

# ECA: Planned OLAF Reform Still Has Weaknesses

Thomas Wahl

News

On 22 November 2018, the European Court of Auditors (ECA) issued [Opinion No 8/2018](#) on the Commission's proposal of 23 May 2018 amending OLAF Regulation 883/2013. The ECA observes that the proposal pursues two objectives: (1) to adapt the functioning of OLAF to the establishment of the EPPO; (2) to enhance the effectiveness of OLAF's investigative function. The ECA Opinion welcomes certain approaches and concepts in the Commission proposal, but still sees some weaknesses preventing the two objectives from being met.

Regarding the relationship with the EPPO, the ECA points out the following:

- There is a risk that evidence collected by OLAF at the EPPO's request would not be admissible before national courts if OLAF applies its own procedural safeguards but not the ones laid down in the EPPO Regulation;
- The proposal does not address OLAF's role in criminal investigations affecting the EU's financial interests, if they concern both Member States that participate in the EPPO scheme and those that do not;
- The effectiveness of "complementary investigations" on the part of OLAF is not ensured.

Regarding the second objective – enhancing the effectiveness of OLAF's investigative function – the ECA welcomed the targeted measures, but does not consider the overall issues surrounding the effectiveness of OLAF's administrative investigations resolved. The ECA makes specific recommendations for the legislative proposal, e.g., bringing OLAF reports under review by the CJEU.

Ultimately, the auditors stress the need to further action. In the short term, the Commission should address the overall issues of OLAF's effectiveness, and the Commission should reconsider OLAF's role in combating EU fraud. Hence, OLAF must be given a strategic and oversight role in EU anti-fraud actions.

In the medium term, the Commission should evaluate the cooperation between OLAF and the EPPO. This should cover:

- Possible restructuring of the EU bodies in charge of administrative and criminal investigations;
- Possible single legal framework to combat fraud in EU spending.

The ECA Opinion is not binding for the co-legislators (Council and EP), but is designed to support their work.

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