLAF for recovery each year depends on the scope and scale of the investigations concluded in that particular year. The amounts recommended for recovery are therefore not an indication of the overall level of fraud in Europe; rather, they relate to the specific investigations finalised by OLAF in that year.

Table 6 shows how these figures can fluctuate year on year. One or two very high-value cases in any particular year can lead to a significant increase in the amount recommended for recovery (as in 2017). At the same time, years in which there were a large number of recommendations do not necessarily have the highest amounts recommended for recovery.

The situation in 2020 demonstrates this: that year saw the highest number of recommendations in the past 5 years but with the lowest overall amount, due to a relatively low average value. In 2021, OLAF made recommendations covering the largest amount to be prevented from being unduly spent in the past 5 years.

OLAF has monitored follow-up on its financial recommendations for a number of years, focusing primarily on whether the recommendations are wholly or partially followed by the recipients (i.e. what amount, if any, the recipients have claimed from the debtors in question). In 2021, as in 2020, OLAF also monitored actual recoveries (i.e. if the amount recommended has been fully or partially recovered, which depends on decisions taken by the recipients of recommendations but also on debtors' ability and willingness to pay). Working with partners from across the European Commission, OLAF expects to further strengthen this monitoring in the future.

**Table 6: Recommendations by OLAF for financial recovery, 2017–2021**

	2017	2018	2019	2020	2021
Amounts recommended for recovery (€ million)	3 094.5	370.6	484.9	293.4	527.4
Amounts recommended to be prevented from being unduly spent (*) (€ million)	28.6	8.6	4.6	6.5	340.8
Number of financial recommendations issued	195	168	157	222	194

(\*) In the area of expenditure, OLAF can recommend (to the entities concerned) either recovering EU funds already spent or refraining from spending EU funds in future. The latter category is referred to as 'amounts recommended to be prevented from being unduly spent'.

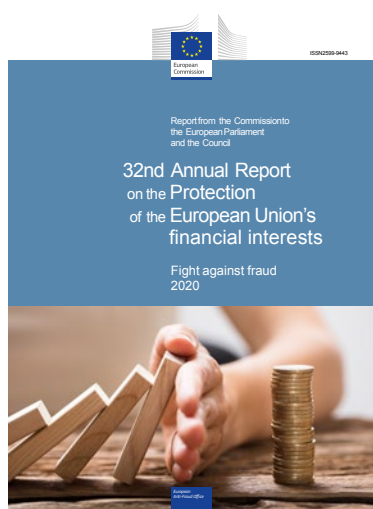




## 6.2. Financial impact of OLAF investigations on the overall detection of irregularities across Europe

Member States are responsible for most EU spending and they also manage the collection of EU customs revenue. Their activities represent the first line of defence against any attempt to defraud the EU budget. OLAF counts on national authorities to perform their work efficiently and diligently, and it supports them through an active exchange of information and through targeted training.

Under sectoral regulations, Member States have to report to the European Commission any irregularity or suspicion of fraud they detect exceeding €10 000. An analysis of this data is included in the Commission's annual report on the protection of the EU's financial interests (the so-called PIF Report).



As well as collecting data concerning Member States' detections of fraud, OLAF also gathers data on the number of investigations it has concluded and the financial recommendations that they have led to.

For the purpose of our analysis, it is assumed that financial recommendations issued by OLAF following investigations are comparable to the financial impact of irregularities detected and reported by Member States <sup>(2)</sup>.

Table 7 shows the number of irregularities / fraud cases detected in the area of traditional own resources (TOR) between 2017 and 2021 and their financial impact as a percentage of the gross TOR collected by Member States and made available to the EU budget. OLAF's results are shown alongside those of national authorities.

Table 8 shows the number of fraudulent and non-fraudulent irregularities detected in the two main areas of shared management (European Structural and Investment Funds and Agriculture and Rural Development Funds) between 2017 and 2021 and their financial impact expressed as a percentage of total payments, by Member State. OLAF's results are shown alongside those of national authorities.

Our analysis highlights once again the important contribution that OLAF investigations make in helping the relevant authorities recover EU revenue and funds that have been defrauded or irregularly spent.

In terms of TOR, OLAF financial recommendations represent 1.40 % of the gross TOR collected for the EU-27, compared with 1.71 % for fraud detected by all the Member States together. When the United Kingdom is also taken into account, OLAF's recommendations represent 2.87 % against 1.83 % for the EU-28. This means that, for this period, OLAF's financial recommendations have almost matched the entire financial impact of the investigative and control activities of the Member States and have exceeded it if the United Kingdom is taken into account. The OLAF results are significantly influenced by the conclusion of a string of investigations linked to the undervaluation of imported goods. These results also highlight OLAF's commitment to using resources effectively and concentrating on cases where its input will create most added value.

OLAF results are significant also in the shared management areas, where the financial impact of the activities of all Member States together amounts to 1.50 % of payments (for the EU-27), while OLAF alone recommended the recovery of an amount representing 0.25 % of payments. In this area, OLAF's financial recommendations represent 14–17 % of the entire impact of investigative and control activities. There are countries where the financial impact of OLAF cases is particularly significant and, at times, even greater than that of national investigations.

<sup>(2)</sup> The amount of financial recommendations is calculated as the sum of the amount recommended to be recovered and the amount recommended to be prevented from being unduly spent.

