



EUROPEAN ANTI-FRAUD OFFICE

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Fit for purpose

OLAF Regulation undergoes thorough evaluation

It is almost 20 years since the European Anti-Fraud Office (OLAF), the only European body mandated to investigate fraud affecting the European Union's financial interests, was created. Socially, economically and institutionally, Europe has transformed in the last two decades and the challenges of law enforcement authorities, particularly in tackling transnational fraud cases, have grown exponentially. It is in this context that the evaluation of Regulation 883/2013, the core legal basis underpinning OLAF's work, is being carried out as foreseen by the legislators.

The European Commission, supported by an independent external contractor, is now assessing if Regulation 883/2013 delivered its intended objectives of providing a clear and effective framework for OLAF's activities, and whether its provisions are still relevant in the context of today's anti-fraud landscape. The evaluation will also consider whether changes need to be implemented to take into account the impact that the proposed European Public Prosecutor's Office (EPPO) would have on OLAF's investigative role and to regulate collaboration between the two.

As part of the evaluation process, European Commissioner for Budget and Human Resources, Günther H. Oettinger, joined more than 200 stakeholders at a high-level conference on 1-2 March in Brussels. *"I can only commend OLAF for its impressive work in protecting the EU budget and helping ensure that citizens' money goes towards projects that improve the lives of all Europeans,"* Commissioner Oettinger said. *"Now it's time to look to the future and to try to make sure that OLAF has the tools it needs to successfully counter increasingly sophisticated forms of fraud,"* Mr. Oettinger added.

In his opening remarks, OLAF Director-General Giovanni Kessler advocated the need for reform. *"The evaluation of Regulation 883 offers us an important opportunity,"* Mr. Kessler said. *"Not only can we see what worked and what should be improved, it gives us the possibility to truly reflect on the future of OLAF and assess whether the current OLAF model is still good enough to cater for the overall protection of the EU's financial interests."* The OLAF Director-General stressed that the Office should have better tools to allow it to perform the investigative acts necessary in the fight against fraud, such as access to bank accounts and the clear authority to interview witnesses and enter the premises of economic operators. He also believed an amended Regulation should provide a

sufficient legal basis to allow judicial authorities in all European Union Member States to use OLAF reports as evidence in trial. Given OLAF's unique investigative mandate, he invited participants to consider possible new areas to further develop OLAF's competences beyond the protection of the EU's financial interests. By looking into issues related to food fraud or intellectual property rights for example, OLAF's expertise could offer increased protection to the interests of European citizens.

Participants engaged in lively discussions on the key provisions of the Regulation and their application in both internal and external OLAF investigations. National-level experts joined academics, lawyers and EU civil servants to examine whether the text in its current form can support the sound functioning of the Office, or whether OLAF's new priorities should be reflected in an updated legal base.

Background:

The Union and the Member States are required by the Treaty on the Functioning of the EU (TFEU, Article 325) to counter fraud and any other illegal activities affecting the financial interests of the Union.

To this end, the Commission established in 1999 the European Anti-fraud Office, in particular, to conduct investigations against fraud and any other illegal activity affecting the EU financial interests, as well as to assist Member States in the fight against fraud. The co-legislator regulated the conduct of investigations and the governance of OLAF in Regulation (EC) N° 1073/1999 and Regulation (Euratom) N 1074/1999. These regulations were replaced by Regulation 883/2013, which currently governs the exercise of OLAF's mandate, including the powers of investigation conferred on the Commission to fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union. Regulation 883/2013 was an important step forward in codifying OLAF's investigative practice, significantly strengthening the procedural guarantees of the persons concerned by OLAF investigations, introducing a legality check on investigative measures and in promoting the exchange of information between OLAF and its operational and institutional partners.

The current evaluation exercise is foreseen in the Regulation. The Commission will submit its evaluation report to the European Parliament and the Council by October 2017.

OLAF mission, mandate and competences:

OLAF's mission is to detect, investigate and stop fraud with EU funds.

OLAF fulfils its mission by:

- carrying out independent investigations into fraud and corruption involving EU funds, so as to ensure that all EU taxpayers' money reaches projects that can create jobs and growth in Europe;
- contributing to strengthening citizens' trust in the EU Institutions by investigating serious misconduct by EU staff and members of the EU Institutions;
- developing a sound EU anti-fraud policy.

In its independent investigative function, OLAF can investigate matters relating to fraud, corruption and other offences affecting the EU financial interests concerning:

- all EU expenditure: the main spending categories are Structural Funds, agricultural policy and rural development funds, direct expenditure and external aid;
- some areas of EU revenue, mainly customs duties;
- suspicions of serious misconduct by EU staff and members of the EU institutions.

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