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► **B** REGULATION (EU, EURATOM) No 883/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 September 2013

concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999

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**REGULATION (EU, EURATOM) No 883/2013 OF THE
EUROPEAN PARLIAMENT AND OF THE COUNCIL**

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Office (OLAF) and repealing Regulation (EC) No 1073/1999 of
the European Parliament and of the Council and Council
Regulation (Euratom) No 1074/1999**

Article 1

Objectives and tasks

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as ‘the Union’), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom (‘the Office’) shall exercise the powers of investigation conferred on the Commission by:

- (a) the relevant Union acts; and
- (b) the relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.

2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.

3. This Regulation shall apply without prejudice to:

- (a) Protocol No 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;
- (b) the Statute for Members of the European Parliament;
- (c) the Staff Regulations;
- (d) Regulation (EC) No 45/2001.

4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties (‘institutions, bodies, offices and agencies’), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as ‘officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members’).

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5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices or agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information and the conduct of investigations.

*Article 2***Definitions**

For the purposes of this Regulation:

- (1) ‘financial interests of the Union’ shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
- (2) ‘irregularity’ shall mean ‘irregularity’ as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95;
- (3) ‘fraud, corruption and any other illegal activity affecting the financial interests of the Union’ shall have the meaning applied to those words in the relevant Union acts;
- (4) ‘administrative investigations’ (‘investigations’) shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the competent authorities of the Member States to initiate criminal proceedings;
- (5) ‘person concerned’ shall mean any person or economic operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
- (6) ‘economic operator’ shall have the meaning applied to that term by Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96;
- (7) ‘administrative arrangements’ shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations.

*Article 3***External investigations**

1. The Office shall exercise the power conferred on the Commission by Regulation (Euratom, EC) No 2185/96 to carry out on-the-spot checks and inspections in the Member States and, in accordance with the cooperation and mutual assistance agreements and any other legal instrument in force, in third countries and on the premises of international organisations.

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As part of its investigative function, the Office shall carry out the checks and inspections provided for in Article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in Article 9(2) of that Regulation in the Member States and, in accordance with the cooperation and mutual assistance agreements and any other legal instrument in force, in third countries and on the premises of international organisations.

2. With a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or decision or a contract concerning Union funding, the Office may, in accordance with the provisions and procedures laid down by Regulation (Euratom, EC) No 2185/96, conduct on-the-spot checks and inspections on economic operators.

3. During on-the-spot checks and inspections, the staff of the Office shall act, subject to the Union law applicable, in compliance with the rules and practices of the Member State concerned and with the procedural guarantees provided for in this Regulation.

At the request of the Office, the competent authority of the Member State concerned shall provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2). If that assistance requires authorisation from a judicial authority in accordance with national rules, such authorisation shall be applied for.

The Member State concerned shall ensure, in accordance with Regulation (Euratom, EC) No 2185/96, that the staff of the Office are allowed access, under the same terms and conditions as its competent authorities and in compliance with its national law, to all information and documents relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently.

4. Member States shall, for the purposes of this Regulation, designate a service ('the anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, in accordance with national law, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation.

5. During an external investigation, the Office may have access to any relevant information, including information in databases, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. For that purpose Article 4(2) and (4) shall apply.

6. Where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the competent Commission services.

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Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, in compliance with national law. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information as referred to in the first subparagraph of this paragraph.

*Article 4***Internal investigations**

1. In the areas referred to in Article 1, the Office shall carry out administrative investigations within the institutions, bodies, offices and agencies ('internal investigations').

Those internal investigations shall be conducted in accordance with the conditions set out in this Regulation and in the decisions adopted by the respective institution, body, office or agency.

2. Provided that the provisions referred to in paragraph 1 are complied with:

- (a) the Office shall have the right of immediate and unannounced access to any relevant information, including information in databases, held by the institutions, bodies, offices and agencies, and to their premises. The Office shall be empowered to inspect the accounts of the institutions, bodies, offices and agencies. The Office may take a copy of, and obtain extracts from, any document or the contents of any data medium held by the institutions, bodies, offices and agencies and, if necessary, assume custody of such documents or data to ensure that there is no danger of their disappearance;
- (b) the Office may request oral information, including through interviews, and written information from officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members.

