

# Commission Makes OLAF Fit as Partner of EPPO



**Thomas Wahl**

**News**

On 23 Mai 2018, the European Commission tabled a proposal to amend Regulation (EU, Euratom) 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF). The proposal (COM(2018) 338) is mainly a reaction to the new institutional set-up in the fight against fraud affecting the EU budget after the establishment of the European Public Prosecutor's Office in 2017. The new body is designed to investigate, prosecute, and bring to judgment criminal cases detrimental to the EU budget. Its full operability is limited to the EU Member States that agreed on the EPPO by means of enhanced cooperation (see details in eucrim 3/2017, pp. 102-104). The creation of the EPPO triggers several legal questions, such as its interaction with other European law enforcement bodies, in particular OLAF. OLAF is the existing EU body currently responsible for protecting the EU's financial interests from fraud, corruption, and other forms of illegal behaviour detrimental to the EU's budget. In addition, the tabled proposal takes up key recommendations from the evaluation of OLAF's legal basis, i.e., Regulation 883/2013 (see eucrim 3/2017, pp. 101-102 and the articles devoted to the evaluation in eucrim 4/2017).

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Against this background, the amendments to OLAF's existing legal basis pursue a threefold objective:

- Adapting the operation of OLAF to the establishment of the EPPO;
- Enhancing the effectiveness of OLAF's investigations;
- Clarifying and simplifying certain provisions of Regulation 883/2013.

According to the proposal, in the future OLAF will concentrate on conducting administrative investigations in the EU Member States participating in the EPPO. In this context, the added value of OLAF's work will be especially to ensure administrative recovery and prepare the ground for administrative and disciplinary action, thus preventing further harm to the EU budget outside criminal prosecution. Furthermore, OLAF will continue to operate in those Member States not presently participating in the EPPO in the same way as today.

Regarding the relationship between OLAF and the EPPO, the proposal contains the following:

- General principles defining the relationship between the two bodies;
- Reporting obligations from OLAF to the EPPO if OLAF learns about facts that may trigger the EPPO's competence in accordance with Article 24 of Regulation 2017/1939;
- Rules on the non-duplication of investigations, on OLAF's support to EPPO, and on complementary investigations.

Concrete modalities of cooperation and exchange of information are to be laid down in working arrangements between OLAF and EPPO.

Further amendments to the OLAF Regulation relate to improvements on the effectiveness of OLAF's investigative function. In this context, the proposal also addresses the following issues:

- Removing ambiguities and obstacles as regards on-the-spot checks and inspections and the assistance of national authorities in such matters;
- Giving OLAF better access to bank account information stored in national registries;
- Enabling more efficient cooperation with regard to VAT fraud;
- Enhancing the admissibility of OLAF-collected evidence;
- Extending procedural guarantees for persons involved in OLAF investigations.

After the Regulation on establishing the EPPO and the PIF Directive, the amendments to the OLAF Regulation constitute the third milestone in the EU's new approach towards better fighting irregularities against the EU budget (for the PIF Directive, see [eucrim 2/2017, pp. 63-64](#) and [Juszczak/Sason, eucrim 2/2017, pp. 80-87](#)).

The [Commission also pointed out](#) that the proposal to amend Regulation 883/2013 focuses on targeted, important changes from a short-term perspective in order to strengthen OLAF's legal framework. One reason for this is that the amendments should be in force when the EPPO starts its operational work (expected for 2020). Hence, a more extended reform of OLAF is not ruled out in the long run, since first experiences with the operational cooperation between the EPPO and OLAF will have been gained in the 2020s.

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