OFFICE EUROPÉEN DE LUTTE ANTI-FRAUDE
EUROPEAN COMMISSION
EUROPEAN ANTI-FRAUD OFFICE

# OLAF
# European
# Anti-fraud Office

# WHAT IS OLAF?

European Institutions' independent investigation service

Service Platform for its national and Union partners

## Legal Basis

Article 325 TFEU
(after the entry into force of the Lisbon Treaty article 280 TCE has become article 325 TFEU)

Comm Decision 1999/352/EC, ECSC, Euratom

Regulation (EC) No 1073/1999

# WHAT IS OLAF's MISSION?

« To protect the financial interests of the European Union against fraud, corruption and any other illegal activities and to protect the reputation of the European institutions. »
(in conformity with EP/Council Regulation (EC) 1073/1999)

# OBJECTIVES AND TASKS

OLAF
OFFICE EUROPÉEN DE LUTTE ANTI-FRAUDE
EUROPEAN COMMISSION EUROPEAN ANTI-FRAUD OFFICE

fights against

Any illegal activity against EU financial interests

Serious wrongdoings of EU staff

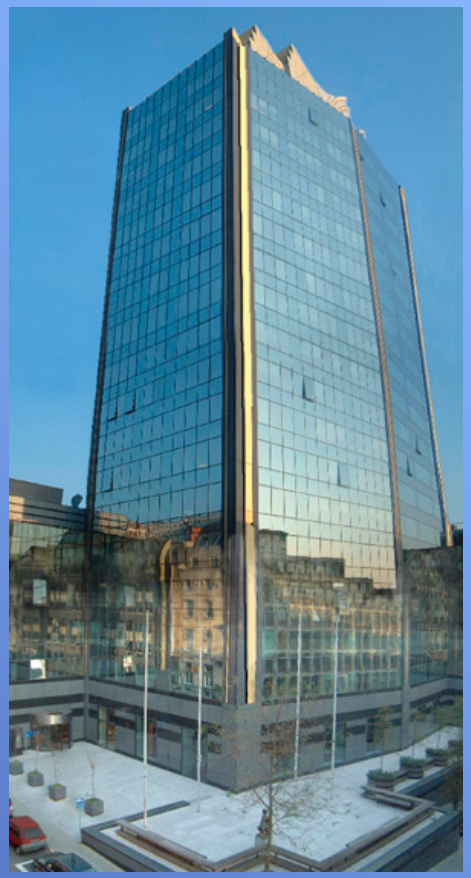
Corruption

Fraud

# OLAF: THE FIRST 10 YEARS IN THE FIGHT AGAINST FRAUD

## ACHIEVEMENTS:

- Received more than 7000 individual allegations, resulting in the opening of over 3000 cases.
- OLAF's investigations have led to the recovery of more than 1 billion euro.
- Prevention measures have saved millions of euro to the EU budget.



# OLAF'S STATUS

- Special independent status in its operational and investigation functions;
- Director-general may neither seek nor accept instructions from any Government or any institution;
- Director-general appointed by the Commission after consultations with Parliament and Council;
- Director-general opens investigations of his own motion;
- Director-general can bring an action against the Commission before the Court of Justice;
- Supervisory Committee to reinforce the Office's independence.

# OLAF REFORM

Commission proposals to amend Regulation 1073/1999 aim at:

**Enhancing the procedural rights of persons concerned by investigations**

**Enhancing the accountability of the Office: cooperation between institutions and the Supervisory Committee**

**Improving the exchange of information between the Office and the EU institutions and with the Member states and improving the operational efficiency of OLAF**

# STATUS VS NATURE OF WORK

Risk analysis

Legislative Initiatives of the Commission

Internal Investigations

Support to recovery of funds and follow-up

External Investigations

Support to the Member States

Commission Service

Independent Office

# THE FIGHT AGAINST EU FRAUD

- **Prevention**: controls and audit work, legislative measures
- **Detection**: operational work / investigation
- **Follow up**: recovery and sanctions

# INTERNAL INVESTIGATIONS

Key area with a view to OLAF's independence

Administrative Investigations in all European Union Institutions, Offices, Agencies

OLAF has no judicial powers

- Obligation to inform
- Obligation to cooperate

# EXTERNAL INVESTIGATIONS

OLAF cannot and may not fight EU-fraud alone:

80 % of the EU expenses are administered by the MS

**National law enforcement services are OLAF's key partners**

**Cooperation is crucial:**

- Own resources (smuggling)
- Common Agricultural Policy
- Structural Funds
- Indirect taxation

OLAF has no judicial powers

**Cooperation adds value:**

- Pre-Accession Instruments (Phare)
- External action (development aid)
- Other direct expenditure (R&D)

OFFICE EUROPÉEN DE LUTTE ANTI-FRAUDE
EUROPEAN COMMISSION
EUROPEAN ANTI-FRAUD OFFICE

# INVESTIGATION

Report from EU institution

Informant

Whistleblower

Fraud Notification System

Intelligence

Freephone

Evaluation

Management Board / Director Decision

Investigation

Non-case

Management Board / Director Decision

Follow up

Judicial

Financial

Disciplinary

Legislative

Administrative

# OLAF AND THE CANDIDATE COUNTRIES

## Memoranda of Understanding

The National Authorising Officer shall immedialtley report all suspected and actual cases of fraud and irregularity to the European Commission.

# OLAF AND THE CANDIDATE COUNTRIES

## Transposition of the acquis: Chapter 32

## "Financial control"

- To align the Criminal code with the *acquis* on the protection of EU's financial interests

- Set up an effective and efficient coordination service to guarantee fulfilment of the obligations arising from article 325(3) TFEU of the Treaty and application of the *acquis* concerning on-the-spot checks and inspections carried out by the Commission

- Take legislative and administrative measures to comply with the *acquis* on the protection of the euro against counterfeiting.

# WHAT DOES THIS MEAN?

- Alignment of the criminal code and the criminal procedural code of the candidate country with the legal provisions relevant for the protection of the EU's financial interests (article 325 TFEU, the PIF convention and its protocols, Regulation 2185/1996, Regulation 2988/1995);
- Alignment of the legislation on euro counterfeiting (Council Regulation 1338/2001, Council framework Decision 2000/383/JHA)

# HOW DOES OLAF HELP?

- OLAF worked and works together with the candidate countries to identify the current situation and possible gaps in their national legislation.

- OLAF provides expertise and training, but the implementation of the necessary changes remains with the candidate country.

# INSTITUTIONAL ANTI-FRAUD SET-UP

- How to establish an efficient institutional set-up in the fight against fraud?

  OLAF's approach for the 2004 and 2007 enlargements:

- OLAF advises the candidate countries to designate a central national authority serving as a contact point in the fight against fraud or to set up a new service which could act as a catalyst for the other services: the AFCOS.

# WHAT IS AN AFCOS?

**A**nti-**F**raud **C**o-**o**rdination **S**ervice
(Structure!)

It is a national, central contact point within each new Member State which is intended to assist OLAF and Member States to fight more effectively against fraud.

# MAIN TASKS OF THE AFCOS?

- Co-ordination of legislative, administrative and operational obligations and activities related to the protection of EU finances
- Co-operation with Member States and the Commission (OLAF) as required by Art. 325(5) TFEU
- Communication of frauds/irregularities

# ASSISTANCE IN DETECTION OF FRAUD

- Facilitating co-operation between national authorities and the Commission (OLAF)
- Monitoring the exchange of information between national authorities and the Commission (OLAF)