3. In accordance with the provisions and procedures laid down by Regulation (Euratom, EC) No 2185/96, the Office may carry out on-the-spot checks and inspections at the premises of economic operators in order to obtain access to information relevant to the matter under internal investigation.

4. The institutions, bodies, offices and agencies shall be informed whenever the staff of the Office conduct an internal investigation on their premises or consult a document or request information held by them. Without prejudice to Articles 10 and 11, the Office may at any time forward to the institution, body, office or agency concerned the information obtained in the course of internal investigations.

5. The institutions, bodies, offices and agencies shall put in place appropriate procedures and take necessary measures to ensure at all stages the confidentiality of internal investigations.

6. Where internal investigations reveal that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, the institution, body, office or agency to which that person belongs shall be informed.

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In cases where the confidentiality of the internal investigation cannot be ensured using the usual channels of communication, the Office shall use appropriate alternative channels for transmitting information.

In exceptional cases, the provision of such information may be deferred on the basis of a reasoned decision by the Director-General, which shall be transmitted to the Supervisory Committee after the closure of the investigation.

7. The decision to be adopted by each institution, body, office or agency as provided for in paragraph 1 shall include, in particular, a rule concerning a duty on the part of officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members to cooperate with and supply information to the Office, while ensuring the confidentiality of the internal investigation.

8. Where, before a decision has been taken whether or not to open an internal investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the institution, body, office or agency concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.

Where necessary, the Office shall also inform the competent authorities of the Member State concerned. In this case, the procedural requirements laid down in the second and third subparagraphs of Article 9(4) shall apply. If the competent authorities decide to take any action on the basis of the information transmitted to them, in accordance with national law, they shall, upon request, inform the Office thereof.

*Article 5***Opening of investigations**

1. The Director-General may open an investigation when there is a sufficient suspicion, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The decision by the Director-General whether or not to open an investigation shall take into account the investigation policy priorities and the annual management plan of the Office established in accordance with Article 17(5). That decision shall also take into account the need for efficient use of the Office's resources and for proportionality of the means employed. With regard to internal investigations, specific account shall be taken of the institution, body, office or agency best placed to conduct them, based, in particular, on the nature of the facts, the actual or potential financial impact of the case, and the likelihood of any judicial follow-up.

2. The decision to open an external investigation shall be taken by the Director-General, acting on his own initiative or following a request from a Member State concerned or any institution, body, office or agency of the Union.

The decision to open an internal investigation shall be taken by the Director-General, acting on his own initiative or following a request from the institution, body, office or agency within which the investigation is to be conducted or from a Member State.

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3. While the Director-General is considering whether or not to open an internal investigation following a request as referred to in paragraph 2, and/or while the Office is conducting an internal investigation, the institutions, bodies, offices or agencies concerned shall not open a parallel investigation into the same facts, unless agreed otherwise with the Office.

4. Within two months of receipt by the Office of a request as referred to in paragraph 2, a decision whether or not to open an investigation shall be taken. It shall be communicated without delay to the Member State, institution, body, office or agency which made the request. Reasons shall be given for a decision not to open an investigation. If, on the expiry of that period of two months, the Office has not taken any decision, the Office shall be deemed to have decided not to open an investigation.

Where an official, other servant, member of an institution or body, head of office or agency, or staff member, acting in accordance with Article 22a of the Staff Regulations, provides information to the Office relating to a suspected fraud or irregularity, the Office shall inform that person of the decision whether or not to open an investigation in relation to the facts in question.

5. If the Director-General decides not to open an internal investigation, he may without delay send any relevant information to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

6. If the Director-General decides not to open an external investigation, he may without delay send any relevant information to the competent authorities of the Member State concerned for action to be taken where appropriate, in accordance with its national rules. Where necessary, the Office shall also inform the institution, body, office or agency concerned.

*Article 6***Access to information in databases prior to the opening of an investigation**

1. Prior to the opening of an investigation, the Office shall have the right of access to any relevant information in databases held by the institutions, bodies, offices or agencies when this is indispensable in order to assess the basis in fact of allegations. That right of access shall be exercised within the time-limit, to be set by the Office, required for a prompt assessment of the allegations. In exercising that right of access, the Office shall respect the principles of necessity and proportionality.

2. The institution, body, office or agency concerned shall sincerely cooperate by allowing the Office to obtain any relevant information under conditions to be specified in the decisions adopted under Article 4(1).