**Table 7: Member State and OLAF detection of irregularities and their financial impact in the area of TOR, 2017–2021**

Traditional Own Resources (TOR) 2017-2021					
Member State	Member States		OLAF		
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Investigations closed with recommendations	Financial recommendations as % of TOR collected	
	N	%	N	%	
Austria	241	1.18%	7	0.52%	
Belgium	1,511	1.38%	32	0.53%	
Bulgaria	38	1.07%	8	1.04%	
Croatia	48	1.13%	14	0.26%	
Cyprus	6	0.03%	6	0.33%	
Czechia	359	1.46%	19	1.08%	
Denmark	342	1.03%	17	0.25%	
Estonia	25	1.02%	4	0.12%	
Finland	198	3.10%	5	0.04%	
France	1,224	1.08%	20	0.31%	
Germany	6,724	2.19%	42	0.13%	
Greece	172	1.86%	16	16.96%	
Hungary	184	2.10%	10	21.59%	
Ireland	123	0.62%	7	0.11%	
Italy	500	0.51%	34	0.39%	
Latvia	97	2.23%	7	0.20%	
Lithuania	188	2.47%	8	0.08%	
Luxembourg	8	0.27%	1	0.01%	
Malta	3	0.22%	3	0.58%	
Netherlands	2,252	2.83%	46	2.16%	
Poland	516	0.76%	27	0.29%	
Portugal	96	1.37%	12	0.13%	
Romania	187	1.21%	21	0.43%	
Slovakia	39	0.28%	6	42.79%	
Slovenia	56	1.46%	16	0.76%	
Spain	1,611	2.24%	35	0.78%	
Sweden	855	1.41%	18	0.17%	
<b>EU27</b>	<b>17,603</b>	<b>1.71%</b>	<b>441</b>	<b>1.40%</b>	
United Kingdom	3,431	2.65%	33	12.76%	
<b>EU28</b>	<b>21,034</b>	<b>1.83%</b>	<b>474</b>	<b>2.87%</b>	



**Table 8: Member State and OLAF detection of irregularities and their financial impact in the areas of European Structural and Investment Funds and agriculture and rural development funds, 2017–2021**

Shared Management: Cohesion and Natural Resources 2017-2021					
Member State	Member States		OLAF		
	Detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Investigations closed with recommendations	Financial recommendations as % of payments	
	N	%	N	%	
Austria	118	0.15%	2	0.02%	
Belgium	208	0.27%	1	0.06%	
Bulgaria	1,311	1.82%	21	0.93%	
Croatia	364	0.61%	3	0.13%	
Cyprus	46	0.47%	1	0.26%	
Czech Republic	1,429	1.20%	9	0.11%	
Denmark	112	0.19%	1	0.01%	
Estonia	459	1.18%	3	0.00%	
Finland	111	0.07%	0	0.00%	
France	1,229	0.15%	9	0.01%	
Germany	822	0.15%	2	0.38%	
Greece	1,879	1.97%	16	0.05%	
Hungary	1,993	1.26%	26	0.69%	
Ireland	105	0.07%	0	0.00%	
Italy	3,369	0.83%	23	0.96%	
Latvia	253	1.04%	2	0.09%	
Lithuania	916	0.81%	1	0.05%	
Luxembourg	3	0.02%	0	0.00%	
Malta	56	0.90%	0	0.00%	
Netherlands	236	0.28%	0	0.00%	
Poland	4,039	1.09%	24	0.09%	
Portugal	2,318	1.25%	12	0.42%	
Romania	3,738	8.03%	24	0.30%	
Slovakia	1,039	15.41%	14	0.37%	
Slovenia	150	0.28%	0	0.00%	
Spain	3,178	0.98%	8	0.01%	
Sweden	82	0.17%	1	0.02%	
<b>EU27</b>	<b>29,563</b>	<b>1.50%</b>	<b>203</b>	<b>0.25%</b>	
United Kingdom	1,937	0.26%	6	0.03%	
<b>EU28</b>	<b>31,500</b>	<b>1.45%</b>	<b>209</b>	<b>0.24%</b>	

### 6.3. Judicial monitoring

Judicial monitoring allows OLAF to see the final outcome of its cases on the ground – indictments, dismissals or other judicial measures.

The arrival of the EPPO marks an important milestone in this respect. The EPPO is able to directly investigate and bring to court criminals responsible for damaging the EU's financial interests, as well as ensuring that the necessary steps are taken for the recovery of EU funds, when possible. In this context, the EPPO is responsible for direct follow-up on OLAF cases, when it has the authority required.

Under EU law, when requested by OLAF, national judicial authorities must send the office information on any action taken on the basis of its judicial recommendations. An analysis of the figures shows that, for OLAF recommendations issued between 2017 and 2021, around 35 % of the cases that OLAF has transmitted to national judicial authorities and on which those authorities have already taken a decision have led to indictments (Table 9).

Member States' judicial authorities are independent and are under no obligation to follow OLAF's recommendations. Nonetheless, OLAF continues to

work to better understand why some national judiciaries dismiss a considerable number of the cases it transmits to them.

There are a number of reasons why a recommendation may be dismissed. Sometimes this relates to differences in interpretation of EU and national law between OLAF and national authorities. In other cases, national prosecutors may deem the evidence of criminal wrongdoing to be insufficient. Indeed, despite OLAF's considerable investigative efforts, its limited investigative powers and practical constraints mean that conclusive evidence of a criminal offence cannot always be collected.

OLAF's primary mission is protecting the EU's financial interests, not criminal prosecution. However, where an OLAF investigation finds sufficient grounds for suspecting a criminal offence, national authorities may investigate further, which can then lead to an indictment or to the dismissal of the case.

In order to address these issues and to improve follow-up at national level, OLAF liaises with Member States on a continuous basis, often before an investigation is closed.