# ASSISTANCE WITH FOLLOW-UP

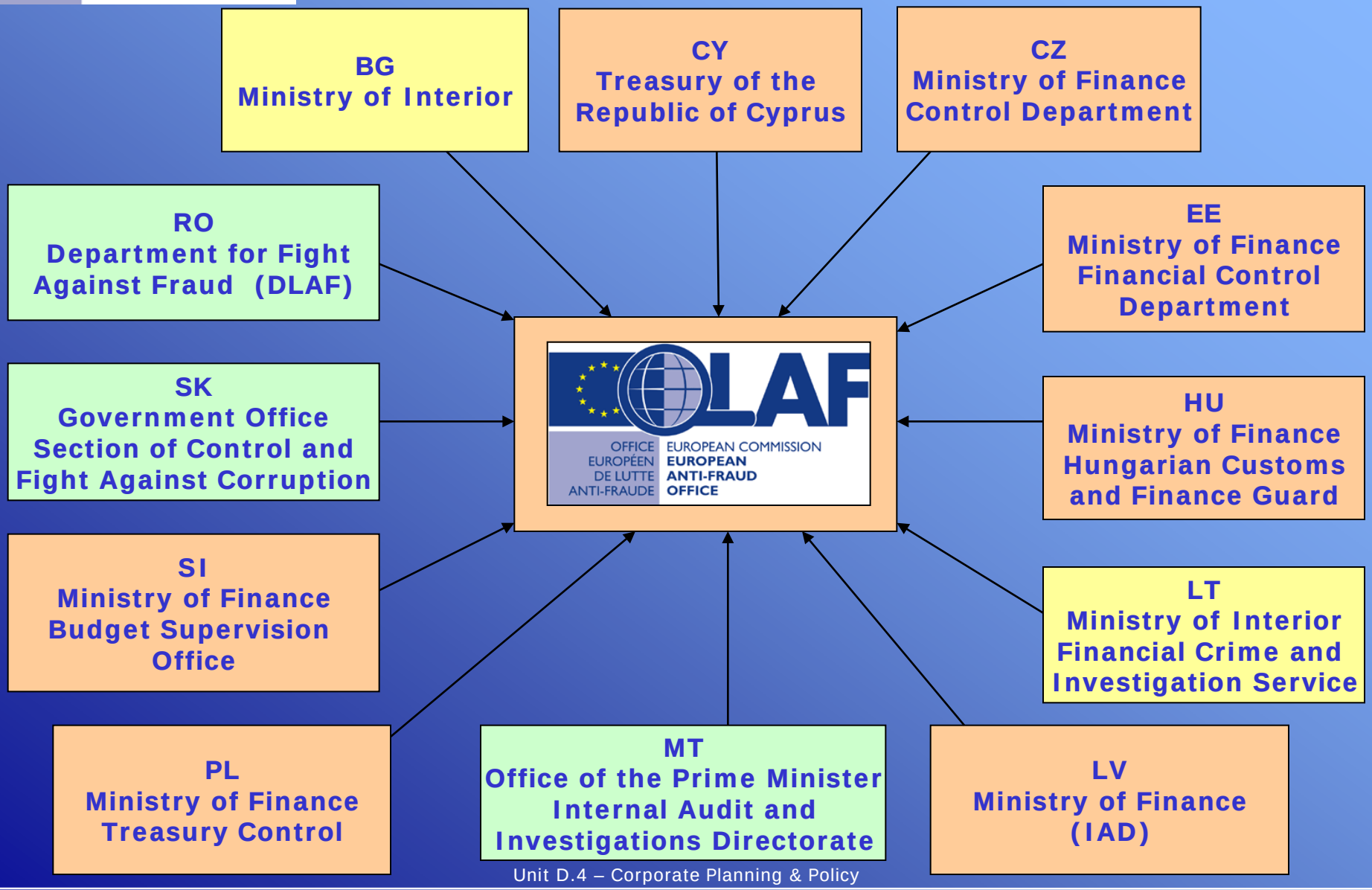
- Ensuring and facilitating recovery of unduly paid funds
- Liaising with Prosecution authorities on criminal investigations and follow-up

# AFCOS IN CANDIDATE COUNTRIES

## How does the cooperation works?

- OLAF investigators give useful feed-back to the Commission with regard to the way cooperation in practice with the central authority (AFCOS) in the candidate country works and this influences the evaluation of the implementation of the *acquis communautaire* in chapter 32.
- Collaboration and networking of AFCOSES in the Member States and the candidate countries is important

