

Anti-fraud in Interreg

What's new?

12 May 2021 | Online

Interact



What do you expect from today's event?

0 2 3

Looking for examples concerning the conflict of interest.

What to focus on to avoid problems later

how to treat fraud and manage risk at programme level

share opinions, broaden knowledge on this topic

clarification on EPPO role

best practices

novelties

understand better what anti-fraud is

case studies / best practices

wider my knowledge on AF

To be informed!

the changes regarding conflict of interest

Inspiration

knowledge

news

best practice

Better knowledge

concrete examples

Understanding of COM's needs



Anti-Fraud in Interreg Conflict of interests

Interact workshop

12 May 2021

Directorate General for Regional and Urban Policy

Unit C.1 – Audit coordination, relations with the Court of Auditors and OLAF

Outline

1. Statutory bases
2. The concept of conflict of interests
3. Conflict of interests in the decision-making process
4. Obligations to prevent and mitigate a risk of conflict of interests
5. Examples of measures to prevent and avoid conflicts of interest
6. Risk indicators for conflict of interest
7. Examples
8. Questions
9. Conclusions

1. Statutory bases

- **Financial Regulation (EU, Euratom) No 2018/1046** (Articles 36 (3c) and 61)
- **Directive 2014/24/EU** (Articles 24, 41, 57(4e) and 83(3))
- **Regulation (EU) No 1303/2013** (CPR) (articles 5(3d), 38(5), 39a(8))
- **Commission Delegated Regulation (EU) No 240/2014** based on Article 5(3) CPR defining code of conduct on partnership in the framework of ESI Funds (articles 11(f), 12, 13)

2. The concept of conflict of interests (1)

Definition of conflict of interests (art. 61 of FR)

“a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest”

2. The concept of conflict of interests (2)

Main changes by FR 2018 regarding conflict of interest

- **Broader scope:** explicitly applicable to shared management and to national/regional authorities at any level
- **Reworded definition** of conflict of interests covering ‘any other direct or indirect personal interest’
- More situations covered: obligation to address situations “which may be **objectively perceived** as conflicts of interest”
 - “Perception” comes from Public Procurement Directives
 - “Objectively” (added in Financial Regulation): verifiable (auditable) link between the functions and the interest at stake

2. The concept of conflict of interests (3)

Why avoid conflicts of interests?

- Protect **sound financial management** of EU funds
- Ensure **impartiality** of persons involved in the implementation of EU funds
- Preserve public **trust** in EU and national and regional administrations

2. The concept of conflict of interests (4)

Who is concerned

- **Financial actors and other persons**, including national authorities at any level involved in budget implementation, for acts at any (preparatory) step of the process of planning, deciding on, managing, auditing and controlling the use of EU funds
- **Staff** or members of these authorities including government members and members of opening and evaluation committees and the external experts selected to assist them

3. Conflict of interests in the decision-making process (1)

- The interests of decision-makers and beneficiaries can overlap (especially at the regional and local level) can arise at any stage of EU budget implementation
- All public office holders (representatives, staff members, experts of the authorities and other bodies) involved in programme/project preparation / implementation (at all stages) are bound by the requirements laid down in Articles 61 and 36(3)(c) of the Financial Regulation. Thus, **there should be appropriate procedures for the avoidance of conflicts of interests to which they abide.**
- These rules are applied to all public office holders deciding or advising on the award of a particular funding (members and observers of evaluation committees, bodies participate in the programming phase), as long as **they exercise some kind of discretion, influence or control.**

3. Conflict of interests in the decision-making process (2)

- In the programme implementation phase:
 - MSs must fulfil at least two requirements: (a) the MCSs must have procedures in place, and (b) they are obliged to prevent and detect Conflicts of Interests situations
 - MSs shall ensure that office holders involved in the preparation of calls of proposals, and in monitoring and evaluation of programmes are aware of their obligations related also to **conflict of interests** (CDR (EU) No 240/2014 – art.12)

3. Conflict of interests in the decision-making process (3)

Public procurement

- ü Member States ensure at system level that contracting authorities take appropriate procedural measures to effectively prevent, identify and remedy conflicts of interest arising at all stages of procurement procedures
- ü MSs must make guidance available to contracting authorities and to economic operators (Directive 2014/24/EU - Art. 83(4))
- ü the contracting authority to take appropriate measures to avoid any distortion of competition (tenderer's involvement in preparing a call, see Article 41 Directive)

3. Conflict of interests in the decision-making process (4)

Public procurement

- ü Member States are required to submit a report to the Commission on the most common sources of serious irregularities and conflict of interests issues (Directive 2014/24/EU - Art. 83(3)).
- ü “C(2019) 3452” Commission decision laying down the guidelines for determining financial corrections for public procurement irregularities; on transactions applies a rate of 100% correction for cases related to conflicts of interest which impact on the outcome of the procurement procedure (case 21)

4. Obligations prevent and mitigate a risk of conflict of interests (1)

Financial actors and other persons involved in implementing the EU budget must under Article 61 FR:

- ürefrain from taking any action which may bring their own personal interests into conflict with those of the EU
- ütake appropriate measures to prevent conflicts of interests from arising in the tasks under their responsibility
- ütake appropriate measures to address any situations which may objectively be perceived as a conflict of interests

4. Obligations in case of risk of conflict of interests (2)

Procedure of avoiding conflict of interests

- the person involved in a risk of conflict of interests shall refer the matter to his or her hierarchical superior
- The relevant hierarchical superior must confirm in writing whether a conflict of interests exists
- If a conflict of interests is found to exist, the person in question ceases all activity in the matter and further actions are taken in accordance with the applicable law
- If the conflict of interests materialises, this should lead to the examination of its impact on EU budget

5. Examples of measures to prevent and avoid conflicts of interest (1)

- ü Awareness raising and establishment of rules and procedures
- ü Declarations of interest, asset disclosure and exclusive functions
- ü Declaration of personal income, family income and assets
- ü Public disclosure of the person's previous employment details, duties, roles and number of years in public and private entities
- ü Declaration of gifts, including restrictions and control of gifts and other forms of benefits such as hospitality according to pre-defined policies and procedures
- ü Removal and routine withdrawal of staff members from public duty when making a decision that would place them in a position of conflict

5. Examples of measures to prevent and avoid conflicts of interest (2)

- ü Security and control of access to internal information
- ü Regular rotation of staff in sensitive positions
- ü Restrictions (and/or transparency/registration/supervision requirements) on secondary employment or concurrent appointments
- ü Restrictions on the ownership of or on the exercise of rights flowing from property titles of private companies
- ü Divestment, either by selling business interests or investments, or by establishing (in combination with other measures), a blind trust to ensure the beneficiary has no knowledge of its assets and no right to intervene in the management of its assets