**Table 9: Actions taken by national judicial authorities (JA) following OLAF's recommendations issued 2017-2021**

Member State	No decision taken by JA	Decision taken by JA			Indictment rate (%)
		Total	Dismissed	Indictment	
Austria	0	3	1	2	67
Belgium	12	15	9	6	40
Bulgaria	13	4	3	1	25
Croatia	3	3	1	2	67
Cyprus	2	0	0	0	NA
Czechia	3	7	6	1	14
Denmark	2	1	0	1	100
Estonia	1	0	0	0	NA
Finland	1	0	0	0	NA
France	13	3	2	1	33
Germany	6	8	7	1	13
Greece	9	11	6	5	45
Hungary	12	6	2	4	67
Ireland	3	0	0	0	NA
Italy	19	21	10	11	52
Latvia	3	1	1	0	0
Lithuania	2	1	1	0	0
Luxembourg	4	0	0	0	NA
Malta	1	0	0	0	NA
Netherlands	8	6	6	0	0
Poland	8	10	7	3	30
Portugal	7	1	1	0	0
Romania	12	19	11	8	42
Slovakia	9	5	3	2	40
Slovenia	4	1	1	0	0
Spain	16	5	5	0	0
Sweden	2	2	2	0	0
United Kingdom	8	8	7	1	13
<b>Total</b>	<b>183</b>	<b>141</b>	<b>92</b>	<b>49</b>	<b>35</b>

## 6.4. Disciplinary monitoring

The disciplinary recommendations issued by OLAF concern serious misconduct of EU staff or members of the EU institutions and other EU bodies. They are directed at the authority having disciplinary powers in the institution or body concerned. When making such recommendations, OLAF does not specify the type of action that should be taken. The disciplinary authorities sometimes take several actions following a single recommendation from OLAF. At the same time, the disciplinary authority may consider several recommendations resulting from different investigations and, subsequently, impose one single sanction.

**Table 10: Actions taken by the appointing authorities following OLAF's disciplinary recommendations issued 2017-2021**

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Agencies	9	2	2	5
Committee of the Regions	2	1	0	1
Council of the European Union	2	0	0	2
EULEX	1	0	1	0
Eurojust	1	0	0	1
European Central Bank	1	1	0	0
European Commission	23	9	5	9
European Court of Auditors	2	0	1	1
European Court of Justice	1	0	0	1
European Economic and Social Committee	3	1	1	1
European External Action Service	6	1	2	3
European Investment Bank	12	9	0	3
European Parliament	34	9	6	19
<b>Total</b>	<b>97</b>	<b>33</b>	<b>18</b>	<b>46</b>

NB: EULEX, European Union Rule of Law Mission in Kosovo

## 7. Policies to fight fraud

### 7.1. OLAF's contribution to the European Commission's political priorities

In 2021, OLAF continued to contribute to the top political priorities of the EU by providing anti-fraud advice to the relevant Commission departments and to the national authorities to help them to prepare the control chapters of their recovery and resilience plans. Given the urgent need for financial support, prevention of irregularities and fraud is crucial to make sure that the money is available quickly where it is needed. OLAF will continue to work in close cooperation with the national authorities to support them in their efforts to prevent fraud.

The Commission's RRF is a game-changer that will see over EUR 720 billion being made available to Member States to help them recover from the pandemic and to support resilience. In an increasingly fraught world, the RRF will offer a way to mitigate the damage that has been wrought by the virus and other crises. That funding is there to help the EU recover after a huge shock. OLAF is playing a crucial part in protecting that transformational funding by distilling the vast expertise that it has gained over many years and sharing it in order to help protect the future.

The new design and delivery model of the RRF means that Member States play an important role in the prevention and early detection of fraud. Given its experience and expertise in this area, OLAF is working closely with Member States to develop anti-fraud measures to protect the RRF.

In practice, this has meant participating in the development of the anti-fraud provisions included in the legal act that created the RRF. OLAF also took part in screening the national plans submitted by the Member States to assess whether the requirements on control and anti-fraud measures were met.

OLAF paid particular attention to the control and audit mechanisms, which are the direct responsibility of Member States, to make sure that they were robust enough to ensure sound financial management and

prevent fraud. OLAF found that many Member States had a lot of experience in doing this and had existing structures already in place. However, OLAF was able to advise on where these existing structures could be strengthened in order to make them more effective.

### The development of the RRF risk framework

The aim of the RRF is to mitigate the economic and social impact of the COVID-19 pandemic and make European economies and societies more sustainable, more resilient and better prepared for the challenges and opportunities of the green and digital transitions.

One of the key pieces of work that OLAF undertook during 2021 was to help develop a risk framework for Member States to help them to guard against fraud during the implementation of the RRF. OLAF shared its knowledge and experience on serious irregularities (i.e. fraud, corruption and conflict of interest) that could affect the RRF. It developed a fraud risk framework and provided training to national authorities on how to develop and update their own fraud risk assessments. It also briefed audit bodies on the role that they can play in preventing and detecting fraud.

OLAF also advised Member States to update or create national anti-fraud strategies to take into account the risks linked to the new RRF. This will help to introduce additional safeguards covering the RRF and determine the anti-fraud actions to be taken in the near future.

Risks relate both to the achievement of the targets and to wider compliance with EU and national law, and in particular with sound financial management, preventing fraud, corruption, conflict of interest and double funding.

## 7.2. Commission anti-fraud strategy

OLAF coordinates the implementation of the Commission anti-fraud strategy, adopted in April 2019, and develops fraud risk analysis and anti-fraud policy measures to support Commission services. The anti-fraud strategy seeks to further improve the detection, sanctioning and prevention of fraud and to support the Commission's ongoing efforts to decrease the level of fraud against the EU budget.

The strategy promotes greater consistency and better coordination in the fight against fraud among Commission services and paves the way for evidence-based anti-fraud measures. It is accompanied by an action plan with 63 actions to be implemented by OLAF and Commission services. Good progress has been achieved: 47 of the 63 actions had been completed by November 2021. OLAF expects the great majority of the remaining actions to be completed by mid 2022 <sup>(6)</sup>.

## 7.3. Support for Member States' anti-fraud actions

In 2021, OLAF implemented in parallel two EU funding programmes. On the one hand, projects financed under the Hercule III programme, which continued beyond its planned expiry in 2020, and, on the other, the first yearly cycle of the new Union Anti-Fraud Programme (UAFP).

The Hercule III programme financed projects designed to protect the EU's financial interests during 2014–2020. It had a budget of more than €100 million, which was used primarily to support the work of national and regional authorities in Member States, such as customs or law enforcement agencies. Due to the pandemic, many events planned for 2020 were postponed until at least 2021.