▼B*Article 7***Investigations procedure**

1. The Director-General shall direct the conduct of investigations on the basis, where appropriate, of written instructions. Investigations shall be conducted under his direction by the staff of the Office designated by him.

2. The staff of the Office shall carry out their tasks on production of a written authorisation showing their identity and their capacity. The Director-General shall issue such authorisation indicating the subject matter and the purpose of the investigation, the legal bases for conducting the investigation and the investigative powers stemming from those bases.

3. The competent authorities of the Member States shall, in conformity with national rules, give the necessary assistance to enable the staff of the Office to fulfil their tasks effectively.

The institutions, bodies, offices and agencies shall ensure that their officials, other servants, members, heads and staff members provide the necessary assistance to enable the staff of the Office to fulfil their tasks effectively.

4. Where an investigation combines external and internal elements, Articles 3 and 4 shall apply respectively.

5. Investigations shall be conducted continuously over a period which must be proportionate to the circumstances and complexity of the case.

6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:

- (a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;
- (b) any information that could assist the institution, body, office or agency concerned in deciding whether it is appropriate to take precautionary administrative measures in order to protect the financial interests of the Union;
- (c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, in accordance with the national rules applicable to investigations.

The institution, body, office or agency concerned may at any time decide to take, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence, and shall inform the Office without delay of such decision.

7. Where necessary, it shall be for the competent authorities of the Member States, at the Office's request, to take the appropriate precautionary measures under their national law, in particular measures for the safeguarding of evidence.

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8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and the remedial measures envisaged with a view to speeding up the investigation.

*Article 8***Duty to inform the Office**

1. The institutions, bodies, offices and agencies shall transmit to the Office without delay any information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union.

2. The institutions, bodies, offices and agencies and, in so far as their national law allows, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit to the Office any document or information they hold which relates to an ongoing investigation by the Office.

3. The institutions, bodies, offices and agencies and, in so far as their national law allows, the competent authorities of the Member States shall transmit to the Office any other document or information considered pertinent which they hold relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

*Article 9***Procedural guarantees**

1. In its investigations the Office shall seek evidence for and against the person concerned. Investigations shall be conducted objectively and impartially and in accordance with the principle of the presumption of innocence and with the procedural guarantees set out in this Article.

2. The Office may interview a person concerned or a witness at any time during an investigation. Any person interviewed shall have the right to avoid self-incrimination.

The invitation to an interview shall be sent to a person concerned with at least 10 working days' notice. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the investigation. In the latter case, the notice period shall not be less than 24 hours. The invitation shall include a list of the rights of the person concerned, in particular the right to be assisted by a person of his choice.

The invitation to an interview shall be sent to a witness with at least 24 hours' notice. That notice period may be shortened with the express consent of the witness or on duly reasoned grounds of urgency of the investigation.

The requirements referred to in the second and third subparagraphs shall not apply to the taking of statements in the context of on-the-spot checks and inspections.

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Where, in the course of an interview, evidence emerges that a witness may be a person concerned, the interview shall be ended. The procedural rules provided for in this paragraph and in paragraphs 3 and 4 shall immediately apply. That witness shall be informed forthwith of his rights as a person concerned and shall receive, upon request, a copy of the records of any statements made by him in the past. The Office may not use that person's past statements against him without giving him first the opportunity to comment on those statements.

The Office shall draw up a record of the interview and give the person interviewed access to it so that the person interviewed may either approve the record or add observations. The Office shall give the person concerned a copy of the record of the interview.

3. As soon as an investigation reveals that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, that official, other servant, member of an institution or body, head of office or agency, or staff member shall be informed to that effect, provided that this does not prejudice the conduct of the investigation or of any investigative proceedings falling within the remit of a national judicial authority.

4. Without prejudice to Articles 4(6) and 7(6), once the investigation has been completed and before conclusions referring by name to a person concerned are drawn up, that person shall be given the opportunity to comment on facts concerning him.

To that end, the Office shall send the person concerned an invitation to comment either in writing or at an interview with staff designated by the Office. That invitation shall include a summary of the facts concerning the person concerned and the information required by Articles 11 and 12 of Regulation (EC) No 45/2001, and shall indicate the time-limit for submitting comments, which shall not be less than 10 working days from receipt of the invitation to comment. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the investigation. The final investigation report shall make reference to any such comments.

