



Plenary sitting

A8-0179/2019

22.3.2019

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations
(COM(2018)0338 – C8-0214/2018 – 2018/0170(COD))

Committee on Budgetary Control

Rapporteur: Ingeborg Gräßle

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations (COM(2018)0338 – C8-0214/2018 – 2018/0170(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0338),
 - having regard to Article 294(2) and Article 325 of the Treaty on the Functioning of the European Union, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof, pursuant to which the Commission submitted the proposal to Parliament (C8-0214/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹,
 - having regard to the Opinion 8/2018 of the European Court of Auditors²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinions of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A8-0179/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ L 248/1, 18.09.2013.

² [ECA Opinion No 8/2018](#).

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) With the adoption of Directive (EU) 2017/1371 of the European Parliament and of the Council³ and Council Regulation (EU) 2017/1939⁴, the Union has substantially strengthened the means available to protect the financial interests of the Union by means of criminal law. The European Public Prosecutor's Office ("EPPO") **will have** the power to carry out criminal investigations and bring indictments related to criminal offences affecting the Union budget, as defined in Directive (EU) 2017/1371, in the participating Member States.

³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁴ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The European Anti-Fraud Office ("the Office") conducts administrative investigations into administrative irregularities as well as into criminal

Amendment

(1) With the adoption of Directive (EU) 2017/1371 of the European Parliament and of the Council³ and Council Regulation (EU) 2017/1939⁴, the Union has substantially strengthened the **harmonised legal framework provisions regarding** means available to protect the financial interests of the Union by means of criminal law. The European Public Prosecutor's Office ("EPPO") **is a key priority in the field of criminal justice and anti-fraud policy, having** the power to carry out criminal investigations and bring indictments related to criminal offences affecting the Union budget, as defined in Directive (EU) 2017/1371, in the participating Member States.

³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁴ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Amendment

(2) **To protect the financial interests of the Union**, the European Anti-Fraud Office ("the Office") conducts administrative investigations into administrative

behaviour. At the end of its investigations, it may make judicial recommendations to the national prosecution authorities, aimed at enabling indictments and prosecutions in the Member States. In future, in the Member States participating in the EPPO, it will report suspected criminal offences to the EPPO, and will collaborate with it in the context of its investigations.

irregularities as well as into criminal behaviour. At the end of its investigations, it may make judicial recommendations to the national prosecution authorities, aimed at enabling indictments and prosecutions in the Member States. In future, in the Member States participating in the EPPO, it will report suspected criminal offences to the EPPO, and will collaborate with it in the context of its investigations.

Amendment 3

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Therefore, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵ should be amended following the adoption of Regulation (EU) 2017/1939. The provisions governing the relationship between the EPPO and the Office in Regulation (EU) 2017/1939 should be reflected and complemented by the rules in Regulation (EU, Euratom) No 883/2013 to ensure the highest level of protection of the financial interests of the Union through synergies between the two bodies.

⁵ Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (EURATOM) No 1074/1999 (OJ L 248, 18.9.2013, p.1).

Amendment

(3) Therefore, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵ should be amended ***and correspondingly adapted*** following the adoption of Regulation (EU) 2017/1939. The provisions governing the relationship between the EPPO and the Office in Regulation (EU) 2017/1939 should be reflected and complemented by the rules in Regulation (EU, Euratom) No 883/2013 to ensure the highest level of protection of the financial interests of the Union through synergies between the two bodies, ***which means implementing the principles of close cooperation, information exchange, complementarity and avoidance of duplication.***

⁵ Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (EURATOM) No 1074/1999 (OJ L 248, 18.9.2013, p.1).

Amendment 4

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Regulation (EU) 2017/1939 requires the Office, as well as all institutions, bodies, offices and agencies of the Union and competent national authorities, to report to the EPPO without undue delay criminal conduct in respect of which the EPPO may exercise its competence. Since the mandate of the Office is to carry out administrative investigations into fraud, corruption and any other illegal activity affecting the financial interest of the Union, it is ideally placed and equipped to act as a natural partner and privileged source of information for the EPPO.

Amendment

(5) Regulation (EU) 2017/1939 requires the Office, as well as all institutions, bodies, offices and agencies of the Union and competent national authorities, to report to the EPPO without undue delay *suspected* criminal conduct in respect of which the EPPO may exercise its competence. Since the mandate of the Office is to carry out administrative investigations into fraud, corruption and any other illegal activity affecting the financial interest of the Union, it is ideally placed and equipped to act as a natural partner and privileged source of information for the EPPO.

Amendment 5

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) In conformity with Regulation (EU) 2017/1939, the Office should in principle not open an administrative investigation parallel to an investigation conducted by the EPPO into the same facts. However, in certain cases, the protection of the Union's financial interests may require that the Office carry out a complementary administrative investigation before the conclusion of criminal proceedings initiated by the EPPO with the purpose of ascertaining whether precautionary measures are necessary, or financial, disciplinary or administrative action should be taken. These complementary investigations may be appropriate, inter alia, when necessary to recover amounts due to the Union budget subject to specific

Amendment

(9) In conformity with Regulation (EU) 2017/1939, the Office should in principle not open an administrative investigation parallel to an investigation conducted by the EPPO into the same facts. However, in certain cases, the protection of the Union's financial interests may require that the Office carry out a complementary administrative investigation before the conclusion of criminal proceedings initiated by the EPPO with the purpose of ascertaining whether precautionary measures are necessary, or financial, disciplinary or administrative action should be taken. These complementary investigations may be appropriate, inter alia, when necessary to recover amounts due to the Union budget subject to specific

time-barring rules, when the amounts at risk are very high, or where there is the need to avoid further expenditure in risk situations through administrative measures.

time-barring rules, when the amounts at risk are very high, or where there is the need to avoid further expenditure in risk situations through administrative measures. ***Considering their complementary nature, such investigations should only be carried out upon agreement of the EPPO.***

Amendment 6

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Regulation (EU) 2017/1939 provides that the EPPO may request such complementary investigations to the Office. In cases where the EPPO does not request it, such a complementary investigation should also be possible on the initiative of the Office, under ***certain*** conditions. In particular, the EPPO should be able to object to the opening or continuation of an investigation by the Office, or to the performance of specific acts of investigation by it. The reasons for this objection should be based on the need to protect the effectiveness of the EPPO's investigation and should be proportionate to this aim. The Office should refrain from performing the action on which the EPPO raised an objection. If the EPPO ***does not object***, the Office investigation should be conducted in close consultation with the EPPO.

Amendment

(10) Regulation (EU) 2017/1939 provides that the EPPO may request such complementary investigations to the Office. In cases where the EPPO does not request it, such a complementary investigation should also be possible on the initiative of the Office, under ***specific*** conditions, ***after consultation with the EPPO***. In particular, the EPPO should be able to object to the opening or continuation of an investigation by the Office, or to the performance of specific acts of investigation by it. The reasons for this objection should be based on the need to protect the effectiveness of the EPPO's investigation and should be proportionate to this aim. The Office should refrain from performing the action on which the EPPO raised an objection. If the EPPO ***agrees to the request***, the Office investigation should be conducted in close consultation with the EPPO.

Amendment 7

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) To ensure effective coordination between the Office and the EPPO,

Amendment

(12) To ensure effective coordination, ***cooperation and transparency*** between the

information should be exchanged between them on a continuous basis. The exchange of information in the stages prior to the opening of investigations by the Office and the EPPO is particularly relevant to ensure proper coordination between the respective actions and avoid duplication. The Office and the EPPO should specify the modalities and conditions of this exchange of information in their working arrangements.

Office and the EPPO, information should be exchanged between them on a continuous basis. The exchange of information in the stages prior to the opening of investigations by the Office and the EPPO is particularly relevant to ensure proper coordination between the respective actions *to guarantee complementarity* and avoid duplication. ***For this purpose, the Office and the EPPO should make use of the hit/no hit functions of their respective case management systems.*** The Office and the EPPO should specify the modalities and conditions of this exchange of information in their working arrangements.

Amendment 8

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) It is necessary to address the most unambiguous findings of the Commission evaluation through the amendment of Regulation (EU, Euratom) No 883/2013. These are essential changes necessary in the short term to strengthen the framework for the Office's investigations, in order to maintain a strong and fully-functioning Office that complements the EPPO's criminal law approach with administrative investigations, but which do not entail a change to the mandate or powers. They primarily concern areas where, today, the lack of clarity of the Regulation hinders the effective conduct of investigations by the Office, such as the conduct of on-the spot checks, the possibility of access to bank account information, or the admissibility as evidence of the case reports drawn up by the Office.

