

**ESTABLISHMENT OF A CONTROLLER AND
FUTURE OF THE SC**

SPEECH – INTRODUCTORY STATEMENT

Dear Chair, Honourable Members, Ladies and Gentlemen,

At your meeting on 8 September, I already gave you an introduction to the Commission's proposal for a Controller of Procedural Rights. I am now happy to discuss with you the result of the exchange of views you held that day, and I will of course provide any clarification on our proposal that you might be looking for.

I am also here today to follow-up with you on your July discussion on the working relations between the OLAF Supervisory Committee and OLAF. Several members of this Committee addressed questions to the Commission at the July meeting that are still awaiting answers.

In my introductory words, I would like to pick up already on two of these questions: The first one is how I see the issue of the Supervisory Committee's access to case information; the second one is the role that the Commission has played in order to improve the working relations between the Committee and OLAF.

Let me start with the Supervisory Committee's access to case information.

On this, I would, first of all, like to clarify that I am fully convinced that the Committee must be able to access information on individual cases. Only on the basis of that information, it can exercise its monitoring function.

Also OLAF has been long aware that it has to grant this access. Nevertheless, there have been considerable divergences in views between the Committee and OLAF on what information precisely the Committee should be able to access.

In order to solve these divergences, the Committee and OLAF agreed on working arrangements on 14 January of this year. The content of these working arrangements was based on requests from the Supervisory Committee, and on previous opinions from the European Data Protection Supervisory.

I was very pleased with the signature of these working arrangements that I had encouraged for quite some time. However, just as you I heard only a few months after that signature that the Supervisory Committee did not consider that its problems had been solved.

This is regrettable, and it calls for a solution. And, again, I am encouraging OLAF and the Committee to find such a solution. But in this context, we should be clear about two things:

- The first thing is that I fully appreciate what Mr Pöysti said last time in the meeting of this Committee: The members of the Supervisory Committee are not intimately familiar with procedures of the EU institutions and the IT tools of the Commission. And they do not have to be. I think it is perfectly fair to say that, if the practice shows that the arrangements are not sufficient, these arrangements should be reviewed.
- The second thing that should be clear, however, is that I do not understand why this is a reason to blame OLAF. All members of the Supervisory Committee that spoke in this Committee confirmed that OLAF applies the agreement, even to the letter. Their complaint was that OLAF does not grant them more than what has been laid down in the arrangements.

Honourable Members,

There has been a lot of discussion on whether the control of how fundamental rights are respected in OLAF procedures needs to be improved. As I told you on 8 September, the Commission is convinced that OLAF's procedures do respect these rights. However, if OLAF concluded working arrangements with the Supervisory Committee that deal with the transmission of sensitive personal data and are based on opinions from the European Data Protection Supervisor, but afterwards handed out data irrespective of whether this is in line with the arrangements - then I would actually be very concerned.

The protection of personal data is a fundamental right of the persons concerned by an investigation, and of any other person mentioned in OLAF's internal documents. Therefore, neither OLAF nor any other data controller can freely give out such data to other persons. And I am adamant that OLAF respect this principle, no matter whether it deals with the Supervisory Committee, with the media or with anyone else.

I am adamant because this protects the legitimate interest of the persons concerned. But it also protects the money of our taxpayers. If OLAF or the Supervisory Committee give out data in breach of data protection rules it will be the European Commission that is liable for damages. And these damages will be paid from the EU budget and therefore, with the money of our taxpayers. As the Commissioner in charge of defending the financial interests of the European Union, I cannot agree with that.

To summarise, I think the conclusion to be drawn from the current debate is that the working arrangements between the Supervisory Committee and OLAF need to be reviewed, after appropriate consultation of the EDPS. I understand that the OLAF Director General in June offered to enter into discussions on such a review. Therefore, I think OLAF and the Supervisory Committee are – again - on the right way.

Let me now move on to my second point, which is the Commission's – and my own - role in this entire debate.

I must say I was a bit surprised to hear, on 22 July, that the Commission would be trying to pass over the problems between OLAF and its Supervisory Committee "with a smile". This is a misapprehension that I need to correct.

In June 2013, I actually wrote twice to the Supervisory Committee and invited them to a trilateral meeting with the Director General of OLAF in order to make progress on some contentious issues.

In reply to my first letter, the Committee told me – I quote – *"the Supervisory Committee finds the proposed meeting on June 12th premature and we will propose in due time another date."* End of quote. It needs to be noted that, at that point the discussions between the Committee and OLAF had been going on for more than a year, and representatives of the Supervisory Committee had participated three months earlier in a meeting of your Committee here and had criticised their working conditions.

I asked the Supervisory Committee, in a second letter to identify a possibility to meet in July. This time, I received a reply saying that – and I quote again - *"a number of points cannot in fact be subject to discussions or agreements"* and that therefore they would not consider a meeting to be necessary. The Chair of your Committee received copies of this correspondence so it is available to anyone who would be interested in looking into the details.

As to my reaction to these letters, I must say that I was surprised – to put it mildly. I do not think that I have ever had any such reply before from any committee of outside experts. And certainly would not expect any such reply where the same experts criticise regularly in public, notably here in the European Parliament and in the media, that their problems are not being taken seriously by the Commission.

I must therefore strongly reject any allegations that have been made suggesting that the Commission turns a blind eye on the concerns of the Supervisory Committee. You are certainly aware that, during my mandate, anti-fraud policy has not been my only responsibility in the Commission. I also have been dealing with tax and customs issue, with the discharge, audit and with statistics. Despite these multiple obligations, I dedicated a lot of time to the Supervisory Committee and its worries. Unfortunately my efforts were not met by an equivalent level of cooperation on the side of the Supervisory Committee.

Despite this experience, I remain convinced that the function of the OLAF Supervisory Committee is an important one. Therefore, before I conclude my introduction, I would like to use this opportunity to remind this Committee that two members of the Committee will be leaving at the end of January 2015. You are rightly stressing the importance of the Committee. Then it should also be a significant concern of yours to ensure that the Committee's composition complies with the applicable laws.

I have set out the Commission's proposal for the procedure to follow in my letter of February this year. The Council has largely endorsed that proposal in May. We are now waiting for the Parliament's reply in order to allow us to move on. And if we want to meet the deadline, we have to move fast.

I should therefore be grateful if your Committee could inform us about its position as soon as possible.

Thank you for your attention.

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