With the end of the Hercule III programme, the Commission, with OLAF as lead service, conducted a final evaluation of the performance of the programme. The evaluation looked at the relevance, effectiveness, efficiency, coherence and added value of the programme and at the sustainability of its results in the longer term. The concluding report with an accompanying staff working document was presented to the European Parliament and the Council of the European Union in December 2021. The evaluation concluded that, overall, the strategic objectives of the Hercule III programme had been fully met.

Replacing the Hercule III programme, the UAFP was established in 2021 <sup>(7)</sup>. It runs for the 7 years of the current EU budget framework, until 2027. The UAFP focuses more on (1) the expenditure side of the budget, considering the new forms of EU expenditure, and (2) new trends in crime, including cybercrime. The UAFP also takes into account the new Customs Control Equipment Instrument, specifically supporting customs authorities.

<sup>(6)</sup> December 2021 was, in principle, the due date for completing all actions included in the plan. By March 2022, 57 actions had been completed. According to OLAF's forecast, only very few actions will be partially completed or still ongoing by mid 2022, sometimes for reasons beyond the control of the Commission. OLAF and the Commission services are currently reflecting on the next steps to be taken to further reinforce the fight against fraud in the Commission in the framework of its anti-fraud strategy.

<sup>(7)</sup> Regulation (EU) 2021/785 of the European Parliament and of the Council of 29 April 2021 establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/2014, OJ L 172, 17.5.2021, p. 110.

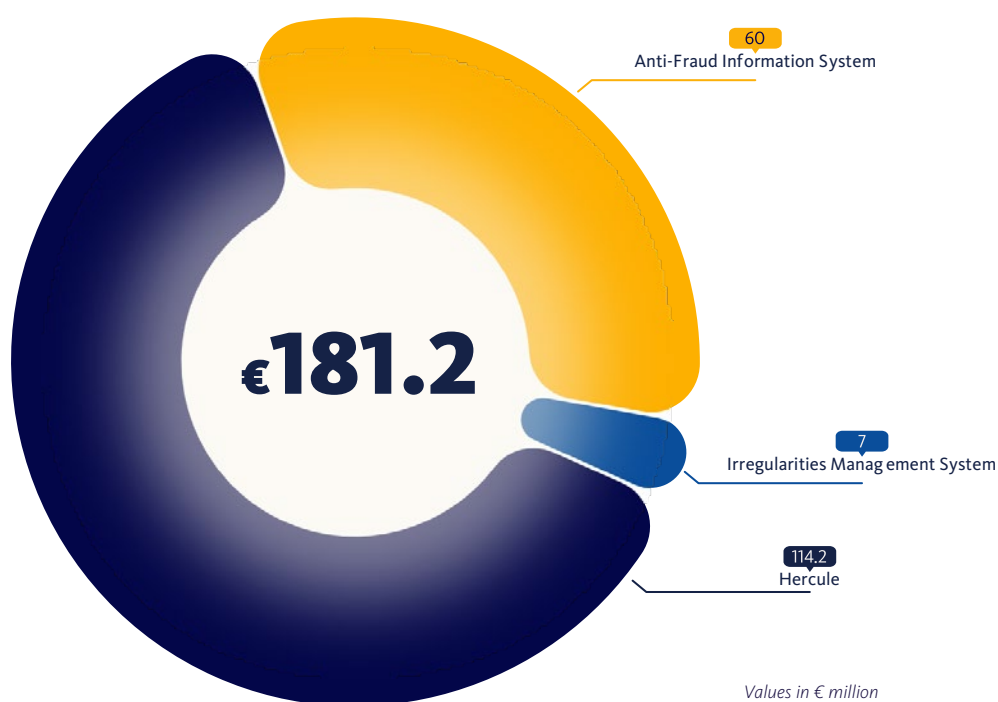




The Hercule component of the UAFP (with a budget of €114.2 million) is intended to support the protection of the EU's financial interests and strengthen cooperation and assistance between national authorities. In addition, the new UAFP funds two other activities operated by the European Commission: the Anti-Fraud Information System (with a budget of €60 million) and the Irregularities Management System (with a budget of €7 million).

The Anti-fraud Information System helps the customs authorities in each EU country in their joint efforts to prevent and detect customs fraud. The Irregularities Management System is an online platform that Member States can use to report suspected irregularities or fraud that could have an impact on the EU budget.

**Figure 15: Union Anti-Fraud Programme**



## 8. Communication

OLAF's communication in 2021 focused on its unique and vital role in helping keep European citizens safe and healthy, defending the money of European taxpayers from fraud and making sure EU funding reaches the people and projects it was intended for.

OLAF supported journalists in reporting on its investigative achievements, such as complex cross-border fraud schemes, evasion of customs duties by highly organised criminal groups and operations against smuggling of counterfeit, illicit and dangerous products. This included cases involving harm to the environment and Europe's green ambitions, such as those related to trade in illicit refrigerant gases or illegal pesticides and waste trafficking.

As the pandemic continued to dominate the news throughout 2021, OLAF's role in ensuring the safety of citizens – for example by stopping shipments of fake or substandard masks and sanitising gels – was also highlighted in the Office's communication. OLAF's work on fraudulent offers of vaccines against COVID-19 to national authorities in the EU therefore attracted attention during the first half of 2021. The protection of future funding to be provided for the EU's recovery from the COVID-19 crisis and cooperation with the newly created EPPO also generated much media interest, especially during the second half of 2021.

As it does every year, OLAF published its annual report on its activities of the previous year. In June 2021, OLAF's senior management presented the OLAF Report 2020 at a fully interactive virtual press conference, which allowed journalists to connect and ask questions online.

The report was also presented to several stakeholders, such as representatives of the EU institutions and civil society, in September 2021.