Amendment

(14) It is necessary to address the most unambiguous findings of the Commission evaluation through the amendment of Regulation (EU, Euratom) No 883/2013. These are essential changes necessary in the short term to strengthen the framework for the Office's investigations, in order to maintain a strong and fully-functioning Office that complements the EPPO's criminal law approach with administrative investigations, but which do not entail a change to the mandate or powers. They primarily concern areas where, today, the lack of clarity of the Regulation hinders the effective conduct of investigations by the Office, such as the conduct of on-the spot checks, the possibility of access to bank account information, or the admissibility as evidence of the case reports drawn up by the Office. ***The Commission should submit a new, comprehensive proposal no later than two years after the evaluation of both the EPPO and the Office, and of their cooperation.***

Amendment 9

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) In internal investigations and, where necessary, in external investigations the Office has access to any relevant information held by the institutions, bodies, offices and agencies. It is necessary, as suggested by the Commission evaluation, to clarify that this access should be possible irrespective of the medium on which this information or data is stored, in order to reflect evolving technological progress.

Amendment

(24) In internal investigations and, where necessary, in external investigations the Office has access to any relevant information held by the institutions, bodies, offices and agencies. It is necessary, as suggested by the Commission evaluation, to clarify that this access should be possible irrespective of the **type of** medium on which this information or data is stored, in order to reflect evolving technological progress.

Amendment 10

Proposal for a regulation

Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) In order to pay attention to the protection and respect of procedural rights and guarantees, the Office should create an internal function in the form of the controller of procedural guarantees, and provide him or her with adequate resources. The controller of procedural guarantees should have access to all information necessary to fulfil his or her duties.

Amendment 11

Proposal for a regulation

Recital 26 b (new)

Text proposed by the Commission

Amendment

(26b) This Regulation shall establish a complaints mechanism for the Office in cooperation with the Controller of

procedural guarantees, to safeguard the respect for procedural rights and guarantees in all the activities of the Office. This should be an administrative mechanism whereby the Controller should be responsible for handling complaints received by the Office in accordance with the right to good administration. The mechanism should be effective, ensuring that complaints are properly followed up. In order to increase transparency and accountability, the Office should report on the complaints mechanism in its annual report. It should cover in particular the number of complaints it has received, the types of procedural rights and guarantees violations involved, the activities concerned and, where possible, the follow-up measures taken by the Office.

Amendment 12

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) The mandate of the Office includes the protection of revenues to the Union budget arising from VAT own resources. In this field, the Office should be able to support and complement the activities of the Member States through investigations conducted in accordance with its mandate, the coordination of national competent authorities in complex, transnational cases, and the support and assistance to Member States and to the EPPO. To this end, the Office should be able to exchange information through the Eurofisc network established by Council Regulation (EU) No 904/2010⁹ in order to promote and facilitate cooperation in the fight against VAT fraud.

Amendment

(29) The mandate of the Office includes the protection of revenues to the Union budget arising from VAT own resources. In this field, the Office should be able to support and complement the activities of the Member States through investigations conducted in accordance with its mandate, the coordination of national competent authorities in complex, transnational cases, and the support and assistance to Member States and to the EPPO. To this end, the Office should be able to exchange information through the Eurofisc network established by Council Regulation (EU) No 904/2010⁹, ***bearing in mind the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council^{9a}*** in order to promote and facilitate cooperation in the fight against VAT fraud.

⁹ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268, 12.10.2010, p. 1–18.

⁹ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268, 12.10.2010, p. 1–18.

^{9a} Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Amendment 13

Proposal for a regulation Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) The competent authorities of the Member States shall give the necessary assistance to the Office to fulfil their tasks. When the Office makes judicial recommendations to the national prosecution authorities of a Member State and no follow-up is made, the Member State should justify its decision to the Office. Once a year, the Office should draw up a report in order to give an account of the assistance provided by the Member States and on the follow-up of the judicial recommendations.

Amendment 14

Proposal for a regulation Recital 32 b (new)

Text proposed by the Commission

Amendment

(32b) In order to supplement the procedural rules on the conduct of investigations set out in this Regulation,

the Office should lay down the procedural code for investigations to be followed by the staff of the Office. Therefore, the power to adopt acts in accordance with Article 290 of the Treaty on the functioning of the European Union should be delegated to the Commission concerning the establishment of such a procedural code, without prejudice to the Office's independence in the exercise of its competences. Those delegated acts should cover, in particular, the practices to be observed in implementing the mandate and statute of the Office; detailed rules governing investigation procedures as well as the investigation acts permitted; the legitimate rights of the persons concerned; procedural guarantees; provisions relating to data protection and policies on communication and access to documents; provisions on the legality check and the means of redress open to the persons concerned; relations with the EPPO. It is of particular importance that the Office carry out appropriate consultations during its preparatory work, including at expert level. The Commission should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Justification

Recital corresponding to amendment 100 from the draft report.

Amendment 15

Proposal for a regulation
Recital 32 c (new)

Text proposed by the Commission

Amendment

(32c) No later than five years after the date determined in accordance with the second subparagraph of Article 120(2) of Regulation (EU) 2017/1939, the

Commission should evaluate the application of this Regulation and in particular the efficiency of the cooperation between the Office and the EPPO.

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point -1 (new)

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 1 – introductory part

Present text

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as ‘the Union’), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom (‘the Office’) shall exercise the powers of investigation conferred on the Commission by:

Amendment

(-1) in Article 1, the introductory part of paragraph 1 is replaced by the following:

“1. In order to step up the fight against fraud, corruption and any other illegal activity ***or irregularity*** affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as ‘the Union’), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom (‘the Office’) shall exercise the powers of investigation conferred on the Commission by:”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

The objectives should be adapted to the new focus of OLAF’s activities. This is a horizontal amendment that is repeated throughout the text.

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point -1 a (new)

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 2

Present text

2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.

Amendment

(-1a) in Article 1, paragraph 2 is replaced by the following:

“2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity ***or irregularity*** affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

See amendment to Art. 1(1).

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point -1 b (new)

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 3 – point d

Present text

Amendment

(-1b) in Article 1, point d of paragraph 3 is replaced by the following:

(d) Regulation (EC) No 45/2001.

"(d) Regulation (EU) 2018/1725;"

(<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02013R0883-20170101&from=EN>)

Justification

Technical amendment: on 11.12.2018, Regulation (EC) No 45/2001 was repealed and replaced by Regulation (EU) 2018/1725.

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point -1 c (new)

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(-1c) in Article 1, point da is added to paragraph 3:

“(da) Regulation (EU) 2016/679.”

Justification

As recommended by the European Data Protection Supervisor.

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point -1 d (new)

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 4

Present text

Amendment

4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties (‘institutions, bodies, offices and agencies’), the Office shall conduct administrative investigations for the purpose of fighting fraud,

(-1d) in Article 1, paragraph 4 is replaced by the following:

“4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties (‘institutions, bodies, offices and agencies’), **and without prejudice to Article 12d**, the Office shall conduct administrative investigations for

corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as ‘officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members’).

the purpose of fighting fraud, corruption and any other illegal activity *or irregularity* affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as ‘officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members’).”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Reminder that the EPPO will be generally responsible for criminal cases.

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 4a

Text proposed by the Commission

4a. The Office shall establish and maintain a close relationship with the European Public Prosecutor's Office (‘the EPPO’) established in enhanced cooperation by Council Regulation (EU) 2017/1939¹³. This relationship shall be based on mutual cooperation and on information exchange. It shall aim in particular to ensure that all available means are used to protect the Union’s financial interests through the complementarity of their respective mandates and the support

Amendment

4a. The Office shall establish and maintain a close relationship with the European Public Prosecutor's Office (‘the EPPO’) established in enhanced cooperation by Council Regulation (EU) 2017/1939¹³. This relationship shall be based on mutual cooperation, ***complementarity, avoidance of duplication*** and information exchange. It shall aim in particular to ensure that all available means are used to protect the Union’s financial interests through the

provided by the Office to the EPPO.

complementarity of their respective mandates and the support provided by the Office to the EPPO.

¹³ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

¹³ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 1 a (new)

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 5

Present text

5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices or agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information *and* the conduct of investigations.

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 1 b (new)

Regulation (EU, Euratom) No 883/2013

Article 2 – paragraph 1 – point 2

Present text

Amendment

(1a) in Article 1, paragraph 5 is replaced by the following:

“5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices or agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information, the conduct *and the follow-up* of investigations.”