# LOCATION OF THE AFCOS



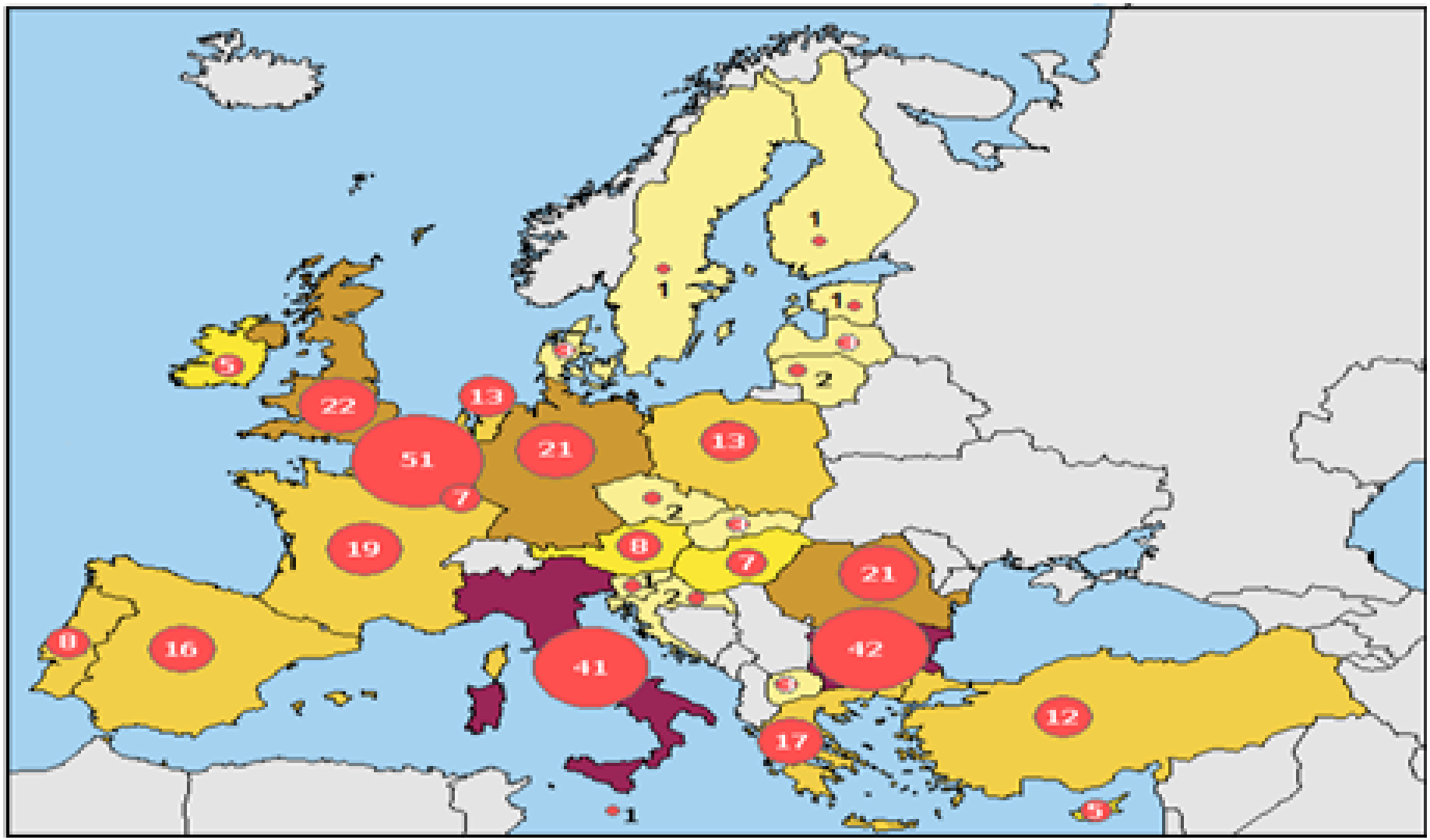
# LESSONS LEARNED FROM PAST ENLARGEMENTS

- The AFCOS is an essential element for the protection of the EU's financial interests
- HOWEVER: Most AFCOSES in the Member States which acceded to the EU in 2004 and 2007 do not have investigation powers.
- There are exceptions: Lithuania, Romania.
- A central coordination structure with investigation powers is advantageous because it represents an operational partner for OLAF when conducting on-the-spot checks.
- The AFCOS can take a leading role in anti-fraud strategies and be instrumental in detecting gaps in the national anti-fraud legislation.

# WHAT HAVE WE LEARNED?

- Co-operation is the only way forward
- Good communication channels are vital
- Well-ordered chains for processing of information and cases are very important

# CHALLENGES

- OLAF reform – cooperation with national authorities
- Ensuring the synergy between the legislative measures taken by the candidate countries and the efficiency of their implementation and of the institutional set-up.
- Giving the AFCOS a legal base
- Making the AFCOS model attractive for the "older" Member States

# OLAF Indagini – Anno 2008