In duly justified cases where it is necessary to preserve the confidentiality of the investigation and/or entailing the use of investigative proceedings falling within the remit of a national judicial authority, the Director-General may decide to defer the fulfilment of the obligation to invite the person concerned to comment.

In cases referred to in Article 1(2) of Annex IX to the Staff Regulations, failure on the part of the institution, body, office or agency to respond within one month to the request of the Director-General for deferral of the fulfilment of the obligation to invite the person concerned to comment shall be deemed to constitute a reply in the affirmative.

5. Any person interviewed shall be entitled to use any of the official languages of the institutions of the Union. However, officials or other servants of the Union may be required to use an official language of the institutions of the Union of which they have a thorough knowledge.

▼B*Article 10***Confidentiality and data protection**

1. Information transmitted or obtained in the course of external investigations, in whatever form, shall be protected by the relevant provisions.
2. Information transmitted or obtained in the course of internal investigations, in whatever form, shall be subject to professional secrecy and shall enjoy the protection afforded by the rules applicable to the Union institutions.
3. The institutions, bodies, offices or agencies concerned shall ensure that the confidentiality of the investigations conducted by the Office is respected, together with the legitimate rights of the persons concerned, and, where judicial proceedings have been initiated, that all national rules applicable to such proceedings have been adhered to.
4. The Office may designate a Data Protection Officer in accordance with Article 24 of Regulation (EC) No 45/2001.

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The Data Protection Officer shall be competent for the processing of data by the Office and by the secretariat of the Supervisory Committee.

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5. The Director-General shall ensure that any information provided to the public is given neutrally and impartially, and that its disclosure respects the confidentiality of investigations and complies with the principles set out in this Article and in Article 9(1).

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In accordance with the Staff Regulations, the staff of the Office and the staff of the secretariat of the Supervisory Committee shall refrain from any unauthorised disclosure of information received in the exercise of their functions, unless that information has already been lawfully made public or is accessible to the public, and shall continue to be bound by that obligation after leaving the service.

The members of the Supervisory Committee shall be bound by the same obligation of professional secrecy in the exercise of their functions, and shall continue to be bound by that obligation after the end of their mandate.

▼B*Article 11***Investigation report and action to be taken following investigations**

1. On completion of an investigation by the Office, a report shall be drawn up, under the authority of the Director-General. That report shall give an account of the legal basis for the investigation, the procedural steps followed, the facts established and their preliminary classification in law, the estimated financial impact of the facts established, the respect of the procedural guarantees in accordance with Article 9 and the conclusions of the investigation.

The report shall be accompanied by recommendations of the Director-General on whether or not action should be taken. Those recommendations shall, where appropriate, indicate any disciplinary, administrative, financial and/or judicial action by the institutions, bodies, offices and agencies and by the competent authorities of the Member States concerned, and shall specify in particular the estimated amounts to be recovered, as well as the preliminary classification in law of the facts established.

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2. In drawing up such reports and recommendations, account shall be taken of the national law of the Member State concerned. Reports drawn up on that basis shall constitute admissible evidence in administrative or judicial proceedings of the Member State in which their use proves necessary, in the same way and under the same conditions as administrative reports drawn up by national administrative inspectors. They shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors and shall have the same evidentiary value as such reports.

3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the competent authorities of the Member States concerned in accordance with the rules relating to external investigations and, if necessary, to the competent Commission services.

4. Reports and recommendations drawn up following an internal investigation and any relevant related documents shall be sent to the institution, body, office or agency concerned. That institution, body, office or agency shall take such action, in particular of a disciplinary or legal nature, as the results of the internal investigation warrant, and shall report thereon to the Office, within a time-limit laid down in the recommendations accompanying the report, and, in addition, at the request of the Office.

5. Where the report drawn up following an internal investigation reveals the existence of facts which could give rise to criminal proceedings, that information shall be transmitted to the judicial authorities of the Member State concerned.

6. At the request of the Office, the competent authorities of the Member States concerned shall, in due time, send to the Office information on action taken, if any, following the transmission by the Director-General of his recommendations in accordance with paragraph 3, and following the transmission by the Office of any information in accordance with paragraph 5.

7. Without prejudice to paragraph 4, if, on completion of an investigation, no evidence has been found against the person concerned, the Director-General shall close the investigation regarding that person and inform that person within 10 working days.