(1b) in Article 2, point 2 is replaced by the following:

(2) ‘irregularity’ shall mean ‘irregularity’ as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95;

"(2) ‘irregularity’ shall mean ‘irregularity’ as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95, **including infringements affecting revenue from value-added tax;**"

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 1 c (new)

Regulation (EU, Euratom) No 883/2013

Article 2 – paragraph 1 – point 3

Present text

(3) ‘fraud, corruption and any other illegal activity affecting the financial interests of the Union’ shall have the meaning applied to those words in the relevant Union acts;

Amendment

(1c) in Article 2, point 3 is replaced by the following:

“(3) ‘fraud, corruption and any other illegal activity **or irregularity** affecting the financial interests of the Union’ shall have the meaning applied to those words in the relevant Union acts;”

Justification

See amendment to Art. 1(1).

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 2 a (new)

Regulation (EU, Euratom) No 883/2013

Article 2 – paragraph 1 – point 5

Present text

(5) ‘person concerned’ shall mean any person or economic operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore

Amendment

(2a) in Article 2, point 5 is replaced by the following:

“(5) ‘person concerned’ shall mean any person or economic operator suspected of having committed fraud, corruption or any other illegal activity **or irregularity** affecting the financial interests of the

subject to investigation by the Office;

Union and who is therefore subject to investigation by the Office;”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

See amendment to Art. 1(1).

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 2 b (new)

Regulation (EU, Euratom) No 883/2013

Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(2b) in Article 2, the following point 7a is inserted:

“7a. ‘member of an institution’ means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the Council, a member of the European Commission, a member of the Court of Justice of the European Union, a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, as appropriate.”

Justification

Commission proposal for a Regulation of the European Parliament and the Council amending Regulation (EU, Euratom) No 889/2013 as regards the establishment of a Controller of procedural guarantees, COM (2014) 340 final.

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 2 c (new)

Regulation (EU, Euratom) No 883/2013

Article 2 – paragraph 1 – point 7 b (new)

Text proposed by the Commission

Amendment

(2c) in Article 2, the following point 7b is inserted:

“7b. ‘the same facts’ means that material facts are identical, with material facts being understood in the sense of the existence of a set of concrete circumstances which are inextricably linked together and which in their totality may establish elements of a delict investigation which is in competence of the Office or the EPPO.”

Justification

As suggested by the Supervisory Committee in its letter of 20 November 2018.

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – title

Text proposed by the Commission

Amendment

External investigations

On-the-spot checks and inspections in the Member States and third countries

Justification

The rapporteur proposes to abolish the distinction between external and internal investigations.

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 1

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Text proposed by the Commission

Amendment

1. Within the scope defined in Article 1 **and points (1) and (3) of Article 2**, the Office shall carry out on-the-spot checks and inspections in the Member States and, in accordance with the cooperation and mutual assistance agreements and any other legal instrument in force, in third countries and on the premises of international organisations.

1. Within the scope defined in Article 1, the Office shall carry out on-the-spot checks and inspections in the Member States and, in accordance with the cooperation and mutual assistance agreements and any other legal instrument in force, in third countries and on the premises of international organisations.

Justification

The Commission has inserted the reference to points (1) and (3) of Art. 2 here, but not in Art. 4(1). This could create legal uncertainty. In any case, the reference is superfluous because the terms defined in points (1) and (3) of Art. 2 are already mentioned in Article 1(1). The reference is therefore deleted.

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. Economic operators shall cooperate with the Office in the course of its investigations. The Office may request oral **information, including through interviews**, and written information from economic operators.

3. Economic operators shall cooperate with the Office in the course of its investigations. The Office may request oral and written information from economic operators **in accordance with point (b) of Article 4(2)**.

Justification

The amendment creates a link with Art. 4(2)(b), in line with the proposed abolition of the distinction between external and internal investigations.

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 6 – subparagraph 1

Text proposed by the Commission

At the request of the Office, the competent authority of the Member State concerned shall provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

Amendment

At the request of the Office, the competent authority of the Member State concerned shall, ***without undue delay***, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The Member State concerned shall ensure, in accordance with Regulation (Euratom, EC) No 2185/96, that the staff of the Office are allowed access to all information ***and*** documents relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that they are able to assume custody of documents or data to ensure that there is no danger of their disappearance.

Amendment

The Member State concerned shall ensure, in accordance with Regulation (Euratom, EC) No 2185/96, that the staff of the Office are allowed access to all information, documents ***and data*** relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that they are able to assume custody of documents or data to ensure that there is no danger of their disappearance. ***Where privately owned devices are used for work purposes, those devices shall be subject to investigations by the Office only if the Office has good grounds to suspect that their content may be relevant for the investigation.***

Justification

Alignment with Art. 4(2).

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. *Where it is demonstrated that a Member State does not comply with its duty to cooperate pursuant to paragraphs 6 and 7, the Union shall have the right to recover the amount related to the on-the-spot-check or inspection in question.*

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 9

Text proposed by the Commission

Amendment

9. *During an external investigation, the Office may have access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. For that purpose Article 4(2) and (4) shall apply.*

deleted

Justification

Text can be merged with Art. 4(2)(a), in line with the proposed abolition of the distinction between external and internal investigations.

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 10

Text proposed by the Commission

Amendment

10. *Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.*

deleted

Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, in compliance with national law. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information as referred to in the first subparagraph of this paragraph.

Justification

Text can be merged with Art. 4(8), in line with the proposed abolition of the distinction between external and internal investigations.

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – title

Present text

Amendment

Internal investigations

(-a) in Article 4, the title is replaced by the following:

“Further provisions on investigations”

Justification

The rapporteur proposes to abolish the distinction between external and internal investigations.

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point -a a (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 1

Present text

1. ***In the areas referred to in Article 1, the Office shall carry out administrative investigations within the institutions, bodies, offices and agencies (*‘internal investigations’*).***

Those internal investigations shall be conducted in accordance with the conditions set out in this Regulation and in the decisions adopted by the respective institution, body, office or agency.

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 2 – introductory part

Text proposed by the Commission

2. In the course of ***internal*** investigations:

Amendment

(-aa) in Article 4, paragraph 1 is replaced by the following:

“1. ***Administrative*** investigations within the institutions, bodies, offices and agencies ***in the areas referred to in Article 1*** shall be conducted in accordance with the conditions set out in this Regulation and in the decisions adopted by the respective institution, body, office or agency.”

Amendment

2. In the course of investigations:

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 2 – point a

Text proposed by the Commission

(a) the Office shall have the right of immediate and unannounced access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, and to their premises. The Office shall be empowered to inspect the accounts of the institutions, bodies, offices and agencies. The Office may take a copy of, and obtain extracts from, any document or the contents of any data medium held by the institutions, bodies, offices and agencies and, if necessary, assume custody of such documents or data to ensure that there is no danger of their disappearance;

Amendment

(a) the Office shall have the right of immediate and unannounced access, ***where necessary in order to establish whether there has been fraud, corruption or any other illegal activity or irregularity affecting the financial interests of the Union***, to any relevant information and data ***relating to the matter under investigation***, irrespective of the ***type of*** medium on which it is stored, held by the institutions, bodies, offices and agencies, and to their premises. ***Where privately owned devices are used for work purposes, those devices shall be subject to investigations by the Office only if the Office has good grounds to suspect that their content may be relevant for the investigation.*** The Office shall be empowered to inspect the accounts of the institutions, bodies, offices and agencies. The Office may take a copy of, and obtain extracts from, any document or the contents of any data medium held by the institutions, bodies, offices and agencies and, if necessary, assume custody of such documents or data to ensure that there is no danger of their disappearance;

Justification

Merged with Art. 3(9), which can be deleted.

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 2 – point b

Text proposed by the Commission

(b) the Office may request oral information, including through interviews, and written information from officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members.

Amendment

(b) the Office may request oral information, including through interviews, and written information from ***economic operators***, officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members, ***thoroughly documented according to regular confidentiality and Union data protection standards. Economic operators shall cooperate with the Office.***

Justification

This amendment replaces amendment 19 from the draft report.

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 3

Text proposed by the Commission

(b) paragraph 3 is ***replaced by the following:***

3. In accordance with Article 3, the Office may carry out on-the-spot checks and inspections at the premises of economic operators in order to obtain access to information relevant to the matter under internal investigation.;

Amendment

(b) paragraph 3 is ***deleted;***

Justification

Paragraph becomes obsolete with the proposed abolition of the distinction between external and internal investigations, as Article 3 will always be applicable anyway.

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b a (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 4

Present text

4. The institutions, bodies, offices and agencies shall be informed whenever the staff of the Office conduct an *internal* investigation on their premises or consult a document or request information held by them. Without prejudice to Articles 10 and 11, the Office may at any time forward to the institution, body, office or agency concerned the information obtained in the course of *internal* investigations.

Amendment

(ba) in Article 4, paragraph 4 is replaced by the following:

“4 The institutions, bodies, offices and agencies shall be informed whenever the staff of the Office conduct an investigation on their premises or consult a document *or data*, or request information held by them. Without prejudice to Articles 10 and 11, the Office may at any time forward to the institution, body, office or agency concerned the information obtained in the course of investigations.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

In line with the proposed abolition of the distinction between external and internal investigations, this provision can apply to all kinds of investigations. “...or data” aligned with Art. 4(2).