6. Risk indicators for conflict of interest

ü Establishing specific risk indicators concerning conflict of interests, such as:

- absence of a declaration of conflict of interests, where mandatory or requested
- staff member of the contracting authority has immediate family working for a firm that may bid in a tender
- evaluation committee members do not have the necessary technical expertise to evaluate the submitted bids and are steered by one individual
- the same enterprise repeatedly wins successive contracts
- subjective elements are over represented in the criteria system or in the evaluation of a tender

6. Risk indicators for conflict of interest

ARACHNE - Data mining tool

- ü ARACHNE is able to identify, based on a set of risk indicators, the projects, beneficiaries, contracts and contractors that might be susceptible to risks of fraud, conflicts of interest and irregularities.
- ü ARACHNE is a tool that can increase the interoperability of available data and with it the efficiency of project selection, management verifications, controls and audits.
- ü ARACHNE can help identify and safeguard against conflict of interest situations. It displays legal links between companies and persons, and is capable of identifying risks of conflict of interest.

7. Examples (1)

Example of a personal interest

ü The head of a managing authority might have a direct personal (family) interest in allocating EU funds to a project of the company of their spouse/partner (and therefore would need to declare a conflict of interests and abstain from being involved in decision-making related to that project)

7. Examples (2)

Examples of a person in charge of evaluating applications for funding in a Conflict of interest

- The official simultaneously carries out consultancy work, for either a consultancy or a third party providing services to the consultancy, on submitting applications for EU funding
- The official (or an immediate family member of the official) owns a company applying for EU funding
- The official has a personal friendship with the managers/owners of a company applying for EU funding

7. Examples (3)

Example of conflicts of interest in public procurement

- The CEO of the sole bidding company was employed by the contracting authority, in the department preparing tender technical specifications, at the time the tender procedure was carried out.



- As a result, all expenditure related to the public procurement was irregular (ineligible for co-financing)

7. Examples (4)

Example concerning separation of functions

The economic department within a regional ministry sends a voting member to a selection committee:

Scenario 1: The environmental department of the regional ministry applies for a project, the selection of which is to be decided by the economic department of the same ministry.

Assessment: i) no conflict of interests - if no hierarchical relations exist between the economic and environmental departments; and if the economic department has not been involved in preparing the project undertaken by the environmental department; and there is clear separation of functions.

Scenario 2: The economic department applies for a project.

Assessment: conflict of interests.

7. Examples (5)

Example regarding Intermediate Body involved in a project

- Head of IB (regional administration selecting and performing management verifications) is one of the shareholders in a public company (the beneficiary)
- The head of the IB has two possibilities: delegating the IB functions to another unit in the regional administration or to step down as part of the company board
- As not done: conflict of interest. The whole project is concerned.
- Decision on the financial impact: no guidance, case by case

8. Questions (1)

Separation of functions

• Role of Monitoring Committee for project selection in Interreg

- Even if decisions taken as a group, concerned members should withdraw from participation when their applications are voted; delegate the task to a Steering committee

• MA, JTS and auditors in the same body

- Requirement existing already before 2018 FR, internal checks and controls should be in place to ensure that the bodies can function independently

8. Questions (2)

Risk analysis, prevention and controls

üBy MA

- Need to consider past experience and define level of risk; define measures to be followed during the programme implementation (examples of preventive measures provided above)
- Verifications including this element (no investigations)
- Use of risk scoring tools (ARACHNE)

üBy AA

- Review of the system put in place by MA and sufficiency of the measures in place
- Testing of the system via system audits and audits of operations

8. Questions (3)

Controls in other countries

By MA

- Use an EGTC
- Use a group of controllers from each participating country (JTS)
- Use of risk scoring tools (ARACHNE)

By AA

- Use group of auditors
- Use of risk scoring tools (ARACHNE)

8. Questions (4)

What to do in case of conflict of interest?

- If the conflict of interest materialises, this indicates that there is an impact on the EU budget and requires to determine adequate remedies (e.g. cancelling and re-evaluating award procedures, cancelling contracts/agreements, suspending payments, making financial corrections and recovering funds).
- General Tribunal judgements T-277/97 and T-415/10: the conflict of interest constitutes, objectively and in itself, a serious irregularity without there being any need to qualify it by having regard to the intentions of the parties concerned and whether they were acting in good or bad faith

8. Questions (5)

Difference between conflict of interest and fraud?

Ü Definition of fraud:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of the European Union;
- non-disclosure of information in violation of a specific obligation, with the same effect;
- the misapplication of such funds for purposes other than those for which they were originally granted.

9. Conclusions (1)

- ü **EU rules** on conflicts of interests under the Financial Regulation apply directly and in addition to specific provisions under sectoral and national law
- ü Compliance with EU rules on conflict of interests when Member States implement EU budget under shared management is the **primary responsibility of programme authorities.**
- ü These measures remain subject to audits by the national audit bodies, monitoring and audits by **the Commission**, as well as audits by the European Court of Auditors and to investigations by the European Anti-Fraud Office (OLAF)

9. Conclusions (2)

- ü The focus should be placed on **prevention**, as it is much more delicate and complicated to correct conflict of interests situations
- ü Measures to prevent and address conflicts of interests should be **effective, proportionate, transparent and regularly updated** (in the light of any legal, policy or institutional development)
- ü Importance of peer to peer exchanges on **good practices**

Thank you for your attention!

Guidance on the avoidance and management of conflicts of interests

https://ec.europa.eu/info/strategy/eu-budget/protection-eu-budget/conflict-interest_en

The role of OLAF in Interreg

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By:
Maria NTZIOUNI-DOUMAS, OLAF, Adviser Operations and Investigations
Expenditure

INTERACT, Online 12 May 2021



OVERVIEW

- | OLAF snapshot: results & trends
- | Examples of fraud/Conflict of interests
- | Changing anti-fraud landscape



OLAF'S MISSION AND ACTIVITIES

Only EU administrative body to detect,
investigate and
stop fraud with EU funds

Any illegal activity
against
EU financial interests (EU
taxpayer's interests)