The general increase in awareness of and interest in OLAF's work was also reflected in the growth of the Office's Twitter account (renamed [@EUAntiFraud](#) in 2021), which saw a 30 % increase in its number of followers in 2021. Moreover, a dedicated OLAF LinkedIn page was created in 2021, which attracted about 1 800 subscribers in its first year of existence.

In 2021, OLAF organised its second Anti-Corruption Conference, entitled 'United against corruption – upholding the ethical standards of the EU institutions', bringing together high-level speakers and hundreds of representatives of EU institutions.

OLAF also set up an online outreach campaign encouraging the reporting of fraud and irregularities, organising seven webinars addressed to staff in the EU delegations around the world and EU officials based in Brussels who work on the EU's external action.

OLAF continued to develop its communication activities with international partners, for example through shared press/news items and social media posts with international bodies such as Europol and Eurojust, as well as through a virtual meeting of the [OLAF Anti-Fraud Communicators' Network \(OAFCN\)](#), which brings together communicators from national anti-fraud agencies, customs services and other relevant administrations.





## 9. The Supervisory Committee of OLAF

The Supervisory Committee of OLAF is a body of five independent outside experts, established to reinforce and guarantee OLAF's independence by regularly monitoring the implementation of its investigative function. The committee's members are appointed by common agreement of the European Parliament, the Council and the Commission.

The members of the Supervisory Committee in 2021 were Mr Jan Mulder, Ms Maria Helena Pereira Loureiro Correia Fazenda, Ms Dobrinka Mihaylova, Ms Grażyna Stronikowska and Mr Rafael Muñoz.

The Director-General of OLAF keeps the committee regularly informed about the activities of the office, the implementation of OLAF's investigative function and follow-up on investigations.

On 21 October 2021, the Director-General of OLAF and the Chair of the Supervisory Committee formally signed new working arrangements. The signature of the working arrangements has begun a new chapter in the relations between the two bodies, which will continue to cooperate in pursuit of their shared objectives.



In 2021, the committee received 761 documents with information on investigations lasting for more than 12 months. In addition, the committee and its secretariat were given direct access to all 1 059 cases in OLAF's case management system, meeting the conditions of the new working arrangements.

On the basis of the information provided by OLAF, the committee delivers opinions to the Director-General of OLAF and reports to the EU institutions. In 2021, the committee delivered five opinions:

- ▶ Opinion No 1/2021 on OLAF's recommendations not followed by the relevant authorities,
- ▶ Opinion No 2/2021 on working arrangements between OLAF and the EPPO,
- ▶ Opinion No 3/2021 on supervision of OLAF internal investigations – strategic conclusions and best practices,
- ▶ Opinion No 4/2021 on OLAF's preliminary draft budget for 2022,
- ▶ Opinion No 5/2021 on analysis of OLAF's investigations lasting for more than 36 months in 2019.

In its opinions, the committee issues recommendations to the Director-General of OLAF. OLAF reports annually to the committee on the state of implementation of these recommendations. In its report on the implementation of the committee's recommendations for 2021, OLAF assessed the majority of the recommendations as implemented or ongoing.

Details of the committee's work can be found in its annual activity reports. These [reports and other relevant information](#) are publicly available on the OLAF website.

## 10. Data protection and complaints

### 10.1. Data protection

The protection of personal data has always been a high priority for OLAF, which continues to work hard to ensure that it meets all the requirements set out in EU law, including the decisions and recommendations of the European Data Protection Supervisor. These have a significant impact on how OLAF carries out its investigative activities, including on-the-spot checks and the forensic examination of digital media.

OLAF has its own data protection officer and applies the highest data protection standards in accordance with Regulation (EU) 2018/1725 <sup>(8)</sup> and Commission Decision (EU) 2018/1962 <sup>(9)</sup>.

The decision sets out how OLAF informs data subjects of any activity involving the processing of their personal data and how it handles their rights in relation to access, rectification, erasure, restriction of processing and communication of a personal data breach. In November 2021, the Director-General adopted, in accordance with Article 17(8) of Regulation (EU, Euratom) No 883/2013, [OLAF guidelines on data protection for investigative activities](#), available on the OLAF website.

OLAF staff were provided in 2021 with regular data protection training in accordance with their tasks, thus maintaining a high level of awareness and ensuring consistent compliance with the rules in place.

Throughout the year, OLAF received and handled, in a timely manner, 10 requests from data subjects.

<sup>(8)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

<sup>(9)</sup> Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council, OJ L 315, 12.12.2018, p. 41.

Six requests related to access to personal data; one request was for access combined with rectification and an objection to processing of personal data; two requests were for erasure combined with restriction of processing; and one request was for restriction of processing. Another request for access to personal data was still pending at the end of 2021. In 2021, two complaints were filed against OLAF with the European Data Protection Supervisor.

### 10.2. Complaints

In the past, persons affected by an OLAF investigation could address complaints directly to the Director-General of OLAF. This was without prejudice to their right to lodge a complaint with the European Ombudsman or to raise issues related to OLAF investigations before the EU or national courts.

Regulation (EU, Euratom) 2020/2223 <sup>(10)</sup>, which amended Regulation (EU, Euratom) No 883/2013, establishes a Controller of Procedural Guarantees and a new complaints mechanism. Under the rules of the complaints mechanism, the controller is in charge of complaints lodged by persons concerned in OLAF's investigations regarding the Office's compliance with procedural guarantees and rules governing the conduct of its investigations. The new complaints mechanism is without prejudice to the means of redress available under the Treaties, including actions relating to compensation for damage.

Until the appointment of the Controller of Procedural Guarantees, OLAF offered to complainants two options: (1) to suspend the treatment of the complaint until the Controller is appointed, (2) to expressly and unconditionally waive their right for the complaint to be dealt with under the new rules, receiving only a response under the OLAF complaints procedure.

<sup>(10)</sup> Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations, OJ L 437, 28.12.2020, p. 49.