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b b (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 5

Present text

5. The institutions, bodies, offices and agencies shall put in place appropriate procedures and take necessary measures to ensure at all stages the confidentiality of *internal* investigations.

Amendment

(bb) in Article 4, paragraph 5 is replaced by the following:

“5. The institutions, bodies, offices and agencies shall put in place appropriate procedures and take necessary measures to ensure at all stages the confidentiality of investigations.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Amended in line with the proposed abolition of the distinction between external and internal investigations. This provision can apply to all kinds of investigations.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b c (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 6 – subparagraph 1

Present text

Where *internal* investigations reveal that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, the institution, body, office or agency to which that person belongs shall be informed.

Amendment

(bc) in Article 4, paragraph 6, subparagraph 1 is replaced by the following:

“Where investigations reveal that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, the institution, body, office or agency to which that person belongs shall be informed.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Amended in line with the proposed abolition of the distinction between external and internal investigations. This provision can apply to all kinds of investigations.

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b d (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 6 – subparagraph 2

Present text

Amendment

(bd) in Article 4, paragraph 6, subparagraph 2 is replaced by the

In cases where the confidentiality of the **internal** investigation cannot be ensured using the usual channels of communication, the Office shall use appropriate alternative channels for transmitting information.

following:

“In cases where the confidentiality of the investigation cannot be ensured using the usual channels of communication, the Office shall use appropriate alternative channels for transmitting information.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Amended in line with the proposed abolition of the distinction between external and internal investigations. This provision can apply to all kinds of investigations.

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b e (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 7

Present text

Amendment

7. The decision to be adopted by each institution, body, office or agency as provided for in paragraph 1 shall include, in particular, a rule concerning a duty on the part of officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members to cooperate with and supply information to the Office, while ensuring the confidentiality of the **internal** investigation.

(be) in Article 4, paragraph 7 is replaced by the following:

“7. The decision to be adopted by each institution, body, office or agency as provided for in paragraph 1 shall include, in particular, a rule concerning a duty on the part of officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members to cooperate with and supply information to the Office, while ensuring the confidentiality of the investigation.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Amended in line with the proposed abolition of the distinction between external and internal investigations. This provision can apply to all kinds of investigations.

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 8 – subparagraph 1

Text proposed by the Commission

Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an **internal** investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the **institution, body, office or agency** concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.

Amendment

Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity **or irregularity** affecting the financial interests of the Union, it may inform, **as appropriate, the competent authorities of the Member States concerned and the institutions, bodies, offices or agencies** concerned.

Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.

Justification

Merged with Art. 3(10), which can be deleted.

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c a (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 8 – subparagraph 2

Present text

Where necessary, the Office **shall also inform** the competent authorities of the Member **State** concerned. **In this case**, the procedural requirements laid down in the second and third subparagraphs of Article

Amendment

(ca) in paragraph 8, subparagraph 2 is replaced by the following:

“As regards investigations within the institutions, bodies, offices and agencies, where the Office informs the competent authorities of the Member States concerned, the procedural requirements

9(4) shall apply. If the competent authorities decide to take any action on the basis of the information transmitted to them, in accordance with national law, they shall, upon request, inform the Office thereof.

laid down in the second and third subparagraphs of Article 9(4) shall apply. If the competent authorities decide to take any action on the basis of the information transmitted to them, in accordance with national law, they shall, upon request, inform the Office thereof.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Merged with Art. 3(10), which can be deleted.

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c b (new)

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 8 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(cb) in paragraph 8, the following subparagraph is added:

“As regards on-the-spot checks and inspections pursuant to Article 3, without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, in compliance with national law. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information as referred to in the first subparagraph of this paragraph.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Merged with Art. 3(10), which can be deleted.

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 1 – first sentence

Text proposed by the Commission

Amendment

(a) in paragraph 1, the first sentence is replaced by the following: **deleted**

"Without prejudice to Article 12d, the Director-General may open an investigation when there is a sufficient suspicion, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.";

Justification

Technical deletion in view of the proposed new wording for this paragraph.

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 1

Present text

Amendment

1. The Director-General may open an investigation when there is a sufficient suspicion, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. ***The decision by the Director-General whether or not to open an investigation shall take into account the***

(aa) paragraph 1 is replaced by the following:

"1. Without prejudice to Article 12d, the Director-General may open an investigation when there is a sufficient suspicion, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity or irregularity affecting the financial interests of the Union. The evaluation period preceding the decision

investigation policy priorities and the annual management plan of the Office established in accordance with Article 17(5). That decision shall also take into account the need for efficient use of the Office's resources and for proportionality of the means employed. With regard to internal investigations, specific account shall be taken of the institution, body, office or agency best placed to conduct them, based, in particular, on the nature of the facts, the actual or potential financial impact of the case, and the likelihood of any judicial follow-up.

shall not exceed two months. If the informant who provided the underlying information is known, he or she shall be informed as appropriate."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02013R0883-20170101&from=EN>)

Justification

The introduction of IPPs has not proven useful. Furthermore, micro-managing the Director-General's exercise of his duties should be avoided. (This amendment replaces amendment 31 from the draft report - "may" has been reinstated.)

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a b (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 2 – subparagraph 1

Present text

The decision to open an *external* investigation shall be taken by the Director-General, acting on his own initiative or following a request from *a Member State concerned or any* institution, body, office or agency of the Union.

Amendment

(ab) in paragraph 2, subparagraph 1 is replaced by the following:

*“The decision to open an investigation shall be taken by the Director-General, acting on his own initiative or following a request from **an** institution, body, office or agency of the Union **or from a Member State.**”*

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Subparagraphs are merged following the abolition of the distinction between external and internal investigations.

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a c (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

(ac) in paragraph 2, subparagraph 2 is deleted;

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Subparagraphs are merged following the abolition of the distinction between external and internal investigations.

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a d (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 3

Present text

Amendment

(ad) paragraph 3 is replaced by the following:

3. While the Director-General is considering whether or not to open an **internal** investigation following a request as referred to in paragraph 2, and/or while the Office is conducting an **internal** investigation, the institutions, bodies, offices or agencies concerned shall not open a parallel investigation into the same facts, unless agreed otherwise with the Office.

“3. While the Director-General is considering whether or not to open an investigation following a request as referred to in paragraph 2, and/or while the Office is conducting **such** an investigation, the institutions, bodies, offices or agencies concerned shall not open a parallel investigation into the same facts, unless agreed otherwise with the Office. **This paragraph shall not apply to investigations by the EPPO pursuant to**

Regulation (EU) 2017/1939.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Amended in line with the abolition of the distinction between external and internal investigations.

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point b

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 3 – last sentence

Text proposed by the Commission

Amendment

(b) in paragraph 3, the following sentence is added:

deleted

“This paragraph shall not apply to investigations by the EPPO pursuant to Regulation (EU) 2017/1939.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Technical deletion – see previous amendment.

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point b a (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 5

Present text

Amendment

5. If the Director-General decides not to open an *internal* investigation, *he may* without delay send any relevant information to the institution, body, office

(ba) in Article 5, paragraph 5 is replaced by the following:

"5. If the Director-General decides not to open an investigation *within the institutions, bodies, offices and agencies despite there being a sufficient suspicion*

or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

that there has been fraud, corruption or any other illegal activity or irregularity affecting the financial interests of the Union, he shall without delay send any relevant information to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02013R0883-20170101&from=EN>)

Justification

This amendment replaces amendment 36 from the draft report.

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point c

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 6

Text proposed by the Commission

6. If the Director-General decides not to ***open an external investigation, he may*** without delay send any relevant information to the competent authorities of the Member State concerned for action to be taken where appropriate, in accordance with Union law and national law. Where necessary, the Office shall also inform the institution, body, office or agency concerned.

Amendment

6. If the Director-General decides not to ***conduct an on-the-spot check or inspection pursuant to Article 3 despite there being a sufficient suspicion that there has been fraud, corruption or any other illegal activity or irregularity affecting the financial interests of the Union, he shall*** without delay send any relevant information to the competent authorities of the Member State concerned for action to be taken where appropriate, in accordance with Union law and national law. Where necessary, the Office shall also inform the institution, body, office or agency concerned.

Justification

This amendment replaces amendment 37 from the draft report.

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point c a (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(ca) paragraph 6a is added:

“6a. The Director-General shall periodically inform the Supervisory Committee, in accordance with Article 17(5), about the cases in which he or she has decided not to open an investigation, indicating the reasons for that decision.”