Serious wrongdoings
of EU staff

Develop a sound EU
anti-fraud policy

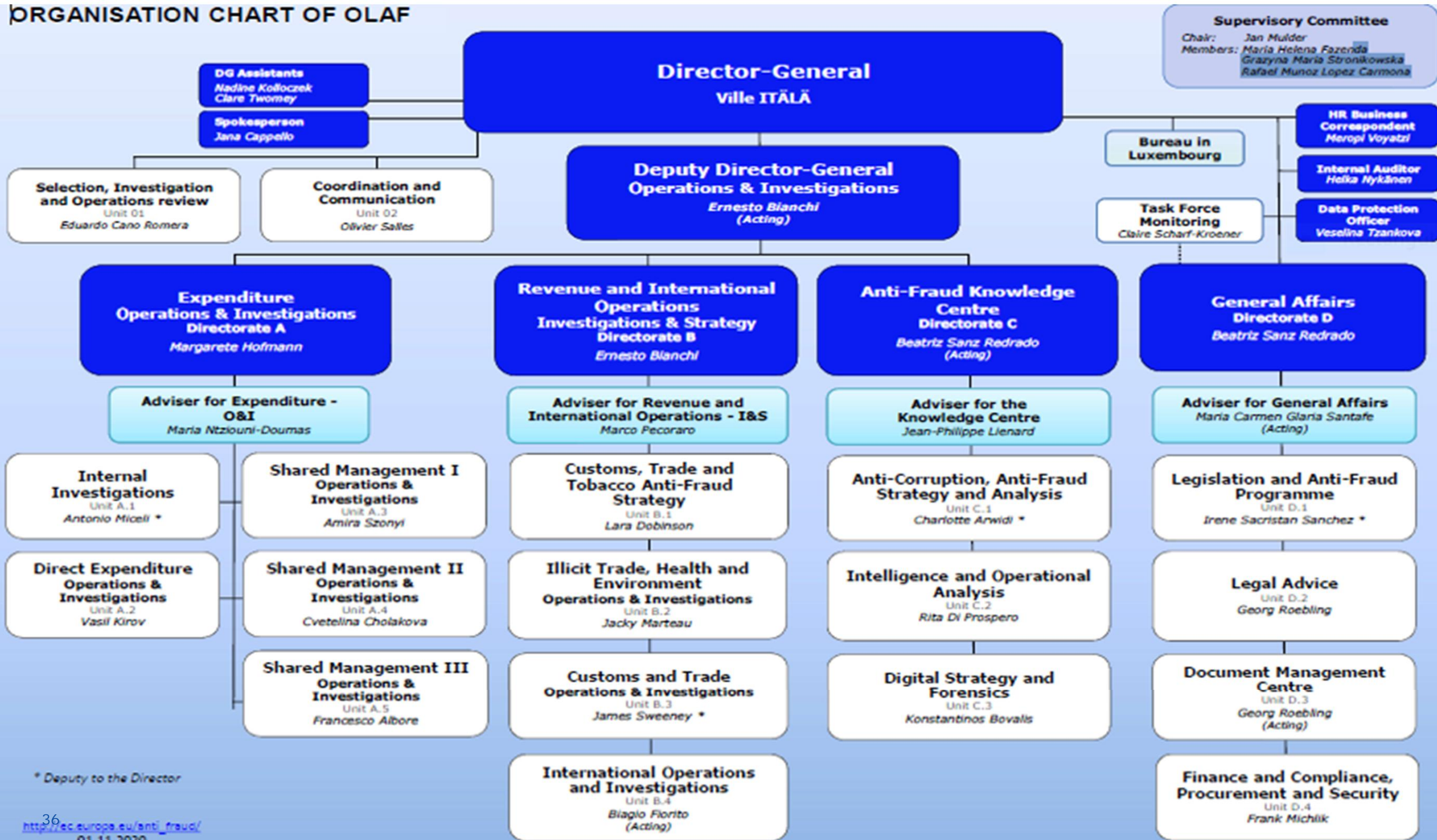
Fraud,
Irregularities



Corruption



ORGANISATION CHART OF OLAF



HISTORY: LEGAL FRAMEWORK

1988 – Creation of OLAF predecessor: UCLAF

1993 – Article 209A of the Treaty (280 TEU, 325 TFEU)

1995 – Adoption of Reg. 2988/95 (PIF), PIF Convention

1996 – Adoption of Reg. 2185/96

1999 – Creation of OLAF, based in Brussels

2013 – OLAF Reg. 883/2013

2017 – EPPO Reg. 2017/1939, PIF Dir. 2017/1371

2020 – Revision of OLAF Reg. 883/2013 by Reg. 2020/2223



37"OLAF" is the French acronym of the Office Européen de Lutte Anti-Fraude



OLAF INVESTIGATIONS (EU AND WORLDWIDE)

- » Internal investigations: fraudulent or corrupt behaviour of EU staff or Members of an EU institution
- » External investigations: beneficiaries of EU funds/economic operators (commercial companies, NGOs, contractors and subcontractors etc.)
- » Coordination: OLAF contributes to investigations carried out by national authorities or EU bodies



WHO INFORMS OLAF?

