

Commission Decision of 28 April 1999 establishing the  
European Anti-fraud Office (OLAF) (notified under document  
number SEC(1999) 802) (1999/352/EC, ECSC, Euratom)

COMMISSION DECISION

of 28 April 1999

establishing the European Anti-fraud Office (OLAF)

(notified under document number SEC(1999) 802)

(1999/352/EC, ECSC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 162 thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 16 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 131 thereof,

- (1) Whereas the institutions and the Member States attach great importance to the protection of the Communities' financial interests and to the fight against fraud and any other illegal activities to the detriment of the Communities' financial interests; whereas the importance of action to that end is confirmed by Article 209a of the EC Treaty, Article 78i of the ECSC Treaty, Article 183a of the Euratom Treaty as well as by Article 280 of the EC Treaty as formulated by the Treaty of Amsterdam;
- (2) Whereas all available means need to be deployed to fully attain this objective, notably in terms of investigation functions devolved to the Community level, while the current allocation and balance of responsibilities as between the national and Community levels should be maintained;
- (3) Whereas the task of carrying out administrative investigations for the purpose of protecting the financial interests of the Communities has until now been conferred on the Task Force for Coordination of Fraud Prevention, which succeeded the Unit for the Coordination of Fraud Prevention (UCLAF);
- (4) Whereas the need to increase the effectiveness of the fight against fraud and other illegal activities detrimental to the financial interests of the Communities requires the establishment of a European Anti-fraud Office (OLAF), hereinafter referred to as 'the Office' which must exercise its investigation powers in full independence;
- (5) Whereas the independence of the Director of the Office and the role of the Surveillance Committee arising from this Decision, and from the EC and Euratom Regulations concerning the investigations conducted by the Office, seek to guarantee the Office's

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*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Commission Decision of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (notified under document number SEC(1999) 802) (1999/352/EC, ECSC, Euratom). (See end of Document for details)*

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proper conduct of investigations without interfering with its other tasks, such as those which are the prerogative of the Commission, in particular in matters of legislation;

- (6) Whereas the responsibility of the Office should involve, over and above the protection of financial interests, all the activities linked with the protection of Community interests from irregular acts likely to lead to administrative or penal proceedings;
- (7) Whereas the definition of the functions of the Office should include the tasks carried out up to now by the Task Force for Coordination of Fraud Prevention, in particular those tasks concerning the preparation of legislative and regulatory provisions in the areas of activity of this Office, including instruments which fall under Title VI of the Treaty on European Union,

HAS DECIDED AS FOLLOWS:

### *Article 1*

#### **Establishment of the Office**

A European Anti-fraud Office (OLAF), hereinafter referred to as ‘the Office’, is hereby established. [F1The Office shall replace the Task Force for Coordination of Fraud Prevention and take over all its tasks.]

#### **Textual Amendments**

- F1** Deleted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).

### *Article 2*

#### **Tasks of the Office**

1 The Office shall exercise the Commission’s powers to carry out external administrative investigations for the purpose of strengthening the fight against fraud, corruption and any other illegal activity adversely affecting the [F2Union’s financial interests, as well as any other act or activity by operators in breach of Union] provisions.

The Office shall be responsible for carrying out internal administrative investigations intended:

- a to combat fraud, corruption and any other illegal activity adversely affecting the [F2Union]’s financial interests,
- b to investigate serious facts linked to the performance of professional activities which may constitute a breach of obligations by officials and servants of the Communities likely to lead to disciplinary and, in appropriate cases, criminal proceedings or an analogous breach of obligations by Members of the institutions and bodies, heads of the bodies or members of staff of the institutions and bodies not subject to the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the Communities.

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The Office shall exercise the Commission's powers as they are defined in the provisions established in the framework of the Treaties, and subject to the limits and conditions laid down therein.

The Office may be entrusted with investigations in other areas by the Commission or by the other institutions or bodies.

2 The Office shall be responsible for providing the Commission's support in cooperating with the Member States in the area of the fight against fraud. [<sup>F3</sup>This includes support to improve the protection of the euro against counterfeiting through training and technical assistance.]

3 The Office shall be responsible for the activity of developing a concept for the fight against fraud as referred to in paragraph 1. [<sup>F4</sup>This may include taking part in the activities of international bodies and associations specialised in the fight against fraud and corruption for the purpose, in particular, of exchanging best practices.]

[<sup>F54</sup> The Office shall be responsible for the preparation of the legislative and regulatory initiatives of the Commission with the objective of fraud prevention as referred to in paragraph 1.]