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 1

Present text

Amendment

1. The Director-General shall direct the conduct of investigations on the basis, where appropriate, of written instructions. Investigations shall be conducted under his direction by the staff of the Office designated by him.

(-a) in Article 7, paragraph 1 is replaced by the following:

“1. The Director-General shall direct the conduct of investigations on the basis, where appropriate, of written instructions. Investigations shall be conducted under his direction by the staff of the Office designated by him. *The Director-General shall not conduct investigations personally.*”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point c a (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 3 – subparagraph 2

Present text

The institutions, bodies, offices and agencies shall ensure that their officials, other servants, members, heads and staff members provide the necessary assistance to enable the staff of the Office to fulfil their tasks effectively.

Amendment

(ca) in paragraph 3, the second subparagraph is replaced by the following:

"The institutions, bodies, offices and agencies shall ensure that their officials, other servants, members, heads and staff members provide the necessary assistance to enable the staff of the Office to fulfil their tasks **in accordance with this Regulation** effectively **and without undue delay.**"

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883>)

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point c b (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 4

Present text

4. Where an investigation combines external and internal elements, Articles 3 and 4 shall apply respectively.

Amendment

(cb) paragraph 4 is deleted;

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Technical deletion following the abolition of the distinction between external and internal investigations.

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point c c (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 6 – introductory part

Present text

6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:

Amendment

(cc) in paragraph 6, the introductory part is replaced by the following:

“6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress **and suggest measures to be taken**. The information supplied shall include the following:”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point c d (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 6 – subparagraph 1 – point b

Present text

(b) any information that could assist the institution, body, office or agency concerned in deciding **whether it is** appropriate **to take** precautionary administrative measures in order to protect the financial interests of the Union;

Amendment

(cd) in paragraph 6, subparagraph 1 point b is replaced by the following:

“(b) any information that could assist the institution, body, office or agency concerned in deciding **on the** appropriate precautionary administrative measures **to be taken** in order to protect the financial interests of the Union;”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point c e (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 6 – subparagraph 1 – point c

Present text

(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, ***in the case of an external investigation, within the competence of a*** national authority, in accordance with the national rules applicable to investigations.

Amendment

(ce) in paragraph 6, subparagraph 1 point c is replaced by the following:

“(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or ***other*** national authority, in accordance with the national rules applicable to investigations.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Technical amendment following the abolition of the distinction between external and internal investigations.

Amendment 65

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point d

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 6 – subparagraph 2

Text proposed by the Commission

In addition to the first subparagraph, the institution, body, office or agency concerned ***may at any time consult*** the Office ***with a view to taking, in close cooperation with the Office, any appropriate*** precautionary measures, ***including measures for the safeguarding of evidence, and shall inform the Office without delay of such decision.***

Amendment

In addition to the first subparagraph, the institution, body, office or agency concerned ***shall inform*** the Office ***without delay of any deviation from the suggested precautionary measures and the reasons for the deviation.***

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point e

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 8

Text proposed by the Commission

8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and, **where appropriate**, the remedial measures **envisaged** with a view to speeding up the investigation.

Amendment

8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating **in detail** the reasons **for the delay** and the remedial measures **taken** with a view to speeding up the investigation.

Amendment 67

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point e a (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

(ea) paragraph 8a is added:

“8a. The report shall contain, as a minimum, a brief description of the facts, their legal qualification, an assessment of the damage caused or likely to be caused, the date of expiration of the statutory limitation period, the reasons why the twelve-month period could not be kept, and the remedial measures envisaged with a view to speeding up the investigation, where applicable.”

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 1 – subparagraph 1

Present text

1. The institutions, bodies, offices and agencies shall transmit to the Office without delay any information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union.

Amendment

(-a) paragraph 1 is replaced by the following:

“1. The institutions, bodies, offices and agencies shall transmit to the Office without delay any information relating to possible cases of fraud, corruption or any other illegal activity **or irregularity** affecting the financial interests of the Union. ***This duty shall apply to the EPPO when the concerned cases do not fall under its mandate in accordance with Chapter IV of Regulation (EU) 2017/1939.***”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

See amendment to Art. 1(1).

Amendment 69

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 1 – subparagraph 1a

Text proposed by the Commission

Where the institutions, bodies, offices and agencies report to the EPPO in accordance with Article 24 of Regulation (EU) 2017/1939, they may ***instead transmit*** to the Office a copy of the report sent to the EPPO.

Amendment

Where the institutions, bodies, offices and agencies report to the EPPO in accordance with Article 24 of Regulation (EU) 2017/1939, they may ***comply with the obligation set out in the first subparagraph by transmitting*** to the Office a copy of the report sent to the EPPO.

Amendment 70

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit to the Office any document or information they hold which relates to an ongoing investigation by the Office.

Amendment

The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit **without delay** to the Office any document or information they hold which relates to an ongoing investigation by the Office.

Amendment 71

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point c

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 3

Text proposed by the Commission

3. The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall transmit to the Office any other document or information considered pertinent which they hold relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

Amendment

3. The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall transmit **without delay** to the Office, **at the request of the Office or on their own initiative**, any other document or information considered pertinent which they hold relating to the fight against fraud, corruption and any other illegal activity **or irregularity** affecting the financial interests of the Union.

Justification

See amendment to Art. 1(1).

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point d

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 4 – subparagraph 1

Text proposed by the Commission

This Article shall not apply to the EPPO as regards the criminal offences in respect of which it could exercise its competence in accordance with **Articles 22 and 25** of Regulation (EU) 2017/1939.

Amendment

This Article shall not apply to the EPPO as regards the criminal offences in respect of which it could exercise its competence in accordance with **Chapter IV** of Regulation (EU) 2017/1939.

Justification

It seems appropriate here to refer to the entire Chapter IV of the EPPO Regulation, in order to ensure that no relevant provision is omitted. (See also Art. 12c(1).)

Amendment 73

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 9 – paragraph 2 – subparagraph 4

Present text

The requirements referred to in the second and third subparagraphs shall not apply to the taking of statements in the context of on-the-spot checks and inspections.

Amendment

(-a) in paragraph 2, subparagraph 4 is replaced by the following:

"The requirements referred to in the second and third subparagraphs shall not apply to the taking of statements in the context of on-the-spot checks and inspections. ***The person concerned shall however be informed of his or her rights before a statement is taken, in particular of the right to be assisted by a person of his or her choice.***"

(<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02013R0883-20170101&from=EN>)

Justification

See the Commission proposal for a Regulation of the European Parliament and the Council amending Regulation (EU, Euratom) No 889/2013 as regards the establishment of a

Amendment 74

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point -a a (new)

Regulation (EU, Euratom) No 883/2013

Article 9 – paragraph 4 – subparagraph 2

Present text

To that end, the Office shall send the person concerned an invitation to comment either in writing or at an interview with staff designated by the Office. That invitation shall include a summary of the facts concerning the person concerned and the information required by Articles **11 and 12** of Regulation (*EC*) No 45/2001, and shall indicate the time-limit for submitting comments, which shall not be less than 10 working days from receipt of the invitation to comment. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the investigation. The final investigation report shall make reference to any such comments.

Amendment

(-a) in paragraph 4, subparagraph 2 is replaced by the following:

"To that end, the Office shall send the person concerned an invitation to comment either in writing or at an interview with staff designated by the Office. That invitation shall include a summary of the facts concerning the person concerned and the information required by Articles **15 and 16** of Regulation (*EU*) 2018/1725, and shall indicate the time-limit for submitting comments, which shall not be less than 10 working days from receipt of the invitation to comment. That notice period may be shortened with the express consent of the person concerned or on duly reasoned grounds of urgency of the investigation. The final investigation report shall make reference to any such comments."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02013R0883-20170101&from=EN>)

Justification

Technical amendment: on 11.12.2018, Regulation (EC) No 45/2001 was repealed and replaced by Regulation (EU) 2018/1725.

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 9 – paragraph 5 a (new)

(aa) paragraph 5a is added:

“5a. For cases where the Office recommends a judicial follow-up, and without prejudice to the confidentiality rights of whistle-blowers and informants, the person concerned shall have access to the report drawn up by the Office under Article 11 following its investigation, and to any relevant documents, to the extent that they relate to that person and if, where applicable, neither the EPPO nor the national judicial authorities object within a period of six months. An authorisation by the competent judicial authority may also be granted before this period has expired.”

Justification

Mostly in line with amendment 51 by the rapporteur. A deadline is necessary to avoid that the access to the report is unduly delayed. At the same time, a procedure is necessary to prevent that a premature access to the file could endanger follow-up investigations or proceedings.