8. Where an informant who has provided the Office with information leading or relating to an investigation so requests, the Office may notify that informant that the investigation has been closed. The Office may, however, refuse any such request if it considers that it is such as to prejudice the legitimate interests of the person concerned, the effectiveness of the investigation and of the action to be taken subsequent thereto, or any confidentiality requirements.

*Article 12***Exchange of information between the Office and the competent authorities of the Member States**

1. Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the course of external investigations in due time to enable them to take appropriate action in accordance with their national law.

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2. Without prejudice to Articles 10 and 11, the Director-General shall transmit to the judicial authorities of the Member State concerned information obtained by the Office, in the course of internal investigations, concerning facts which fall within the jurisdiction of a national judicial authority.

In accordance with Article 4 and without prejudice to Article 10, the Director-General shall also transmit to the institution, body, office or agency concerned the information referred to in the first subparagraph of this paragraph, including the identity of the person concerned, a summary of the facts established, their preliminary classification in law and the estimated impact on the financial interests of the Union.

Article 9(4) shall apply.

3. The competent authorities of the Member State concerned shall, without prejudice to their national law, inform the Office in due time, on their own initiative or at the request of the Office, of the action taken on the basis of the information transmitted to them under this Article.

4. The Office may provide evidence in proceedings before national courts and tribunals in conformity with national law and the Staff Regulations.

*Article 13***Cooperation of the Office with Eurojust and Europol**

1. Within its mandate to protect the financial interests of the Union, the Office shall cooperate, as appropriate, with Eurojust and with the European Police Office (Europol). Where necessary in order to facilitate that cooperation, the Office shall agree with Eurojust and Europol on administrative arrangements. Such working arrangements may concern exchange of operational, strategic or technical information, including personal data and classified information and, on request, progress reports.

Where this may support and strengthen coordination and cooperation between national investigating and prosecuting authorities, or where the Office has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust.

2. The competent authorities of the Member States concerned shall be informed, in a timely manner, by the Office in cases where information provided by them is transmitted by the Office to Eurojust or Europol.

*Article 14***Cooperation with third countries and international organisations**

1. Administrative arrangements may be agreed, as appropriate, by the Office with competent authorities in third countries and with international organisations. The Office shall coordinate its action, as appropriate, with the competent Commission services and with the European External Action Service, in particular before agreeing on such arrangements. Such arrangements may concern exchange of operational, strategic or technical information, including, on request, progress reports.

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2. The Office shall inform the competent authorities of the Member States concerned before information provided by them is transmitted by the Office to competent authorities in third countries or to international organisations.

The Office shall keep a record of all transmissions of personal data, including the grounds for such transmissions, in accordance with Regulation (EC) No 45/2001.

*Article 15***Supervisory Committee**

1. The Supervisory Committee shall regularly monitor the implementation by the Office of its investigative function, in order to reinforce the Office's independence in the proper exercise of the competences conferred upon it by this Regulation.

The Supervisory Committee shall in particular monitor developments concerning the application of procedural guarantees and the duration of investigations in the light of the information supplied by the Director-General in accordance with Article 7(8).

The Supervisory Committee shall address to the Director-General opinions, including where appropriate, recommendations on, inter alia, the resources needed to carry out the investigative function of the Office, on the investigative priorities of the Office and on the duration of investigations. Those opinions may be delivered on its own initiative, at the request of the Director-General or at the request of an institution, body, office or agency, without however interfering with the conduct of investigations in progress.

The institutions, bodies, offices or agencies shall be provided with a copy of opinions delivered pursuant to the third subparagraph.

In duly justified situations, the Supervisory Committee may ask the Office for additional information on investigations, including reports and recommendations on closed investigations, without however interfering with the conduct of investigations in progress.

2. The Supervisory Committee shall be composed of five independent members having experience in senior judicial or investigative functions or comparable functions relating to the areas of activity of the Office. They shall be appointed by common accord of the European Parliament, the Council and the Commission.

The decision appointing the members of the Supervisory Committee shall also include a reserve list of potential members to replace members of the Supervisory Committee for the remainder of their term of office in the event of the resignation, death or permanent incapacity of one or more of those members.

3. The term of office of members of the Supervisory Committee shall be five years and shall not be renewable. Three and two members shall be replaced alternately in order to preserve the Supervisory Committee's expertise.

4. On expiry of their term of office, members of the Supervisory Committee shall remain in office until they are replaced.

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5. If a member of the Supervisory Committee ceases to fulfil the conditions governing the performance of his duties, or if he has been found guilty of serious misconduct, the European Parliament, the Council and the Commission may, by common accord, relieve him of his duties.