5 The Office shall be responsible for any other operational activity of the Commission in relation to the fight against fraud as referred to in paragraph 1, and in particular:

- a developing the necessary infrastructure;
- b ensuring the collection and analysis of information;
- c giving technical support, in particular in the area of training, to the other institutions or bodies as well as to the competent national authorities.

6 The Office shall be in direct contact with the police and judicial authorities.

7 The Office shall represent the Commission, at service level, in the forums concerned, in the fields covered by this Article.

#### **Textual Amendments**

- F2** Substituted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).
- F3** Deleted by [Commission Decision \(EU\) 2015/512 of 25 March 2015 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office](#).
- F4** Inserted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).
- F5** Substituted by [Commission Decision \(EU\) 2015/512 of 25 March 2015 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office](#).

### *Article 3*

#### **Independence of the investigative function**

The Office shall exercise the powers of investigation referred to in Article 2(1) in complete independence. In exercising these powers, the [<sup>F2</sup>Director-General] of the Office shall neither seek nor take instructions from the Commission, any government or any other institution or body.

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#### Textual Amendments

- F2** Substituted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).

#### Article 4

#### [<sup>F2</sup>Supervisory Committee]

A [<sup>F2</sup>Supervisory Committee] shall be established, the composition and powers of which shall be laid down by the [<sup>F2</sup>Union] legislature. This Committee shall be responsible for the regular monitoring of the discharge by the Office of its investigative function.

#### Textual Amendments

- F2** Substituted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).

#### [<sup>F2</sup>Article 5

#### Director-General

1 The Office shall be headed by a Director-General. The Director-General shall be appointed by the Commission, in accordance with the procedure specified in paragraph 2. The term of office of the Director-General shall be seven years and shall not be renewable.

The Director-General shall be responsible for the Office's conduct of investigations.

2 In order to appoint a new Director-General, the Commission shall publish a call for applications in the *Official Journal of the European Union*. Such publication shall take place at the latest six months before the end of the term of office of the Director-General in office. After a favourable opinion has been given by the Supervisory Committee on the selection procedure applied by the Commission, the Commission shall draw up a list of suitably qualified candidates. After consultations with the European Parliament and the Council, the Commission shall appoint the Director-General.

3 The Commission shall exercise, with regard to the Director-General, the powers conferred on the appointing authority. Any decision on initiating disciplinary proceedings against the Director-General under Article 3, paragraph 1, point (c) of Annex IX to the Staff Regulations shall be taken by reasoned decision of the Commission, after consulting the Supervisory Committee. The decision shall be communicated for information to the European Parliament, the Council and the Supervisory Committee.]

#### Textual Amendments

- F2** Substituted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).

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## Article 6

### Operation of the Office

[<sup>F21</sup> The Director-General of the Office shall exercise, with regard to the staff of the Office, the powers of the appointing authority and of the authority empowered to conclude contracts of employment delegated to him. He shall be permitted to sub-delegate those powers. In accordance with the Conditions of Employment of Other Servants, he shall lay down the conditions and detailed arrangements for recruitment, in particular as to the length of contracts and their renewal.]

[<sup>F22</sup> After consulting the Supervisory Committee, the Director-General shall send the Director-General for budgets a preliminary draft budget to be entered in the annex concerning the Office to the Commission section of the general budget of the European Union.]

[<sup>F63</sup> Except for the implementation of appropriations relating to the members of the Supervisory Committee, the Director-General shall act as authorising officer by delegation for implementation of the appropriations entered in the annex concerning the Office to the Commission section of the general budget of the European Union and the appropriations entered under the anti-fraud budget headings for which powers are delegated to him or her in the internal rules on implementation of the general budget. He or she shall be permitted to sub-delegate his or her powers to staff members subject to the Staff Regulations of Officials or Conditions of Employment of Other Servants of the Union in accordance with the those internal rules.]

[<sup>F24</sup> Commission decisions concerning its internal organisation shall apply to the Office in so far as they are compatible with the provisions concerning the Office adopted by the Union legislator and with this Decision.]

#### Textual Amendments

- F2** Substituted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).
- F6** Substituted by [Commission Decision \(EU\) 2015/2418 of 18 December 2015 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(OLAF\)](#).

## Article 7

### Effective date

This Decision shall take effect on the date of the entry into force of the European Parliament and Council Regulation (EC) concerning investigations carried out by the European Anti-fraud Office. [<sup>F1</sup>Up to the first day of the month following the appointment of the Director of the Office, the current business of the Office shall be dealt with by the Director of the Task Force for Coordination of Fraud Prevention.]

#### Textual Amendments

- F1** Deleted by [Commission Decision of 27 September 2013 amending Decision 1999/352/EC, ECSC, Euratom establishing the European Anti-fraud Office \(2013/478/EU\)](#).

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