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THE RATE OF INDICTMENTS ON THE BASIS OF OLAF'S JUDICIAL
RECOMMENDATIONS EXCEEDS THE EU AVERAGE

According to OLAF's Annual Report 2018, published on 3 September, between 2012 and 2018 the Hungarian Prosecution Service filed indictment in 45% of the cases initiated by OLAF, which significantly exceeds the European Union average of 36%.

The number of judicial recommendations made by OLAF to the Prosecution Service of Hungary has been steadily decreasing in recent years.

OLAF has more frequently made judicial recommendations in cases that are already under investigation in Hungary.

OLAF carries out investigations into administrative irregularities against EU funds, but OLAF does not determine if a criminal offence has been committed or not, nor does it prove any criminal offences with evidence. OLAF has neither authorization nor any tools to do so.

Although no such legal obligation exists, the Prosecution Service of Hungary - in accordance with the protocol set by the Prosecutor General of Hungary - issues an order on the opening of a criminal procedure in each case OLAF makes recommendation and, where an investigation was already ongoing, OLAF's recommendations were attached to the investigation files and were assessed as a part thereof.

The Annual Report of OLAF for 2018 clearly shows that the Hungarian Prosecution Service filed indictments in 45% of OLAF-cases. This figure is significantly higher than the EU average of 36%. In comparison, the rate of indictments in OLAF-cases was 21% in Germany, 25% in France whereas 0% in Finland.

According to the OLAF Report, OLAF closed 9 investigations concerning Hungary, out of which 7 investigations were closed with recommendations. However, this figure covers all recommendations - administrative, financial and judicial ones, as well.

Within this, the number of judicial recommendations received in 2018 is 4.

The judicial recommendations received in 2018 have been being investigated by judicial authorities in accordance with the general protocol. Investigation was ordered in 1 case and the OLAF recommendations are being evaluated in 3 ongoing investigations carried out by Hungarian judicial authorities.

The number of judicial recommendations is steadily decreasing, in 2015 and 2016 the number of recommendations received was 10 in each year, this number was only 6 in 2017 and 4 in 2018 as mentioned previously; in 2019 no judicial recommendation has been received from OLAF so far.

The section of the report dealing with the outcome of the OLAF's recommendations contains a summary of the data of fraudulent and non-fraudulent irregularities, their financial impact and the proportion of funds affected by the financial recommendation.

Given the non-differentiated aggregation of data in relation to fraudulent and non-fraudulent irregularities and having regard to the fact that the amount covered by the financial recommendation is not the same as the damage or the financial loss caused by the crimes, no conclusion about damage caused by the crimes concerned by the judicial recommendations of OLAF can be drawn from these data.

To sum up, it can be concluded, that the Hungarian judicial authorities, while continuing to perform well and cooperating with OLAF to the greatest extent, are increasingly detecting and bring to light cases, which are investigated by OLAF too.

Among its decreasing number of initiatives, OLAF is more frequently making judicial recommendations in cases already under investigation in Hungary.