6. In accordance with the applicable Commission rules, members of the Supervisory Committee shall receive a daily allowance and shall be reimbursed for expenses incurred by them in the course of their duties.

7. In carrying out their duties, the members of the Supervisory Committee shall neither seek nor take instructions from any government or any institution, body, office or agency.

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8. The Supervisory Committee shall appoint its chair. It shall adopt its own rules of procedure, which shall, before adoption, be submitted to the European Parliament, the Council, the Commission and the European Data Protection Supervisor for information. Meetings of the Supervisory Committee shall be convened on the initiative of its chair or the Director-General. It shall hold at least 10 meetings per year. The Supervisory Committee shall take its decisions by a majority of its component members. Its secretariat shall be provided by the Commission, independently from the Office, and in close cooperation with the Supervisory Committee. Before the appointment of any staff to the secretariat, the Supervisory Committee shall be consulted and its views shall be taken into account. The secretariat shall act on the instructions of the Supervisory Committee and independently from the Commission. Without prejudice to its control over the budget of the Supervisory Committee and its secretariat, the Commission shall not interfere with the monitoring functions of the Supervisory Committee.

Officials assigned to the secretariat of the Supervisory Committee shall neither seek nor take instructions from any government or any institution, body, office or agency relating to the exercise of the monitoring functions of the Supervisory Committee.

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9. The Supervisory Committee shall adopt at least one report on its activities per year, covering in particular the assessment of the Office's independence, the application of procedural guarantees and the duration of investigations. Those reports shall be sent to the European Parliament, the Council, the Commission and the Court of Auditors.

The Supervisory Committee may submit reports to the European Parliament, the Council, the Commission and the Court of Auditors on the results of the Office's investigations and the action taken on the basis of those results.

*Article 16***Exchange of views with the institutions**

1. The European Parliament, the Council and the Commission shall once a year meet the Director-General for an exchange of views at political level to discuss the Office's policy relating to methods of preventing and combating fraud, corruption or any other illegal activity affecting the financial interests of the Union. The Supervisory Committee shall participate in the exchange of views. Representatives of the Court of Auditors, Eurojust and/or Europol may be invited to attend on an ad hoc basis upon request of the European Parliament, the Council, the Commission, the Director-General or the Supervisory Committee.

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2. The exchange of views may relate to:
 - (a) the strategic priorities for the Office's investigation policies;
 - (b) the opinions and activity reports of the Supervisory Committee provided for under Article 15;
 - (c) the reports of the Director-General under Article 17(4) and, as appropriate, any other reports by the institutions relating to the mandate of the Office;
 - (d) the framework of the relations between the Office and the institutions, bodies, offices and agencies;
 - (e) the framework of the relations between the Office and the competent authorities of the Member States;
 - (f) the relations between the Office and the competent authorities in third countries as well as international organisations in the framework of the arrangements referred to in this Regulation;
 - (g) the effectiveness of the work of the Office with regard to the performance of its mandate.
3. All institutions participating in the exchange of views shall ensure that the exchange of views does not interfere with the conduct of investigations in progress.
4. The institutions participating in the exchange of views shall take into account in their actions the opinions expressed in that exchange. The Director-General shall provide, in the reports referred to in Article 17(4), information on the actions, if any, taken by the Office.

*Article 17***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.
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 consultation with the European Parliament and the Council, the Commission shall appoint the Director-General.
3. The Director-General shall neither seek nor take instructions from any government or any institution, body, office or agency in the performance of his duties with regard to the opening and carrying-out of external and internal investigations or to the drafting of reports following such investigations. If the Director-General considers that a measure taken by the Commission calls his independence into question, he shall immediately inform the Supervisory Committee, and shall decide whether to bring an action against the Commission before the Court of Justice.

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4. The Director-General shall report regularly to the European Parliament, the Council, the Commission and the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate, national law applicable to judicial proceedings.

5. The Director-General shall each year determine, within the context of the annual management plan, the investigation policy priorities of the Office and shall, prior to their publication, forward them to the Supervisory Committee.

The Director-General shall keep the Supervisory Committee periodically informed of the Office's activities, the implementation of its investigative function and the action taken by way of follow-up to investigations.

