

Checklist: How to behave during an OLAF on-site investigation

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In the course of external investigations, OLAF has the power to conduct on-site controls and inspections in accordance with [Article 3 \(2\) of Regulation \(EU, EURATOM\) No. 883/2013](#). As a preliminary remark, it is important that the management appears to remain calm, because an on-site OLAF search places immense stress on staff. In particular, the management should observe the following rules of conduct:

Checklist
<ol style="list-style-type: none">1. Ask for the investigation or search warrant2. Ask for the identity cards of the investigators and make copies3. Inform the investigators that you need legal assistance and ask the investigators to wait until their arrival4. Cooperate with the inspectors, grant access to the premises and, if covered by the search warrant, provide the documents requested by OLAF5. Oppose the seizure of objects and insist on the sealing of documents6. Create a protocol of the search7. Maintain an internal reporting chain8. After the search: conduct an internal investigation, create a strategy on (international) cooperation, including potential self-reports

1. Ask for the investigation or search warrant

Make sure that the warrant contains all the necessary information. In particular, it must contain the **accusation** of the crime and set out the facts on which the accusation is based in concrete terms. The type of crime and the status of the investigation will determine the detail of the information required on the warrant:

- In principle, the warrant must provide **information on the victim, the time and the commission of the crime**. This information must indicate the initial suspicion of behaviour that can be qualified as a criminal act.

- The decision must then show that the judge has reviewed the proportionality of the measure. This requires that the **accusation specifies the time frame** during which the act is committed.
- Furthermore, the warrant must define the **aim and purpose** of the search, e.g. the preservation of evidence and/or the arrest of the accused.
- The search warrant must also contain a concrete description of **the premises to be searched**. It is not necessary that it names in detail the objects that are to be searched and possibly seized. However, depending on the type and conceivable content, the search warrant must provide a superficial description, possibly by way of example. Listing **the evidence** in general terms is not sufficient.
- Finally, a search can only be carried out based if the search bears **the signature of a judge**.

2. Ask for the identity cards of the investigators and make copies

Ask for the identity cards of the investigators and, if possible, make copies or write down the names of the persons. In particular, note the **contact details of the head of operations** and, if available, of **external experts**. After the search has been concluded, record this data in a specially prepared protocol on the conduct of the search.

3. Inform the investigators that you need legal assistance and ask the investigators to wait until their arrival

Inform the investigators that you need legal assistance and tell them you would like to make a phone call to this purpose. Even if your phone is already seized, the investigators are not allowed to deny you a phone call with a legal adviser of your choice. Ask the investigators to wait until the arrival of the legal assistance. This request is regularly complied with.

If it is not possible to consult a lawyer or if the investigators do not want to wait with the search, employees can also be asked to accompany the search. Under no circumstances should the investigators carry out the search and seizure of objects and documents without supervision. It is therefore advisable that during the search each investigator is **accompanied by a lawyer or an employee**.

4. Cooperate with the inspectors, grant access to the premises and, if covered by the search warrant, provide the documents requested by OLAF

In principle, show your willingness to cooperate and provide the documents covered by the search warrant. If necessary, offer to compile the searched documents yourself. Open the premises to be searched and grant access to the investigators. Under no circumstances use force to refuse the search. Avoid discussions about the accusation

and do not make any statements to the investigating officers at any time. If necessary, insist on a formal questioning.

5. Oppose the seizure of objects and insist on the sealing of documents

Do not agree to the taking of objects and documents. In particular, oppose the seizure of objects and documents that are not covered by the search warrant. The objection to the seizure forces the investigating authority to obtain a judicial confirmation order. Furthermore, insist on the sealing of all seized documents. This prevents third parties from being able to inspect them. After the search has been concluded, request a list of the objects and documents that have been seized.

6. Create a protocol of the search

After the search has been concluded, create an internal protocol that records both the seized objects and/or documents, when, where and by whom the objects were seized, and which premises were searched. Maintaining an accurate, detailed record, is crucial to inform stakeholders that were not present during the search.

7. Maintain an internal reporting chain

Appoint a spokesperson that represents the company at the beginning of the search. Afterwards, it is essential to comply with the internal reporting and instruction chain. This applies both to the period during the search and the period afterwards. Inform superiors and the board of directors/managing director immediately. Adhere to the company's internal guidelines.

8. After the search: conduct an internal investigation, create a strategy on (international) cooperation, including potential self-reports

A search is stressful. It is afterwards however, that the work really begins: what has happened and what does the company have to do now? After the search, initiate an internal investigation to clarify the facts of the case. Review and, if necessary, revise compliance programs in the course of the investigation in order to prevent possible violations in the future. Draw up a strategy for (international) cooperation in order to deal with the matter at hand. Take this opportunity to review business partners and analyse risks. In addition, [self-disclosing](#) misconduct that you have discovered yourself, as well as intensive cooperation with the responsible authorities, in many cases leads to a reduced penalty, even when an OLAF investigation is still on-going.

BLOMSTEIN advises on all matters relating to OLAF investigations and compliance. If legal assistance in the course of an OLAF on-site investigation is needed, [Roland M. Stein](#) and [Leonard von Rummel](#) will be pleased to assist at any time.