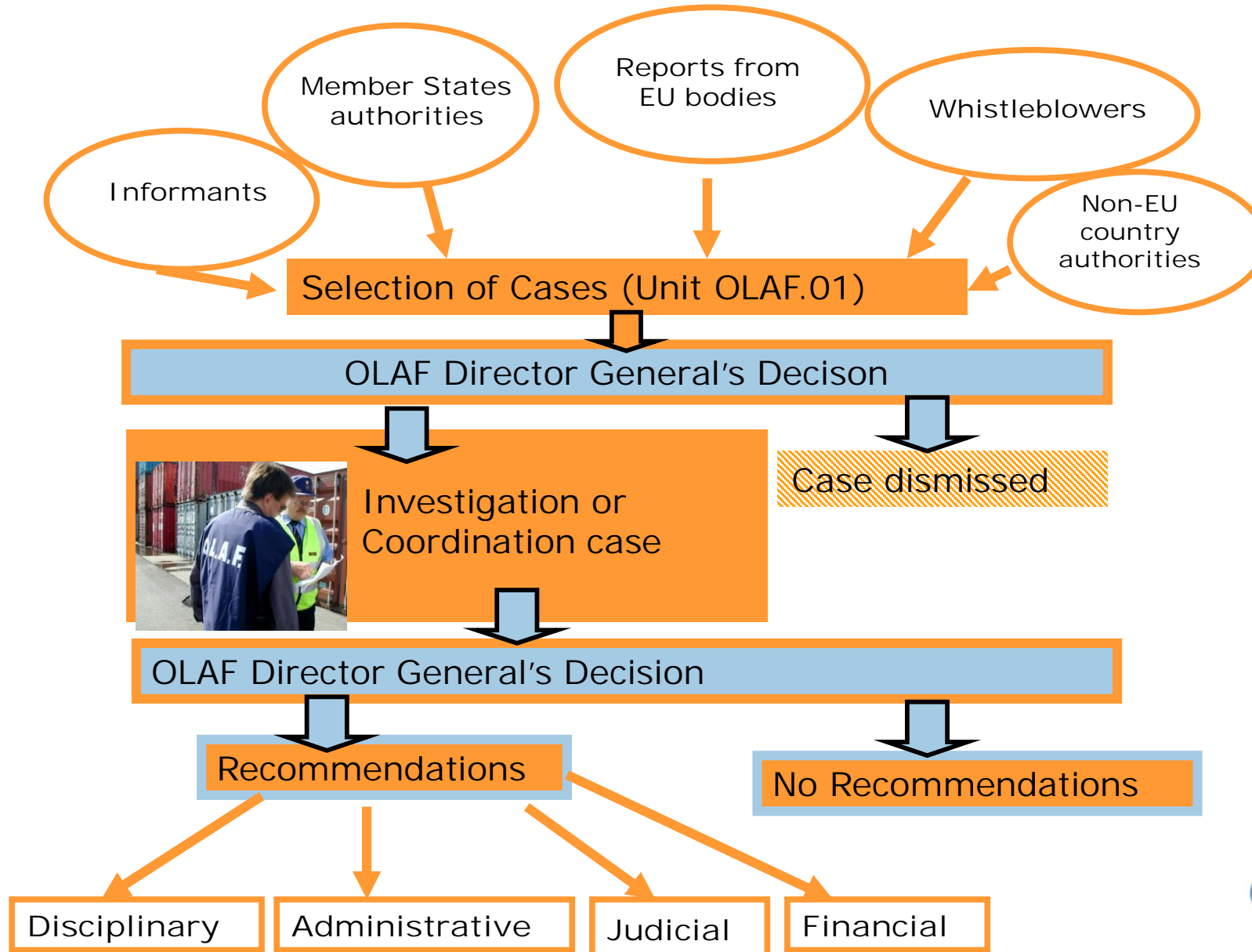
- » Anybody: natural or legal persons, anonymous or known
- » EU institutions (ECA, EIB, Commission...), Member States: inform OLAF of allegations they discover
- » Press: OLAF receives information from investigative journalists



SELECTION OF CASES - CRITERIA

- | OLAF's specific competence, as defined in Reg 883/2013
- | Whether information is sufficient to trigger an OLAF investigation (reliability of the source, credibility of the allegation)
- | Whether information falls within OLAF's Investigative Policy Priorities, which include considerations of:
 - » Subsidiarity/added value (OLAF's sole competence...)
 - » Proportionality (expected results vs resources; likelihood of recovery/prosecution...)
 - » Financial impact
 - » Efficient use of investigative resources (workload, priorities, expertise...)
 - » Special Policy Objectives (reviewed at regular intervals)

OLAF INVESTIGATIVE CYCLE





INVESTIGATIVE TOOLS

- Interviews with persons concerned and witnesses
- Inspection of premises
- On-the-spot checks
- Forensic operations
- Checks and inspections under sectoral rules
- Missions in third countries



OLAF PARTNERS

EPPO

EUROJUST

EUROPOL

FRONTEX

INTERPOL

WCO

AMERI POL

NATIONAL AUTHORITIES

OLAF'S INVESTIGATIVE PERFORMANCE IN 2019



OLAF RECOMMENDATIONS LEAD TO INDICTMENT RATE OF 39% ACROSS THE EU

Actions taken by national judicial authorities following OLAF's judicial recommendations (2015-2019)

Member State	No decision taken by JA	Decision taken by JA			Indictment rate (%)
		Total	Dismissed	Indictment	
Grand total	199	178	109	69	39 %

Actions taken by appointing authorities following OLAF's disciplinary recommendations (2015 - 2019)

Recipient of recommendation	Total	No decision taken	Decision taken	
			No case is made	Action taken
Total	83	30	21	32



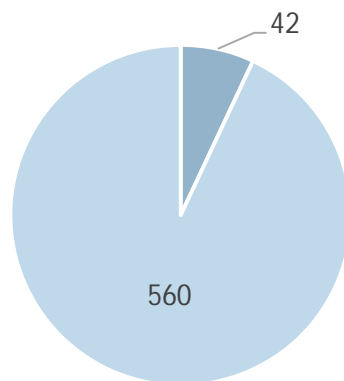
OLAF'S ADDED VALUE: CENTRAL ROLE IN COMPLEX INVESTIGATIONS

Trends revealed by OLAF investigations in 2019:

- collusion and manipulation of procurement;
- cross-border schemes that make detection more difficult;
- frequent targeting of projects in third countries;
- continued targeting of research funding;
- smuggling and counterfeiting, involving complex cross-border networks.

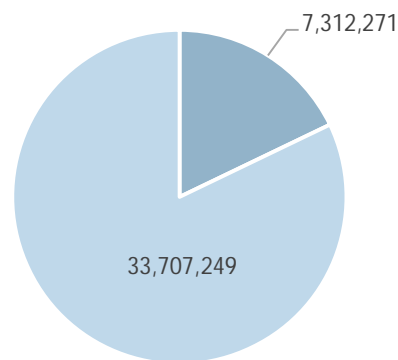
REPORTED IRREGULARITIES 2007-2013 INTERREG

Number of irregularities
Programming period 2007-2013



■ Irreg. reported as fraud ■ Irreg. not reported as fraud

Financial amounts involved in irregularities
Programming period 2007-2013



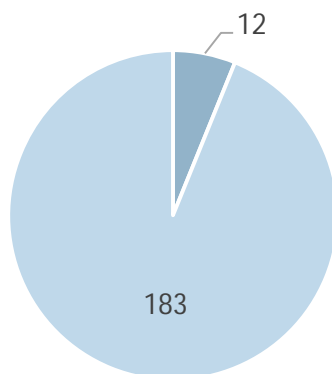
■ Irreg. reported as fraud ■ Irreg. not reported as fraud

Type of Irregularities

Incorrect, missing, false or falsified supporting documents
Eligibility / Legitimacy of expenditure/measure
Ethics and integrity
Infringement of public procurement rules
Infringement of contract provisions/rules
Violations/breaches by the operator
Product, species and/or land
Movement
Infringements concerning the request
Incorrect, absent, falsified accounts
Multiple financing
Bankruptcy
State aid
Other
blank