In 2021, OLAF received six complaints from persons concerned in its investigations that fell within the remit of the Controller. One complainant chose for OLAF to deal with the complaint, whereas the Controller will handle the other five complaints.

### 10.3. European Ombudsman

The European Ombudsman opened six inquiries concerning OLAF in 2021.

Two of the inquiries concerned OLAF's lack of a timely reply to citizens' requests. OLAF eventually replied to the citizens' requests and the Ombudsman closed both inquiries, concluding that OLAF had settled the matter.

A third inquiry concerned how OLAF had conducted an investigation into alleged fraud and how it dealt with two related complaints by the persons concerned. The Ombudsman found no procedural errors, misuse of discretion or manifest error of assessment in OLAF's investigation and judged that OLAF's reply to the complaints had been adequate. The Ombudsman concluded that there had been no maladministration on the part of OLAF.

Two other inquiries were opened in 2021 concerning requests for public access to OLAF documents. The Ombudsman closed one inquiry by finding that there had been no maladministration on the part of OLAF when it refused to grant public access to the requested document. In the other case, the Ombudsman considered that no further enquiries were necessary.

The Ombudsman also dealt with a sixth case concerning an OLAF decision not to open an investigation and concluded that there had been no maladministration on the part of OLAF.

Finally, in 2021 the Ombudsman discontinued an inquiry that had been opened in 2020, which concerned how OLAF had investigated suspected evasion of anti-dumping duties.

### 10.4. Relevant case law

During 2021, the Court of Justice of the European Union handed down three decisions of particular relevance to OLAF.

The first case related to a former member of the Court of Auditors who, whilst he was in office, had been investigated by OLAF concerning allegations of serious irregularities in connection with missions he had undertaken and possible insurance fraud (*European Court of Auditors v Pinxten*, case C-130/19). Following OLAF's final report, which found the existence of possible fraud and recommended a criminal, financial and disciplinary follow-up, the Court of Auditors began proceedings before the Court of Justice to declare that the former member had failed to comply with his obligations as a member of the institution and to impose an appropriate sanction.

The Court of Justice, sitting as a full court, found that the former member had breached his obligations and deprived him of two-thirds of his pension rights. In its judgment of 30 September 2021, the Court rejected the former member's arguments concerning the legality of OLAF's investigation. It stated, in particular, that in a case where OLAF discovers, during an inspection, evidence of illegal activities of which it was not aware previously, it may extend the scope of its investigation to cover these new matters if they are sufficiently related to the ongoing investigation or, if not, open a new investigation. In addition, the Court confirmed that OLAF may, during an inspection, have access to and, if necessary, take copies of documents contained in a file marked 'private' where those documents concern the suspected illegal activities in question.

The second case concerned an individual who brought an action for damages against the Commission after he had been cleared of wrongdoing by a French court in the context of the criminal follow-up of OLAF's recommendations in an internal investigation relating to allegations of wrongdoing in Eurostat. Although the individual had not been considered by

OLAF a person concerned in its investigation, the French authorities nevertheless decided to charge him, along with other Eurostat officials, with having misappropriated funds from the EU budget. The case was dismissed by the French first instance court in 2013, and appeals made by the Commission before the higher courts were rejected.

The applicant sought more than €1 million in damages for the harm that he considered he had suffered at the hands of OLAF and the Commission, notably by reason of OLAF's failure to offer him the opportunity to comment before concluding its investigation. He succeeded in his case before the General Court, but this was overturned on appeal before the Court of Justice.

In its judgment of 10 June 2021 (*Commission v De Esteban Alonso*, case C-591/19 P), the Court of Justice clarified that OLAF has to offer an EU official the opportunity to comment where the person is referred to by name in the investigation or is implicated in the facts under investigation. In order to determine whether a person is implicated, the Court specified that account must be taken of only information that existed at the time of the investigation. It was therefore not possible to consider the applicant implicated based on the findings in the later French investigation. Similarly, an official cannot be considered implicated simply because he or she holds a senior position in the organisation and was close in the managerial structure to two persons suspected of involvement. On this basis, the Court of Justice concluded that OLAF had validly considered the applicant not implicated in the facts and was therefore justified in not offering him the opportunity to comment.

The third case also relates to an action for damages, this time brought by a legal person that, following an investigation by OLAF, was excluded by the contracting authority from a consortium awarded an EU-funded project. As part of its investigation, OLAF carried out an on-the-spot check at the premises of the applicant, during which OLAF made digital forensic images of the applicant's hard disks before

putting an end to the on-the-spot check when the applicant refused to provide certain information. In its action, the applicant claimed, in particular, that OLAF's power to access information under Article 7(1) of Council Regulation (Euratom, EC) No 2185/96<sup>(1)</sup> is limited to data connected with the matter under investigation and that OLAF had breached this provision by seeking to collect documents that, in the applicant's view, were unnecessary for the proper conduct of the on-the-spot check.

The applicant's case having been rejected by the General Court, it appealed to the Court of Justice (case C-650/19 P, *Vialto Consulting v Commission*). In its judgment of 28 October 2021, the Court of Justice interpreted Article 7(1) of Council Regulation (Euratom, EC) No 2185/96 as conferring on OLAF a right of access, under the same conditions as national administrative inspectors, to all information, including computer data, necessary for the proper conduct of an on-the-spot check. OLAF may also use the same physical inspection techniques as national inspectors, including making copies of the relevant material. In this regard, the Court clarified that the creation of a digital forensic image of computer data does not amount to making a copy of those data within the meaning of the said Article 7(1). In fact, the forensic image constitutes an intermediate step in the examination of the data by OLAF, which precedes the identification by the investigator of those documents that he or she considers relevant to make copies of for the purposes of the investigation. OLAF's actions during the on-the-spot check at the applicant's premises did not therefore constitute a violation of Council Regulation (Euratom, EC) No 2185/96.

<sup>(1)</sup> 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, p. 2.

## 11. Staff and budget

Ensuring the adaptation of OLAF to the new reality that followed the commencement of operations of the EPPO was the number one priority together with the well-being of all OLAF staff, from officials to service providers.