Amendment 76

Proposal for a regulation

Article 1 – paragraph 1 – point 8 a (new)

Regulation (EU, Euratom) No 883/2013

Article 9 a (new)

(8a) Article 9a is inserted:

“Article 9a

Controller of procedural guarantees

1. A Controller of procedural guarantees ('the Controller') shall be appointed by the Commission, in accordance with the procedure specified in paragraph 2, for a non-renewable term of five years. On expiry of his term, he shall remain in office until he is replaced.

2. Following a call for applications in the Official Journal of the European

Union, the Commission shall draw up a list of suitably qualified candidates for the positions of the Controller. After consultation with the European Parliament and the Council, the Commission shall appoint the Controller.

3. The Controller shall have the necessary qualifications and experience in the field of procedural rights and guarantees.

4. The Controller shall exercise his functions in complete independence and shall neither seek nor take instructions from anyone in the performance of his duties.

5. The Controller shall monitor the Office's compliance with procedural rights and guarantees. He shall be responsible of handling the complaint received by the Office.

6. The Controller shall report on the exercise of this function on an annual basis, to the European Parliament, the Council, the Commission, the Supervisory Committee and the Office. He shall not refer to individual cases under investigation and shall ensure the confidentiality of investigations even after their closure.”

Amendment 77

Proposal for a regulation

Article 1 – paragraph 1 – point 8 b (new)

Regulation (EU, Euratom) No 883/2013

Article 9 b (new)

Text proposed by the Commission

Amendment

(8b) Article 9b is inserted:

“Article 9b

Complaints mechanism

1. The Office shall, in cooperation with the Controller, take the necessary measures to set up a complaints

mechanism to monitor and ensure the respect for procedural guarantees in all the activities of the Office.

2. Any person concerned by an investigation by the Office shall be entitled to lodge a complaint with the Controller regarding the Office's compliance with the procedural guarantees set out in Article 9. The lodging of a complaint shall have no suspensive effect on the conduct of the investigation under way.

3. Complaints may be lodged at the latest one month after the complainant becomes aware of the relevant facts that constitute the alleged violation of his procedural guarantees. No complaint may be filed later than one month after the closure of the investigation. Complaints related to the notice period referred to in Article 9(2) and (4) shall be filed before the expiry of the notice period laid down in those provisions.

4. Upon receipt of a complaint, the Controller shall inform the Director-General of the Office immediately and give the Office the possibility to resolve the issue raised by the complainant within 15 working days.

5. Without prejudice to Article 10 of this Regulation, the Office shall transmit to the Controller all information that may be necessary for the Controller to issue a recommendation.

6. The Controller shall issue a recommendation on the complaint without delay, but at the latest within two months of the Office informing the Controller of the action it has taken to remedy the issue or after expiry of the period referred to in paragraph 3. The recommendation shall be submitted to the Office and communicated to the complainant. In exceptional cases the Controller may decide to extend the period for issuing the recommendation by a further 15 days. The Controller shall

inform the Director-General of the reasons for the extension by letter. In the absence of a recommendation by the Controller within the time limits set out in this paragraph, the Controller shall be deemed to have dismissed the complaint without a recommendation.

7. Without interfering with the conduct of the investigation under way, the Controller shall examine the complaint in an adversarial procedure. With their consent, the Controller may ask witnesses to provide written or oral explanations he or she considers relevant to ascertaining the facts.

8. The Director-General shall follow the Controller's recommendation on the issue, save in duly justified cases in which he or she may deviate from it. If the Director-General deviates from the Controller's recommendation, he or she shall communicate to the complainant and to the Controller the main reasons for that decision, inasmuch as doing so does not affect the on-going investigation. He or she shall state the reasons for not following the Controller's recommendation in a note to be attached to the final investigation report.

9. The Director-General may request the opinion of the Controller on any matter related to the respect of procedural guarantees in the Controller's mandate, including on the decision to defer information of the person concerned referred to in Article 9(3). The Director-General shall indicate in any such request the time limit within which the Controller is to respond.

10. Without prejudice to the time limits provided for in Article 90a of the Staff Regulations, where a complaint has been lodged with the Director-General by an official or other servant of the Union in accordance with Article 90a of the Staff Regulations and the official or other servant has lodged a complaint with the

Controller related to the same issue, the Director-General shall await the recommendation of the Controller before replying to the complaint.”

Amendment 78

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 1

Present text

1. Information transmitted or obtained in the course of **external** investigations, in whatever form, shall be protected by the relevant provisions.

Amendment

(-a) paragraph 1 is replaced by the following:

"1. Information transmitted or obtained in the course of investigations **outside the institutions, bodies, offices and agencies**, in whatever form, shall be protected by the relevant provisions **under national and Union law.**"

(<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02013R0883-20170101&from=EN>)

Justification

This amendment replaces amendment 54 from the draft report.

Amendment 79

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point -a a (new)

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 2

Present text

2. Information transmitted or obtained in the course of **internal** investigations, in whatever form, shall be subject to professional secrecy and shall enjoy the protection afforded by the rules applicable

Amendment

(-aa) paragraph 2 is replaced by the following:

"2. Information transmitted or obtained in the course of investigations **within the institutions, bodies, offices and agencies**, in whatever form, shall be subject to professional secrecy and shall enjoy the

to the Union institutions.

protection afforded by the rules applicable to the Union institutions.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

In line with the proposed abolition of the distinction between external and internal investigations.

Amendment 80

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point -a b (new)

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(-ab) paragraph 3a is added:

“3a. The Office shall disclose its reports and recommendations after all related national and Union procedures were concluded by the responsible bodies and the disclosure no longer affects the investigations. The disclosure shall be in compliance with the data protection rules and principles set out in this Article and in Article 1.”

Amendment 81

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Amendment

The Office shall designate a Data Protection Officer in accordance with Article **24** of Regulation (EC) No 45/2001.

The Office shall designate a Data Protection Officer in accordance with Article **43** of Regulation (EU) 2018/1725.

Justification

Technical amendment: on 11.12.2018, Regulation (EC) No 45/2001 was repealed and

replaced by Regulation (EU) 2018/1725.

Amendment 82

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(aa) paragraph 5a is added:

"5a. Persons reporting crimes and infringements related to the financial interests of the Union to the Office shall be fully protected, in particular through Union legislation regarding the protection of persons reporting on breaches of Union law."

Amendment 83

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point a

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The report *may* be accompanied by recommendations of the Director-General on action to be taken. Those recommendations shall, where appropriate, indicate any disciplinary, administrative, financial and/or judicial action by the institutions, bodies, offices and agencies and by the competent authorities of the Member States concerned, and shall specify in particular the estimated amounts to be recovered, as well as the preliminary classification in law of the facts established.

The report *shall* be accompanied by recommendations of the Director-General on action to be taken. Those recommendations shall, where appropriate, indicate any disciplinary, administrative, financial and/or judicial action by the institutions, bodies, offices and agencies and by the competent authorities of the Member States concerned, and shall specify in particular the estimated amounts to be recovered, as well as the preliminary classification in law of the facts established.

Amendment 84

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b
Regulation (EU, Euratom) No 883/2013
Article 11 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Office shall take proper internal measures to ensure the consistent quality of final reports and recommendations, and consider whether there is a need to revise the Guidelines on Investigation Procedures, to address any possible inconsistencies.

Amendment 85

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b
Regulation (EU, Euratom) No 883/2013
Article 11 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Upon simple verification of their authenticity, reports drawn up on that basis shall constitute admissible evidence in judicial proceedings ***of a non-criminal nature*** before national courts and in administrative proceedings in the Member States.

Upon simple verification of their authenticity, reports drawn up on that basis ***including all evidence supporting and annexed to these reports*** shall constitute admissible evidence in judicial proceedings before national courts and in administrative proceedings in the Member States. ***The power of the national courts to freely assess the evidence shall not be affected by this Regulation.***

Amendment 86

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b
Regulation (EU, Euratom) No 883/2013
Article 11 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Reports drawn up by the Office shall constitute admissible evidence in criminal proceedings of the Member State in which their use proves necessary in the same

deleted

way and under the same conditions as administrative reports drawn up by national administrative inspectors. They shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors and shall have the same evidentiary value as such reports.

Amendment 87

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 2 – subparagraph 4

Text proposed by the Commission

Member States shall notify to the Office any rules of national law relevant for the purposes of the *third* subparagraph.

Amendment

Member States shall notify to the Office any rules of national law relevant for the purposes of the *first* subparagraph.

Amendment 88

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 2 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The national courts shall notify to the Office any rejection of evidence in accordance with this paragraph. The notification shall include the legal basis and a detailed justification for the rejection. The Director-General shall, in his or her annual reports pursuant to Article 17(4), evaluate the admissibility of evidence in the Member States.

Justification

The oral AM aligns AM 155 with the overall approach for the admissibility of evidence and takes account of the independence of the judiciary.