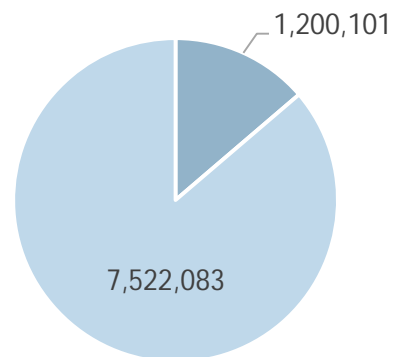
REPORTED IRREGULARITIES 2014-2020 INTERREG

Number of irregularities
Programming period 2014-2020



■ Irreg. reported as fraud ■ Irreg. not reported as fraud

Financial amounts involved in irregularities
Programming period 2014-2020



■ Irreg. reported as fraud ■ Irreg. not reported as fraud

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Other
blank

OLAF INVESTIGATIONS ENSURE EU MONEY CAN SERVE ITS GOALS

Member State/OLAF detection of irregularities and their financial impact in the area of Traditional Own Resources in the period 2015 - 2019

Traditional own resources 2015–2019				
Member State	Member States		OLAF	
	Number of detected fraudulent and non-fraudulent irregularities	Financial impact as % of TOR collected	Number of investigations closed with recommendations	Financial recommendations as % of TOR collected
EU-27	16 990	0.98 %	378	1.25 %

Member State/OLAF detection of irregularities and their financial impact in the area of Structural Funds and Agriculture in the period 2015 - 2019

Member State	Member States		OLAF	
	Number of detected fraudulent and non-fraudulent irregularities	Financial impact as % of payments	Number of investigations closed with recommendations	Financial recommendations as % of payments
EU-27	45 737	1.91 %	229	0.41 %

COMMON TYPOLOGIES FOR COI





COMPLEX, CROSS-BORDER INVESTIGATIONS by OLAF

- Public procurement is still an attractive marketplace for fraudsters, who use corruption linked or not to CoI and off-shore accounts as fraud facilitators. Many procurement fraud cases are transnational, as the new fraud scenarios often involve a contracting authority from one Member State and bidders from several other Member States who subcontract their works to companies again located in different countries.

CASE EXAMPLE I

- I Case example : Public Procurement during/after implementation
 - » Public Procurement : COI in relation to two contracts for an amount of 20.6 Million EUR
 - » A COI situation was identified when a Public Official subsequently became employed by the company which took the contract
 - » A person directly involved in tendering process should abstain from business/employment relationship with the winning tenderer in the aftermath of the procedure or declare their interests in good time
 - » The contracting authority in the MS did not investigate the alleged COI

CASE EXAMPLE II

I Case example : Public Procurement

- » An investigation in Hungary into 35 lighting projects implemented under the Hungarian Environment and Energy Operational Program and co-financed by the European Structural and Investment Funds.
- » Projects aimed at updating public lighting infrastructure in various municipalities
- » OLAF Investigation: applicant calculated initial cost estimations were irregular, with artificial supporting documents used to justify a cost benefit analysis

CASE EXAMPLE II continued

- » Consulting company linked with the main contractor had signed a contract with several beneficiaries to draft the technical annex to their project application, and could thus influence the content of the technical specifications used by the beneficiary during the tender procedure.
- » OLAF also uncovered numerous serious irregularities that had occurred during the public procurement procedures. It also identified conflict of interest between some consultants and the works company.
- » OLAF's final report (end 2017) included financial recommendations to recover EUR 43.7 million, and judicial recommendations to the General Prosecutor of Hungary.

- » A company won tender to develop a water and wastewater management system despite having no experience or expertise.
- » Falsification of documents and creation of fictitious joint venture with experienced company from another Member State.
- » OLAF analysis revealed that the project intended to launder money. Information provided to national authorities of the concerned MS by OLAF supported criminal case against the perpetrators.
- » €6 million in EU funds recommended for recovery



REVISION OF OLAF REGULATION 883

- » OLAF with stronger investigative tools
- » Becoming a stronger partner for the European Public Prosecutor's Office (EPPO)

REVISED OLAF REGULATION 883: STRONGER INVESTIGATIVE TOOLS

» Access to bank account information (Art. 7(3a))

§ through the assistance of national authorities and under the same conditions that apply to national competent authorities

» Access to privately owned devices (Arts. 3 and 4)

§ Under strict conditions, and *only* where OLAF has reasonable grounds for suspecting that their content may be relevant for the investigation

» Conduct of on-the-spot checks and inspections (Art. 3)

§ Clearer rules and also in the field of possible VAT frauds, R883 now main legal basis for OTSC, If no cooperation, COM may recover the funds

» Interaction with the AFCOs

- AFCOS must 'provide or coordinate the necessary assistance for the Office, OLAF may rely on AFCOS' assistance also in coordination cases