The Director-General shall inform the Supervisory Committee periodically:

- (a) of cases in which the recommendations made by the Director-General have not been followed;
- (b) of cases in which information has been transmitted to judicial authorities of the Member States;
- (c) on the duration of investigations in accordance with Article 7(8).

6. The Director-General may delegate in writing the exercise of certain of his functions under Article 5, Article 7(2), Article 11(7) and Article 12(2) to one or more members of the staff of the Office, specifying the conditions and limits governing such delegation.

7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, *inter alia*, to the respect of procedural guarantees and fundamental rights of the persons concerned and of the national law of the Member States concerned, with particular reference to Article 11(2).

8. The Director-General shall adopt guidelines on investigation procedures for the staff of the Office. Those guidelines shall be in accordance with this Regulation and shall cover, *inter alia*:

- (a) the conduct of investigations;
- (b) the procedural guarantees;
- (c) details on the internal advisory and control procedures, including the legality check;
- (d) data protection.

Those guidelines, and any modification thereto, shall be adopted after the Supervisory Committee has been given the opportunity to submit its observations thereon and shall then be transmitted for information to the European Parliament, the Council and the Commission, and published for information purposes on the Office's website in the official languages of the institutions of the Union.

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9. Before imposing any disciplinary penalty on the Director-General, the Commission shall consult the Supervisory Committee.

The imposition of any disciplinary penalty on the Director-General shall be the subject of a reasoned decision, which shall be forwarded for information to the European Parliament, the Council and the Supervisory Committee.

10. Any reference to the 'Director' of the Office in any legal text shall be read as a reference to the Director-General.

▼M1*Article 18***Financing**

The total appropriations for the Office shall be entered under a specific budget line within the section of the general budget of the European Union relating to the Commission and shall be set out in detail in an Annex to that section. The appropriations for the Supervisory Committee and its secretariat shall be entered into the section of the general budget of the European Union relating to the Commission.

The establishment plan of the Office shall be annexed to the establishment plan of the Commission. The establishment plan of the Commission shall include the secretariat of the Supervisory Committee.

▼B*Article 19***Evaluation report**

By 2 October 2017, the Commission shall submit to the European Parliament and the Council an evaluation report on the application of this Regulation. That report shall be accompanied by an opinion of the Supervisory Committee and shall state whether there is a need to amend this Regulation.

*Article 20***Repeal**

Regulation (EC) No 1073/1999 and Regulation (Euratom) No 1074/1999 are hereby repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex II.

*Article 21***Entry into force and transitional provisions**

1. This Regulation shall enter into force on the first day of the month following its publication in the *Official Journal of the European Union*.

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2. Article 15(3) shall apply to the duration of the term of office of the members of the Supervisory Committee in office at the date of entry into force of this Regulation. Immediately after the entry into force of this Regulation, the President of the European Parliament shall choose by lot, from amongst the members of the Supervisory Committee, two members whose duties are to end, by way of derogation from the first sentence of Article 15(3), upon expiry of the first 36 months of their term of office. Two new members shall be appointed automatically for a term of office of five years to replace the outgoing members, on the basis and in the order of the list set out in Article 1(2) of Decision 2012/45/EU, Euratom of the European Parliament, the Council and the Commission of 23 January 2012 appointing the members of the Supervisory Committee of the European Anti-Fraud Office (OLAF) ⁽¹⁾. Those new members shall be the first two persons whose names appear in that list.

3. The third sentence of Article 17(1) shall apply to the duration of the term of office of the Director-General in office at the date of entry into force of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁽¹⁾ OJ L 26, 28.1.2012, p. 30.

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ANNEX I

REPEALED REGULATIONS (REFERRED TO IN ARTICLE 20)

Regulation (EC) No 1073/1999 of the European Parliament and of the Council

(OJ L 136, 31.5.1999, p. 1).