Amendment 89

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point c

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 3

Text proposed by the Commission

3. Reports and recommendations drawn up following an **external** investigation and any relevant related documents shall be sent to the competent authorities of the Member States concerned in accordance with the rules relating to **external** investigations and, **if necessary**, to the institution, body, office or agency concerned. That institution, body, office or agency shall take such action as the results of the **external** investigation warrant, and shall report thereon to the Office, within a time-limit laid down in the recommendations accompanying the report, and, in addition, at the request of the Office.

Amendment

3. Reports and recommendations drawn up following an investigation and any relevant related documents shall be sent, **as appropriate**, to the competent authorities of the Member States concerned in accordance with the rules relating to investigations and to the institution, body, office or agency concerned. That institution, body, office or agency shall take such action, **in particular of a disciplinary or legal nature**, as the results of the investigation warrant, and shall report thereon to the Office, within a time-limit laid down in the recommendations accompanying the report, and, in addition, at the request of the Office. **The competent authorities of the Member States shall report back to the Office within nine months on the actions taken in response to the case report.**

Amendment 90

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point c a (new)

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 4

Present text

4. **Reports and recommendations drawn up following an internal investigation and any relevant related documents shall be sent to the institution, body, office or agency concerned. That institution, body, office or agency shall**

Amendment

(ca) paragraph 4 is deleted;

take such action, in particular of a disciplinary or legal nature, as the results of the internal investigation warrant, and shall report thereon to the Office, within a time-limit laid down in the recommendations accompanying the report, and, in addition, at the request of the Office.

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Merged with paragraph 3.

Amendment 91

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point c b (new)

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 5

Present text

5. Where the report drawn up following an *internal* investigation reveals the existence of facts which could give rise to criminal proceedings, that information shall be transmitted to the judicial authorities of the Member State concerned.

Amendment

(cb) in Article 11, paragraph 5 is replaced by the following:

“5. Where the report drawn up following an investigation reveals the existence of facts which could give rise to criminal proceedings, that information shall be transmitted *without delay* to the judicial authorities of the Member State concerned, *without prejudice to Articles 12c and 12d.*”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 92

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point c c (new)

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 6 a (new)

(cc) *paragraph 6a is inserted:*

“6a. The competent authorities of the Member States and the institutions, bodies, offices and agencies shall ensure that the disciplinary, administrative, financial and judicial recommendations made by the Director-General pursuant to paragraphs 1 and 3 are acted upon, and shall send to the Office a detailed report on the actions taken by 31 March each year, including the reasons for non-implementation of recommendations made by the Office where applicable.”

Justification

Addition to amendment 63 proposed by the rapporteur.

Amendment 93

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point c d (new)

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 8

Present text

8. Where an informant *who* has provided the Office with information **leading or relating** to an investigation **so requests**, the Office **may** notify that informant that the investigation has been closed. The Office may, however, refuse any such request if it considers that it is such as to prejudice the legitimate interests of the person concerned, the effectiveness of the investigation and of the action to be taken subsequent thereto, or any confidentiality requirements.

Amendment

(cd) in Article 11, paragraph 8 is modified as follows:

“8. Where an informant has provided the Office with information **which has led** to an investigation, the Office **shall** notify that informant that the investigation has been closed. The Office may, however, refuse any such request if it considers that it is such as to prejudice the legitimate interests of the person concerned, the effectiveness of the investigation and of the action to be taken subsequent thereto, or any confidentiality requirements.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 94

Proposal for a regulation

Article 1 – paragraph 1 – point 10 a (new)

Regulation (EU, Euratom) No 883/2013

Article 11 a (new)

Text proposed by the Commission

Amendment

(10a) After Article 11, a new article is inserted:

“Article 11a

Action before the General Court

Any person concerned may bring an action against the Commission for annulment of the investigation report transmitted to the national authorities or to the institutions under Article 11(3) on the grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties, including violation of the Charter, or misuse of powers.”

Justification

Currently it is not possible to bring a lawsuit against a final OLAF report. This amendment seeks to establish effective legal protection, as required by the Charter of Fundamental Rights.

Amendment 95

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 12 – paragraph 1

Present text

Amendment

1. Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the

(-a) paragraph 1 is replaced by the following:

“1. Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the

course of *external investigations* in due time to enable them to take appropriate action in accordance with their national law.

course of *on-the-spot checks or inspections pursuant to Article 3* in due time to enable them to take appropriate action in accordance with their national law. ***It may also transmit information to the institution, body, office or agency concerned.***

Justification

In line with the proposed abolition of the distinction between external and internal investigations.

Amendment 96

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a

Regulation (EU, Euratom) No 883/2013

Article 12 – paragraph 1 – last sentence

Text proposed by the Commission

Amendment

(a) in paragraph 1, the following sentence is added:

deleted

“It may also transmit information to the institution, body, office or agency concerned.”

Amendment 97

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 12 – paragraph 2 – subparagraph 1

Present text

Amendment

Without prejudice to Articles 10 and 11, the Director-General shall transmit to the judicial authorities of the Member State concerned information obtained by the Office, in the course of *internal* investigations, concerning facts which fall within the jurisdiction of a national judicial

(aa) in paragraph 2, subparagraph 1 is replaced by the following:

“Without prejudice to Articles 10 and 11, the Director-General shall transmit to the judicial authorities of the Member State concerned information obtained by the Office, in the course of investigations ***within the institutions, bodies, offices and agencies***, concerning facts which fall

authority.

within the jurisdiction of a national judicial authority.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

In line with the proposed abolition of the distinction between external and internal investigations.

Amendment 98

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point b

Regulation (EU, Euratom) No 883/2013

Article 12 – paragraph 3

Text proposed by the Commission

3. The competent authorities of the Member State concerned shall, unless prevented by national law, inform the Office ***in due time, on their own initiative or at the request of the Office***, of the action taken on the basis of the information transmitted to them under this Article.

Amendment

3. The competent authorities of the Member State concerned shall, unless prevented by national law, inform the Office ***within one month*** of the action taken on the basis of the information transmitted to them under this Article.

Amendment 99

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12b – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The obligations of mutual administrative assistance pursuant to Council Regulation (EC) No 515/97^{1a} and Regulation (EU) No 608/2013^{1b} shall also apply to coordination activities relating to the European Structural and Investment Funds in accordance with this Article.

^{1a} ***Council Regulation (EC) No 515/97 of***

13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 082, 22.3.1997, p. 1).

^{1b} Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).

Amendment 100

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 1

Text proposed by the Commission

1. The Office shall report to the EPPO without undue delay any criminal conduct in respect of which the EPPO could exercise its competence in accordance with **Article 22 and Article 25(2) and (3)** of Regulation (EU) 2017/1939. The report shall be sent **at any stage** before or during an investigation of the Office.

Amendment

1. The Office shall report to the EPPO without undue delay any criminal conduct in respect of which the EPPO could exercise its competence in accordance with **Chapter IV** of Regulation (EU) 2017/1939. The report shall be sent **as early as possible** before or during an investigation of the Office.

Justification

It seems appropriate here to refer to the entire Chapter IV of the EPPO Regulation, in order to ensure that no relevant provision is omitted.

Amendment 101

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 2

Text proposed by the Commission

2. The report shall contain, as a minimum, a description of the facts, including an assessment of the damage caused or likely to be caused the possible legal qualification and any available information about potential victims, suspects and any other involved persons.

Amendment

2. The report shall contain, as a minimum, a description of the facts **and information known by the office**, including an assessment of the damage caused or likely to be caused, **where the Office has such information**, the possible legal qualification and any available information about potential victims, suspects and any other involved persons. **Together with the report, the Office shall transmit to the EPPO any other relevant information on the case in its possession.**

Amendment 102

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 3 – subparagraph 2

Text proposed by the Commission

In cases where the information received by the Office does not include the elements set out in paragraph 2, and there is no investigation of the Office ongoing, the Office may conduct a preliminary evaluation of the allegations. The evaluation shall be carried out **expeditiously**, and in any case within two months of receipt of the information. In the course of this evaluation, Article 6 and Article 8(2) shall apply.

Amendment

In cases where the information received by the Office does not include the elements set out in paragraph 2, and there is no investigation of the Office ongoing, the Office may conduct a preliminary evaluation of the allegations. The evaluation shall be carried out **without delay**, and in any case within two months of receipt of the information. In the course of this evaluation, Article 6 and Article 8(2) shall apply. **The Office shall refrain from performing any measures that may jeopardise any possible future investigations of the EPPO.**

Amendment 103

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 5

Text proposed by the Commission

5. The institutions, bodies, offices and agencies may request the Office to conduct a preliminary evaluation of allegations reported to them. For the purposes of those requests, **paragraph 3** shall apply.