» Admissibility of OLAF final reports as evidence

- Follow-up, access, addressees of final reports

» New independent Controller and complaints mechanism

§ Enhanced procedural guarantees

CHANGING ANTI-FRAUD LANDSCAPE AT EU LEVEL





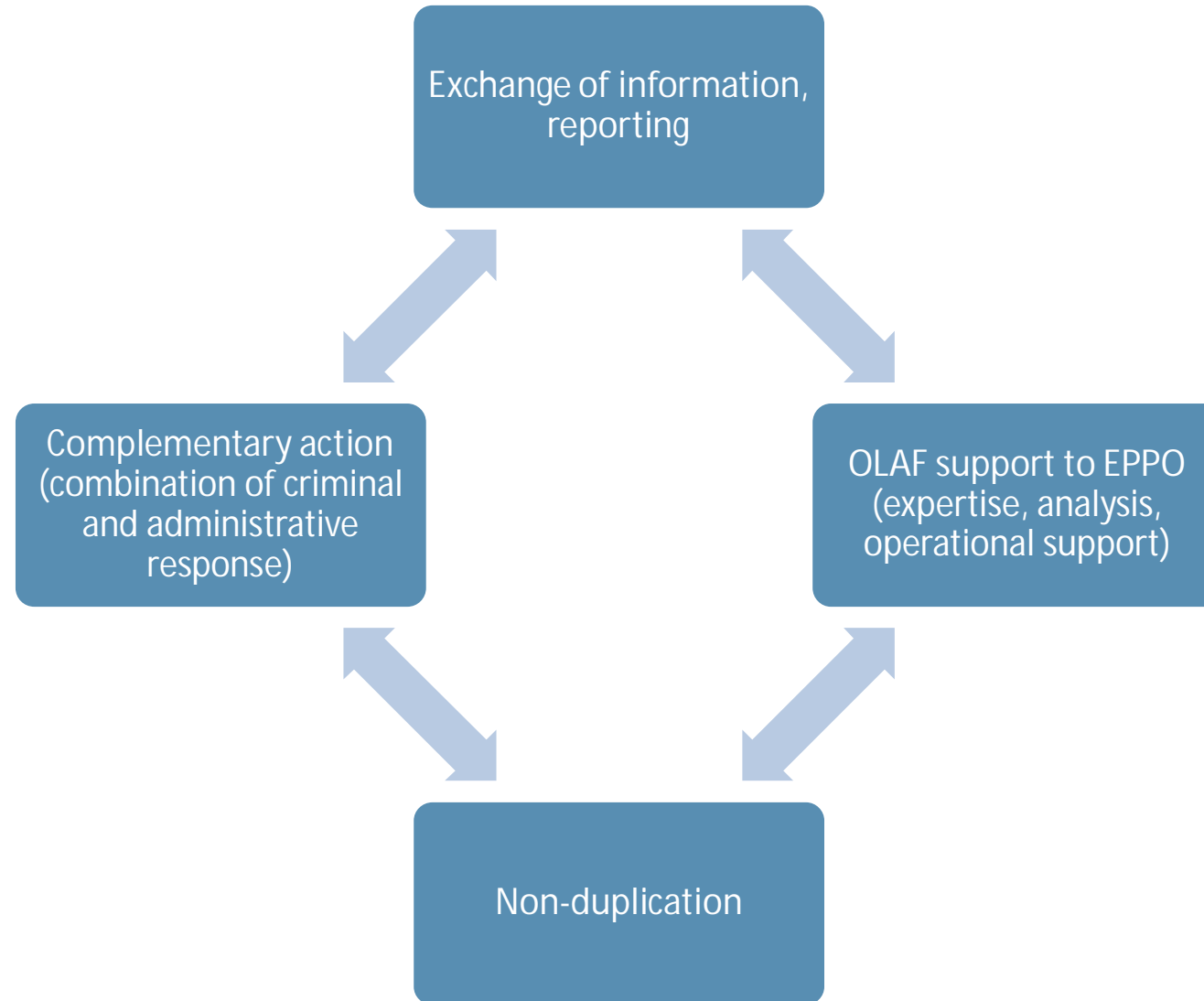
COOPERATION OLAF – EPPO

- » Member States participating in the EPPO
 - § New procedures for reporting and support to EPPO
 - § Possibility of complementary investigations by OLAF

- » Non-participating Member States
 - § Criminal law enforcement by national prosecution and judicial authorities
 - § OLAF continues to work as it does today, including judicial recommendations

In all situations, when OLAF opens an investigation, it acts according to R883 and cooperates in the same way with Member States.

COOPERATION OLAF - EPPO



FRAUD REPORTING

- WHAT TO REPORT?
- WHO CAN REPORT?
- HOW TO REPORT?

OLAF website:
<http://olaf.europa.eu>

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OLAF European Commission
EUROPEAN ANTI-FRAUD OFFICE

European Commission > OLAF

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OLAF investigates fraud against the EU budget, corruption and serious misconduct within the European institutions, and develops anti-fraud policy for the European Commission.

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Headlines



06/11/2020
Three people sentenced to prison in Italy following Operation Paper Castle

You will find here all relevant information and forms to report fraud to OLAF. You can contact us **anonymously**. You can communicate with OLAF in any of the **24 official EU languages**.

Report fraud 

 Twitter Events

OLAF European Commission
EUROPEAN ANTI-FRAUD OFFICE

Thank you!

Questions?

For more about OLAF:

Go to our website: ec.europa.eu/anti-fraud

Follow us on Twitter: @OLAFPress



EUROPEAN
PUBLIC
PROSECUTOR'S
OFFICE

A new actor: European Public Prosecutor's office

Anti-fraud in Interreg, 12th May, 10.00 – 13.30

Dr. Andon TASHUKOV,
Operations Unit, EPPO



OUTLINE

- § Brief historical background
- § Legal basis
- § Mandate, Structure, Functions
- § State of play
- § External relations

From idea to reality

- § *Corpus Juris* (1997, 1999)
- § Green Paper on criminal-law protection of the financial interests of the Community and the establishment of a European Prosecutor (2001)
- § Treaty establishing a 'Constitution for Europe' (Rome, 29.10.2004)
- § Lisbon Treaty (13.12.2007, entered into force 1.12.2009)
- § Commission's proposal (2013)
- § Enhanced cooperation - Regulation (EU) 2017/1939

Current Legal basis

§Article 86 TFEU

§Regulation (EU) 2017/1939

§Directive (EU) 2017/1371

EPPO's added value to the AFSJ

- § Unique body of this nature: EU's independent Prosecutor's Office
- § Competent to investigate, prosecute and bring cases to justice
- § Single office → uniform investigation and prosecution
→ no more need for classical judicial cooperation within the EPPO
- § Flexible organisation and working method: central and decentralised levels

Participating Member States



Non-Participating Member States



Mandate: Functions

(Article 4 EPPO Regulation)

- § *“investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union which are provided for in Directive (EU) 2017/1371 and determined by this Regulation.”*
- § Undertake investigations
- § Carry out acts of prosecution and exercise the functions of prosecutor in the competent courts of the Member States, until the case has been finally disposed of

Mandate: Material competence

q (Article 22 EPPO Regulation):

- criminal offences affecting the financial interests of the Union that are provided for in Directive (EU) 2017/1371, as implemented by national law ("PIF crimes");
- criminal organisation related to PIF offences;
- "inextricably linked offences"

q **Special conditions:**

§ Regarding VAT offences: criminal activity has to be connected with the territory of two or more Member States and to involve a total damage of at least EUR 10 million (Article 22 EPPO Regulation)

§ Regarding the damage: - as a rule, at least 10000 EUR, unless there are Union level repercussions or EU officials or equivalent are involved (Article 25 EPPO Regulation);