Council Regulation (Euratom) No 1074/1999

(OJ L 136, 31.5.1999, p. 8)



ANNEX II

CORRELATION TABLE

Regulation (EC) No 1073/1999 and Regulation (Euratom) No 1074/1999	This Regulation
Article 1(1)	Article 1(1)
Article 1(2)	Article 1(2)
—	Article 1(3)
Article 1(3)	Article 1(4)
—	Article 1(5)
—	Article 2, point 1
—	Article 2, point 2
—	Article 2, point 3
Article 2	Article 2, point 4
—	Article 2, point 5
—	Article 2, point 6
—	Article 2, point 7
Article 3, first paragraph	Article 3(1), first subparagraph
Article 3, second paragraph	Article 3(1), second subparagraph
—	Article 3(2)
—	Article 3(3), second subparagraph
—	Article 3(3), third subparagraph
—	Article 3(4)
—	Article 3(5)
—	Article 3(6)
Article 4(1), first subparagraph	Article 4(1), first subparagraph
Article 4(1), second subparagraph	Article 4(1), second subparagraph
Article 4(2)	Article 4(2)
Article 4(3), first subparagraph	Article 4(3)
Article 4(3), second subparagraph	—
Article 4(4)	Article 4(4), first sentence
—	Article 4(5)
Article 4(5), first subparagraph	Article 4(6), first subparagraph
—	Article 4(6), second subparagraph
Article 4(5), second subparagraph	Article 4(6), third subparagraph
Article 4(6), point (a)	Article 4(7)
Article 4(6), point (b)	—

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Regulation (EC) No 1073/1999 and Regulation (Euratom) No 1074/1999	This Regulation
—	Article 4(8)
—	Article 5(1)
Article 5, first paragraph	Article 5(2), first subparagraph
Article 5, second paragraph	Article 5(2), second subparagraph
—	Article 5(3)
—	Article 5(4)
—	Article 5(5)
—	Article 5(6)
—	Article 6
Article 6(1)	Article 7(1)
Article 6(2)	Article 7(2), first sentence
Article 6(3)	Article 7(2), second sentence
Article 6(4)	Article 3(3), first subparagraph
—	Article 7(4)
Article 6(5)	Article 7(5)
Article 6(6)	Article 7(3)
—	Article 7(6)
—	Article 7(7)
—	Article 7(8)
Article 7(1)	Article 8(1)
Article 7(2)	Article 8(2)
Article 7(3)	Article 8(3)
—	Article 9
Article 8(1)	Article 10(1)
Article 8(2), first subparagraph	Article 10(2)
Article 8(2), second subparagraph	—
Article 8(3)	—
Article 8(4)	—
—	Article 10(4)
—	Article 10(5)
Article 9(1)	Article 11(1), first subparagraph
—	Article 11(1), second subparagraph
Article 9(2)	Article 11(2)
Article 9(3)	Article 11(3)
Article 9(4)	Article 11(4)

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Regulation (EC) No 1073/1999 and Regulation (Euratom) No 1074/1999	This Regulation
—	Article 11(5)
—	Article 11(6)
—	Article 11(7)
—	Article 11(8)
Article 10(1)	Article 12(1)
Article 10(2)	Article 12(2), first subparagraph
—	Article 12(2), second subparagraph
—	Article 12(2), third subparagraph
Article 10(3)	Article 4(4), second sentence
—	Article 12(3)
—	Article 12(4)
—	Article 13
—	Article 14
Article 11(1), first subparagraph	Article 15(1), first subparagraph
—	Article 15(1), second subparagraph
Article 11(1), second subparagraph	Article 15(1), third subparagraph
—	Article 15(1), fourth subparagraph
—	Article 15(1), fifth subparagraph
Article 11(2)	Article 15(2), first subparagraph
—	Article 15(2), second subparagraph
Article 11(3)	Article 15(3)
Article 11(4)	Article 15(4)
—	Article 15(5)
—	Article 15(6)
Article 11(5)	Article 15(7)
Article 11(6)	Article 15(8)
Article 11(7)	Article 17(5), third subparagraph
Article 11(8)	Article 15(9)
—	Article 16
Article 12(1)	Article 17(1)
Article 12(2)	Article 17(2)
Article 12(3), first subparagraph	Article 17(3)
Article 12(3), second subparagraph	Article 17(4)

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Regulation (EC) No 1073/1999 and Regulation (Euratom) No 1074/1999	This Regulation
Article 12(3), third subparagraph	Article 10(3)
—	Article 17(5), first subparagraph
—	Article 17(5), second subparagraph
—	Article 17(6)
—	Article 17(7)
—	Article 17(8)
Article 12(4), first sentence	Article 17(9), first subparagraph
Article 12(4), second sentence	Article 17(9), second subparagraph
—	Article 17(10)
Article 13	Article 18
Article 14	—
Article 15	Article 19
—	Article 20
Article 16	Article 21(1)
—	Article 21(2)
—	Article 21(3)
—	Annex I
—	Annex II