The COVID-19 pandemic continued to have an impact on human resources in 2021. The remediation measures put in place and the commitment, adaptability and output of OLAF staff have been exemplary.

All the necessary procedures and protocols adopted by the Commission to keep staff safe when working in the office were put into place swiftly and effectively.

They were adapted throughout the year as the situation evolved.

Events and training related to the core business continued in a virtual format while all team-building and other morale-boosting events (i.e. Away Days, sports events etc.) were cancelled. Hybrid working methods ensured business continuity at the same time as minimising health risks. Business travel was permitted for investigators and other operational staff, so that OLAF could continue to carry out all essential on-the-spot activities and investigations.

### OLAF reorganisation for optimal coordination with the EPPO

A minor reorganisation of OLAF took place in June 2021 in parallel to the commencement of operations by the EPPO. The reorganisation was designed to ensure an optimal coordination with the EPPO, easing the potential transfer of cases, exchange of information and cooperation with OLAF's new partner.

The reorganisation took place amidst pandemic conditions, with very limited access to the OLAF premises, but has proved successful, and has been widely welcomed by OLAF staff and management. Some adjustments have been made so that both the EPPO and OLAF could reach full cruising speed.

The creation of the EPPO also had an impact on OLAF staff numbers, with several posts transferred from OLAF to the EPPO over the course of the past few years, including 10 posts

in 2021. Two additional posts were transferred from OLAF to other departments of the European Commission. The gradual handover of posts to the EPPO will end only in 2023, with the transfer of 16 further posts. The challenge for OLAF will be to maintain its high level of performance despite fewer resources and increasing workload, while at the same time supporting the work of the EPPO, which has begun its own investigations.

The vacancy rate increased at the end of 2021 to 8.3 % (compared with 3.9 % at the end of 2020) mainly because of the vacant posts set aside to meet the scheduled staff reductions, the transfer of posts to the EPPO in 2022 and the vacancies for management positions. However, after taking out the posts left vacant for the aforementioned reasons, the real vacancy rate would fall to 4.5 %.

## CHALLENGES AHEAD

In 2021, OLAF continued to invest in the professional development of its staff, with a broad offer of learning and development programmes. Despite the lockdown linked to the COVID-19 pandemic, 119 training sessions were provided to OLAF staff in 2021, including specialised training for OLAF investigators, forensic experts and analysts, general training courses for all OLAF staff and sessions run by other European Commission departments and services, other EU institutions and other EU or national public or private bodies. OLAF supported its managers with specialised external training, coaching and support.

Further recruitment and training are expected to be completed during 2022 and 2023 to support OLAF, in particular through specialised EPSO competitions and the recruitment of senior and middle managers. Classroom and online training (be it investigative or other types of specialised training) as well as group and individual coaching will also be organised in accordance with OLAF's needs. The traditional offer of career guidance, welcome sessions for newcomers, training for OLAF senior and middle managers, and training on change management will also continue.

OLAF is constantly adapting to reflect the reallocation of resources, the new domains of activity and the reality of transnational fraudsters' activities.

## DIVERSITY AND INCLUSION IN OLAF

The share of women in middle management positions in OLAF continued to improve in 2021, with 44 % of all middle management posts held by women, compared with just 10.5 % in 2013.

Despite its independent investigative status, OLAF remains part of the European Commission, and an increase in staff mobility within the Commission meant that the overall share of women working for OLAF increased from 41.2 % in 2020 to 42 % in 2021. This remains above the overall Commission target of 40 %. OLAF's own target of at least one woman appointed to a first middle management post for 2020–2022 was met in 2021.

OLAF has full parity at senior management level, with 50 % of senior managers being female.



Two OLAF staff members took part in the 2021 Commission Female Talent Development Programme and 11 were enrolled in the newly created OLAF Female Talent Development Programme, fully designed and managed by OLAF.

OLAF remains committed to building a diverse and inclusive working environment, in line with the overall priorities of the European Commission. In February 2021, OLAF organised an Open Council – an interactive debate with all OLAF staff members – dedicated to equality, diversity and inclusion. The debate was followed by the preparation of an OLAF action plan on equality, the creation of the OLAF Equality Network in June 2021 and the creation of an OLAF Charter on Equality, Diversity and Inclusion (due for consultation among OLAF staff in the course of 2022).

In addition, OLAF has promoted staff awareness on these issues through the publication of news on equality and inclusive communication, as well as basic training on unconscious bias, diversity, inclusion, respect, dignity and accessibility via its local intranet.