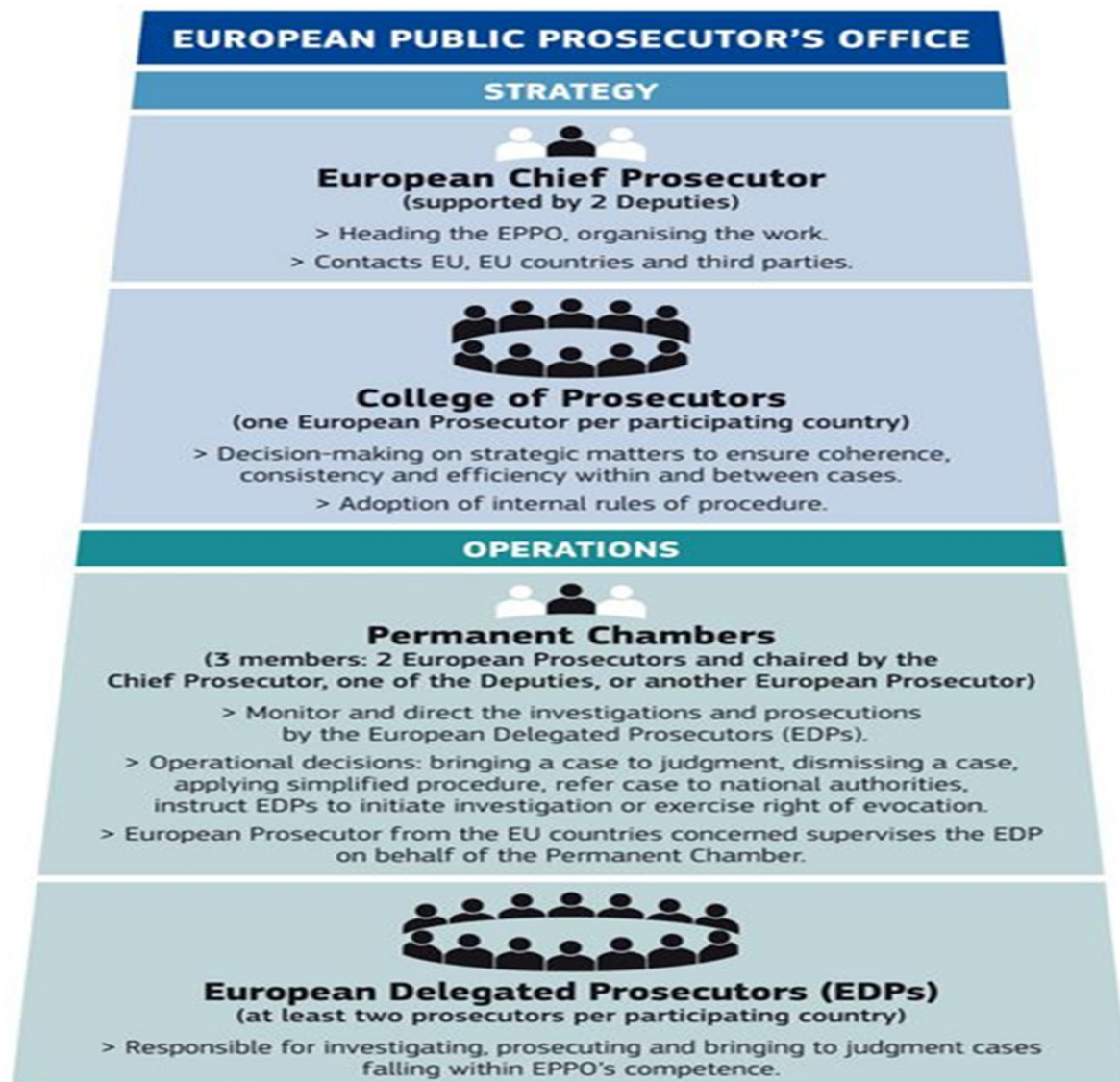
- non-evocation, referral could apply for damage of less than 100000 EUR (Articles 27.8, 34.3 EPPO Regulation).

Mandate: Territorial and personal competence

q (Article 23 EPPO Regulation) for offences committed:

- (a) in whole or in part within the territory of one or several Member States;
- (b) by a national of a Member State, provided that a Member State has jurisdiction for such offences when committed outside its territory;
- (c) outside the territories referred to in point (a) by a person who was subject to the Staff Regulations or to the Conditions of Employment, at the time of the offence, provided that a Member State has jurisdiction for such offences when committed outside its territory

Structure



Central Level at EPPO's headquarters in Luxembourg:

q Central Office

- » European Chief Prosecutor (ECP)
- » One European Prosecutor (EP) from each participating MS
- » The College (strategic decisions)
- » Permanent Chambers (operational decisions)
- » Administrative Director

q Staff supporting both the Central Office and the European Delegated Prosecutors.

Decentralised Level:

European Delegated Prosecutors (EDPs)

- » based in each participating MS
- » at least 2 EDPs per MS
- » support staff (MS)

Exercise of competence

- § Initiation of investigations (Article 26 EPPO Regulation): criminal conduct reported by EU institutions, bodies, agencies, offices and by national authorities.
- § Evocation of cases (Article 27 EPPO Regulation): for crimes committed after 20 November 2017.

Conducting the investigation

Ø Operational roles of:

§ (Handling) EDP

§ Supervising European Prosecutor

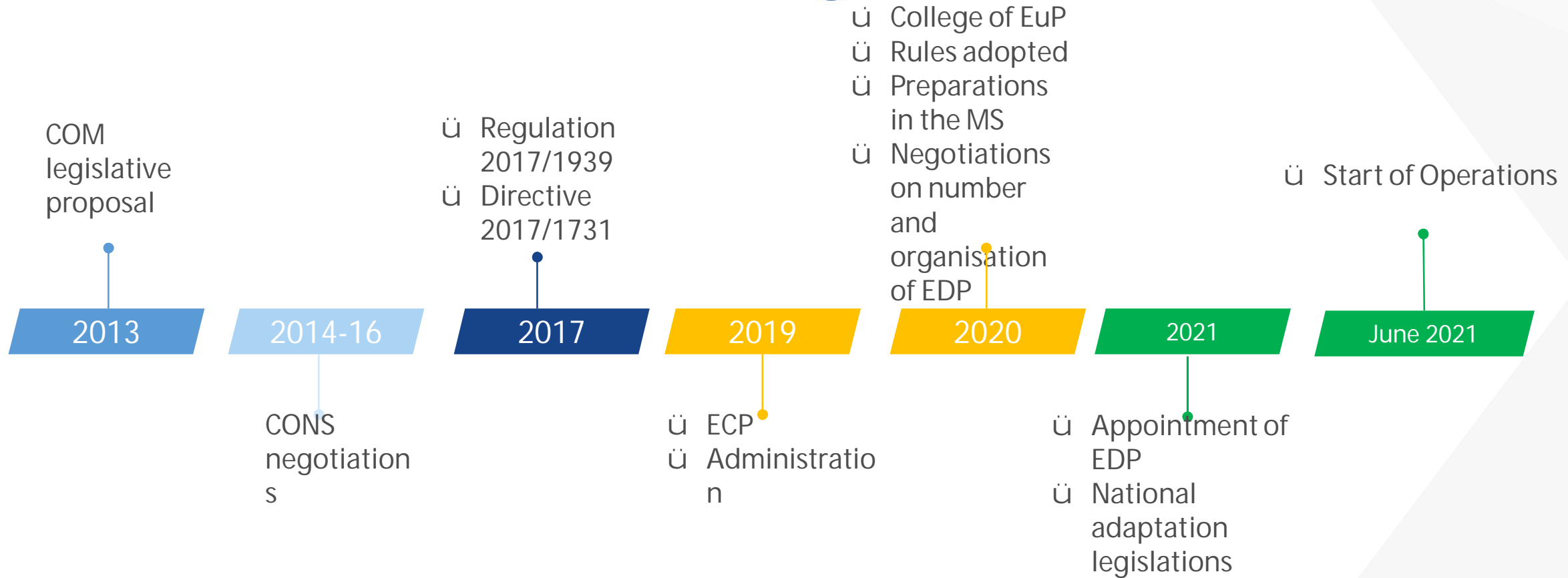
§ Permanent Chamber

§ ECP

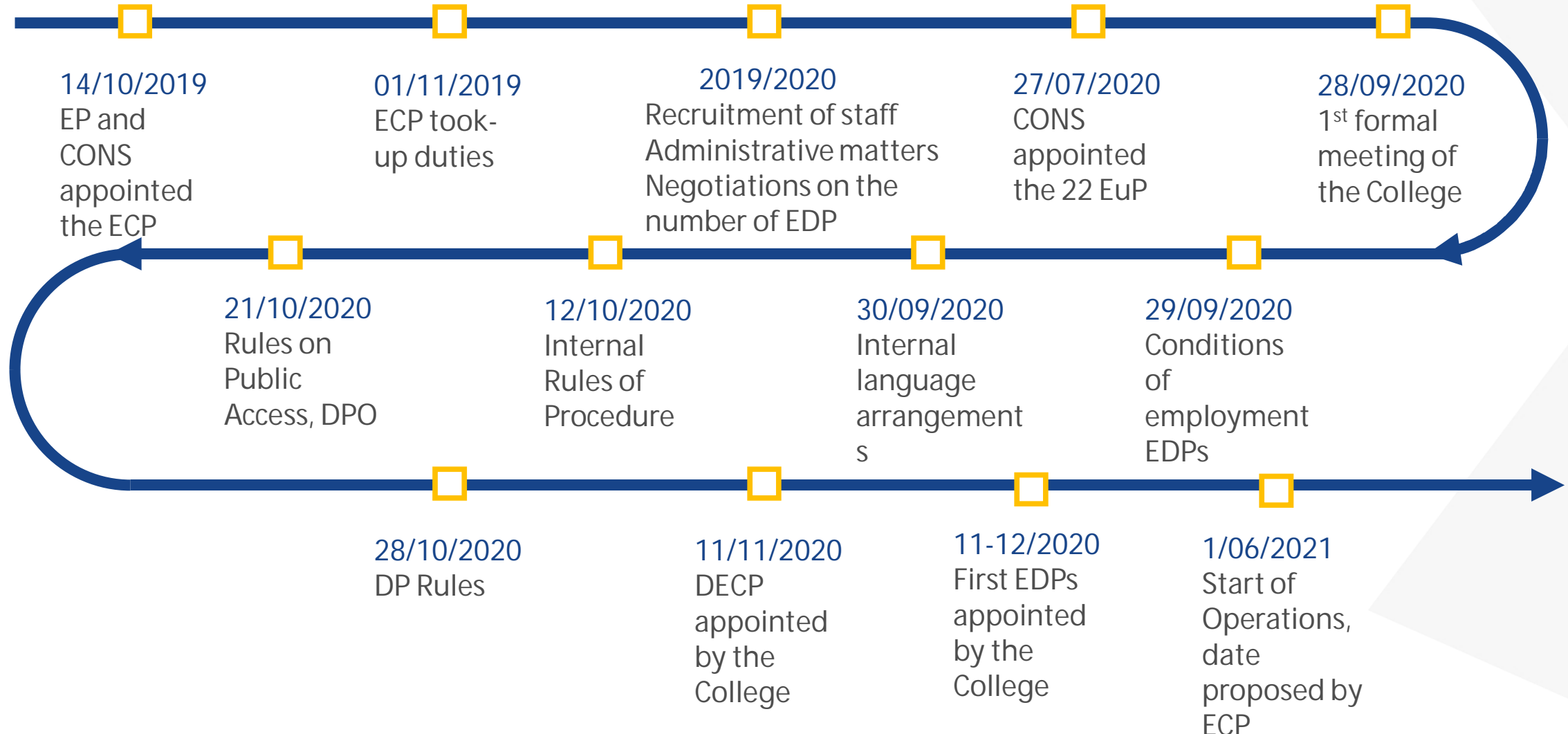
} supported by operational and
administrative staff

Ø Strategic and policy roles exercised by the College

Setting-up Timeline



State of play - Milestones



Start of operations



- § Article 120(2) EPPO Regulation: not earlier than 20 November 2020
- § The expected date of start of operations: 01.06.2021 proposed by the European Chief Prosecutor to the EC
- § All conditions shall be met, both at European Union and participating Member States levels.

Cooperation with OLAF

- § The 3 pillars of cooperation: EPPO Regulation + Reg. 883/2013 and Reg. 2020/2223 + Working arrangement
- § Art. 101: EPPO Reg.: The EPPO shall establish and maintain a close relationship with OLAF based on mutual cooperation within their respective mandates and on information exchange. The relationship shall aim in particular to ensure that all available means are used to protect the Union's financial interests through the complementarity and support by OLAF to the EPPO.
- § 3. In the course of an investigation by the EPPO, the EPPO may request OLAF, in accordance with OLAF's mandate, to support or complement the EPPO's activity in particular by:
 - § (a) providing information, analyses (including forensic analyses), expertise and operational support;
 - § (b) facilitating coordination of specific actions of the competent national administrative authorities and bodies of the Union;
 - § (c) conducting administrative investigations.

Cooperation with OLAF

- § Art 12c – Reporting criminal conduct to the EPPO
- § Art 12d – Non-duplication of Investigations
- § Art 12e – OLAF's support to the EPPO (mirror provision to 101, par 3 EPPO Reg)
- § Art 12f – Complementarity investigations – possibility for OLAF to open a parallel (administrative) investigation within its mandate in order to facilitate adoption of precautionary measures or financial, disciplinary, administrative action.
- § Art 12g – Working arrangement and exchange of information

Source: Reg. 2020/2223

Cooperation with OLAF

- § Working arrangement EPPO-OLAF
- § EPPO shall accede to the Interinstitutional agreement of 25 May 1999 concerning the internal investigations of OLAF (6 months after start of operations).
- § OLAF will remain competent to investigate non-fraudulent irregularities in all Member States.
- § OLAF will remain competent to investigate fraud and corruption in the MS not participating in the enhanced cooperation. Not all MS in EU take part in EPPO



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THANK YOU FOR YOUR ATTENTION!

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Cooperation works

All materials will be available on:

www.interact-eu.net