**Recruitments in 2021**

18 officials

5 temporary agents

3 contract agents

5 seconded national experts

**Departures in 2021**

30 officials

10 temporary agents

5 contract agents

10 seconded national experts

**Table 11: Number and breakdown of OLAF staff from 2015 to 2021**

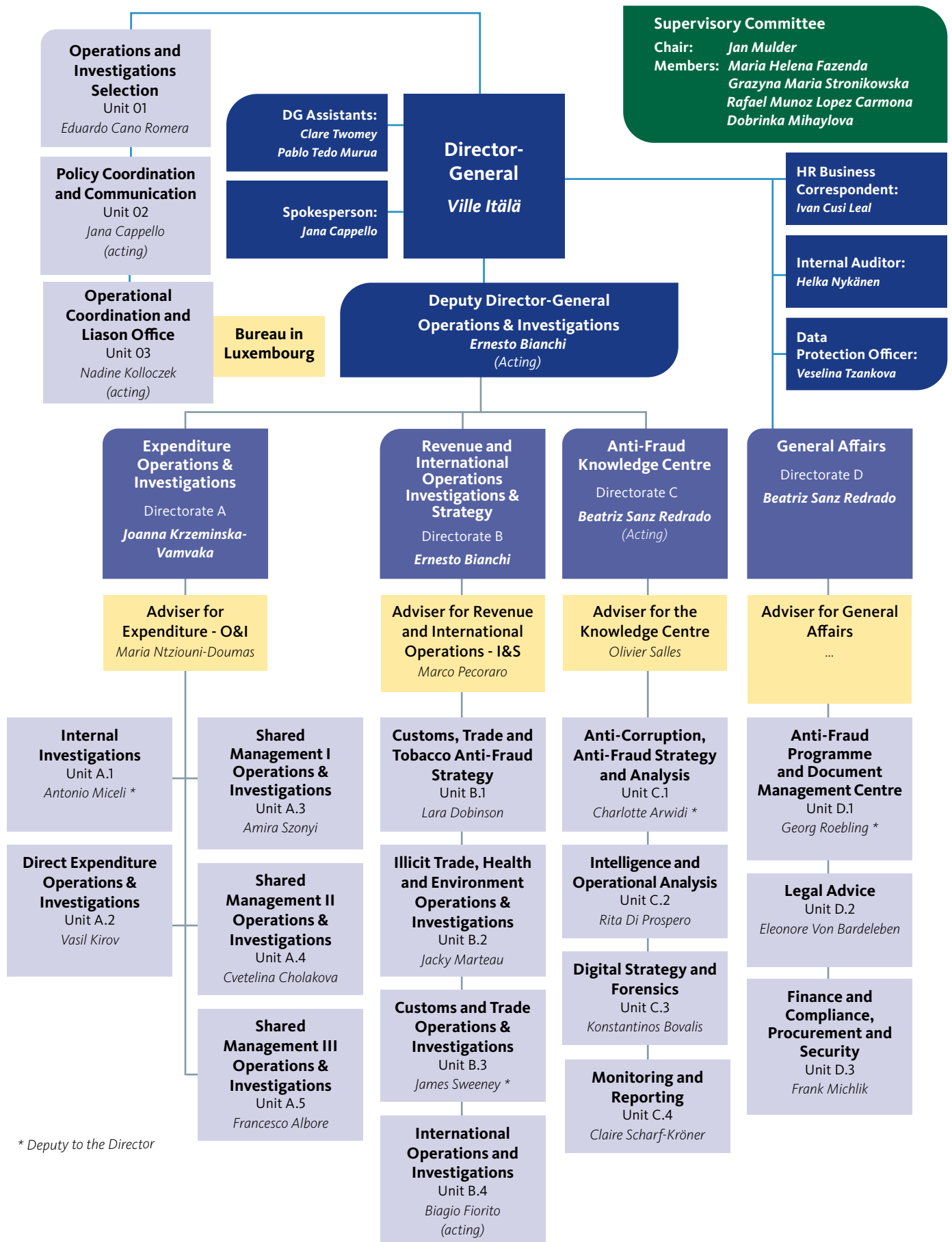
	2015	2016	2017	2018	2019	2020	2021
Establishment posts occupied	356	336	318	318	329	323	304
Establishment posts vacant	11	24	32	27	17	13	20*
External staff	55	55	55	44	47	43	47
<b>Total</b>	<b>422</b>	<b>415</b>	<b>405</b>	<b>389</b>	<b>393</b>	<b>379</b>	<b>371</b>

(\*) There are 8 frozen vacant posts to be transferred to the EPPO and to the Commission on 1 January 2022 (6 for the EPPO, 1 for synergies and efficiencies (see Commission communication – The synergies and efficiencies initiative: Stock-taking and way forward, C(2019) 2329 final, 26 March 2019), 1 surcharge (post not included in OLAF's establishment plan).

**Table 12: OLAF's administrative budget in 2021 (€ million)**

EU staff	43.2
Infrastructure	7.1
IT	5.9
External agents (contract staff, seconded national experts and interims)	2.3
Missions	1.3
Anti-fraud measures	0.8
Training, meetings and committees	0.4
<b>Total</b>	<b>61</b>

Figure 16: OLAF organisation chart (status: 31 December 2021)



\* Deputy to the Director



## 12. Statistical annex: additional data on OLAF's investigative activity

**Table 13: OLAF's investigative performance in 2021**

	2017	2018	2019	2020	2021
Incoming information	1 295	1 211	1 095	1 097	1 122
Investigations opened/reclassified/split	215	219	223	290	234
EPPO support cases opened					8
Investigations merged/concluded	197	167	181	230	212
Investigations closed and sent to the EPPO					20
Recommendations issued	309	256	254	375	294

**Table 14: Selections completed and their duration**

	2017	2018	2019	2020	2021
Selections completed	1 111	1 259	1 174	1 098	1 110
Average duration (in months) of selection phase	2.4	2.6	2.3	1.7	1.9

**Table 15: Average duration of closed investigations (months)**

	2017	2018	2019	2020	2021
Average duration of investigation	21.9	23.1	24.3	24.3	25.2
Average duration of selection corresponding to these cases	1.7	1.9	2.0	2.4	2.1
<b>Total average duration of cases</b>	<b>23.6</b>	<b>25.0</b>	<b>26.3</b>	<b>26.7</b>	<b>27.3</b>

**Table 16: Percentage of ongoing investigations lasting more than 20 months**

	2017	2018	2019	2020	2021
Percentage of ongoing investigations lasting more than 20 months	22 %	22 %	29 %	26 %	33 %

**Table 17: Recommendations issued**

Type of recommendation	2017	2018	2019	2020	2021
Financial	195	168	157	222	194
Judicial	80	48	64	87	44
Disciplinary	10	18	18	34	18
Administrative	24	22	15	32	38
<b>Total</b>	<b>309</b>	<b>256</b>	<b>254</b>	<b>375</b>	<b>294</b>

**Table 18: Incoming information by source**

Source	2017	2018	2019	2020	2021
Private	889	807	663	698	760
Public	406	404	432	399	362
<b>Total</b>	<b>1 295</b>	<b>1 211</b>	<b>1 095</b>	<b>1 097</b>	<b>1 122</b>



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