Amendment

5. The institutions, bodies, offices and agencies may request the Office to conduct a preliminary evaluation of allegations reported to them. For the purposes of those requests, **paragraphs 1 to 4** shall apply ***mutatis mutandis***. ***The Office shall inform the institution, body, office or agency concerned of the results of the preliminary evaluation, unless providing such information could jeopardise an investigation conducted by the Office or the EPPO.***

Justification

As suggested by the Supervisory Committee in its letter of 20 November 2018.

Amendment 104

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) 2013/833

Article 12d – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Director-General shall not open an investigation in accordance with Article 5 if the EPPO is conducting an investigation into the same facts, other than in accordance with Articles 12e or 12f.

Amendment

1. The Director-General shall not open an investigation in accordance with Article 5, ***and shall discontinue an ongoing investigation***, if the EPPO is conducting an investigation into the same facts, other than in accordance with Articles 12e or 12f. ***The Director-General shall inform the EPPO about each decision on not opening or discontinuation taken on such grounds.***

Justification

Addition proposed to Amendment 74 by the rapporteur: including the duty of the Director-General to inform the EPPO about the "not opening" of case.

Amendment 105

Proposal for a regulation

Article 1 – paragraph 1 – point 12
Regulation (EU, Euratom) No 883/2013
Article 12 d – paragraph 1 – subparagraph 2

Text proposed by the Commission

For the purpose of applying the first subparagraph, the Office shall verify in accordance with Article 12g(2) via the EPPO's case management system whether the EPPO is conducting an investigation. The Office may request further information from the EPPO. The EPPO shall reply to such a request within 10 working days.

Amendment

For the purpose of applying the first subparagraph, the Office shall verify in accordance with Article 12g(2) via the EPPO's case management system whether the EPPO is conducting an investigation. The Office may request further information from the EPPO. The EPPO shall reply to such a request within 10 working days.
This deadline may be extended in exceptional cases subject to modalities to be set out in the working arrangements referred to in Article 12g(1).

Amendment 106

Proposal for a regulation

Article 1 – paragraph 1 – point 12
Regulation (EU, Euratom) No 883/2013
Article 12d – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Where the Office closes its investigation in accordance with the first subparagraph, Article 9(4) and Article 11 shall not apply.

Justification

See also the text proposed by the Commission for Article 12c(6).

Amendment 107

Proposal for a regulation

Article 1 – paragraph 1 – point 12
Regulation (EU, Euratom) No 883/2013
Article 12d – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Upon request by the EPPO, the

Office shall refrain from performing certain acts or measures which could jeopardise an investigation or prosecution conducted by the EPPO. The EPPO shall notify the Office without undue delay when the grounds for such a request cease to apply.

Justification

Based on a suggestion by the Supervisory Committee contained in its letter of 20 November 2018.

Amendment 108

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 833/2013

Article 12d – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where the EPPO closes or discontinues an investigation on which it had received information from the Director-General pursuant to paragraph 1 and which is relevant to the exercise of the Office's mandate, it shall inform the Office without undue delay and may make recommendations regarding follow-up administrative investigations.

Amendment 109

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12e – paragraph 2

Text proposed by the Commission

Amendment

2. ***Pursuant to paragraph 1, a request shall be transmitted in writing and shall specify the measure or measures which the EPPO requests the Office to perform and, where appropriate, the envisaged timeline for their performance. It shall contain information about the EPPO investigation***

2. ***A request pursuant to paragraph 1 shall be transmitted in writing and shall specify at least:***

in so far as relevant for the purpose of the request. Where necessary, the Office may request additional information.

(a) information on the EPPO investigation in so far as relevant for the purpose of the request;

(b) the measure or measures which the EPPO requests the Office to perform;

(c) where appropriate, the envisaged timeline for their performance;

(d) any instructions pursuant to paragraph 2a.

Where necessary, the Office may request additional information.

Justification

New structure and addendum based on a suggestion by the Supervisory Committee contained in its letter of 20 November 2018.

Amendment 110

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12e – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to protect the admissibility of evidence as well as fundamental rights and procedural guarantees, where the Office performs supporting or complementary measures at the request of the EPPO pursuant to this Article, the EPPO may instruct the Office to apply higher standards of fundamental rights, procedural guarantees and data protection than provided for in this Regulation. In doing so, it shall specify in detail the formal requirements and procedures to be applied.

In the absence of any such specific instructions by the EPPO, Chapter VI (procedural safeguards) and Chapter VIII

(data protection) of Regulation (EU) 2017/1939 shall apply mutatis mutandis to measures performed by the Office pursuant to this Article.

Justification

The procedural safeguards and data protection rules afforded by the EPPO Regulation should apply to all measures performed by OLAF at the request of the EPPO, so that there is no incentive for the EPPO to delegate tasks to the OLAF with the sole aim of circumventing these rules. Includes suggestions by the Supervisory Committee contained in its letter of 20 November 2018.

Amendment 111

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 1 – subparagraph 1

Text proposed by the Commission

In duly justified cases where the EPPO is conducting an investigation, where the Director-General considers that an investigation should be opened in accordance with the mandate of the Office with a view to facilitating the adoption of precautionary measures or of financial, disciplinary or administrative action, the Office shall inform the EPPO in writing, specifying the nature and purpose of the investigation.

Amendment 112

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 1 – subparagraph 2

Text proposed by the Commission

Within **30** days after receipt of this information the EPPO **may** object to the opening of an investigation or to the performance of certain **acts** pertaining to

Amendment

In duly justified cases where the EPPO is conducting an investigation, where the Director-General considers that an investigation should be opened **or continued** in accordance with the mandate of the Office with a view to facilitating the adoption of precautionary measures or of financial, disciplinary or administrative action, the Office shall inform the EPPO in writing, specifying the nature and purpose of the investigation, **and seeking the EPPO's written consent to the opening of a complementary investigation.**

Amendment

Within **20 working** days after receipt of this information the EPPO **shall either give its consent or** object to the opening **or continuation** of an investigation or to the

the investigation, where necessary to avoid jeopardising its own investigation or prosecution, and for as long as these grounds persist. **The** EPPO shall notify to the Office without undue delay when the grounds for the objection cease to apply.

performance of **any** certain **act** pertaining to the investigation, where necessary to avoid jeopardising its own investigation or prosecution, and for as long as these grounds persist. ***In duly justified situations, the EPPO may extend the deadline by an additional 10 working days. It shall inform the Office thereof.***

In the event that the EPPO objects, the Office shall not open a complementary investigation. In that case, the EPPO shall notify to the Office without undue delay when the grounds for the objection cease to apply.

Amendment 113

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 1 – subparagraph 3

Text proposed by the Commission

In the event that the EPPO ***does not object within the time period of the previous subparagraph***, the Office may open an investigation, and it shall conduct it in close consultation with the EPPO.

Amendment

In the event that the EPPO ***gives its consent***, the Office may open ***or continue*** an investigation, and it shall conduct it in close consultation with the EPPO.

Amendment 114

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

If the EPPO does not reply within the deadline in the second subparagraph, the Office may enter into consultations with the EPPO so as to take a decision within 10 days.

Amendment 115

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12g – paragraph 1

Text proposed by the Commission

1. Where necessary to facilitate the cooperation with the EPPO as set out in Article 1(4a), the Office shall agree with the EPPO on administrative arrangements. Such working arrangements may establish practical details for the exchange of information, including personal data, operational, strategic or technical information and classified information. They shall include detailed arrangements on the continuous exchange of information during the receipt and verification of allegations by both offices.

Amendment

1. Where necessary to facilitate the cooperation with the EPPO as set out in Article 1(4a), the Office shall agree with the EPPO on administrative arrangements. Such working arrangements may establish practical details for the exchange of information, including personal data, operational, strategic or technical information and classified information, ***as well as the setting up of information technology platforms, including a common approach to upgrades and compatibility of software.*** They shall include detailed arrangements on the continuous exchange of information during the receipt and verification of allegations ***for the purpose of determining competences over investigations conducted by both offices. They shall also include arrangements on the transfer of evidence between the Office and the EPPO, as well as arrangements on the division of expenses.***

Prior to the adoption of the working arrangements with the EPPO, the Director-General shall send the draft to the European Data Protection Supervisor, the Supervisory Committee and the European Parliament for information. The European Data Protection Supervisor and the Supervisory Committee shall deliver their opinions without delay.

Amendment 116

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12g – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Each indirect access to information in the EPPO’s case management system by the Office shall be carried out only in so far as necessary for the performance of the Office’s functions as defined under this Regulation and shall be duly justified and validated via an internal procedure set up by the Office. The Office shall keep a log of all instances of access to the EPPO’s case management system.

Amendment 117

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12g – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Director-General of the Office and the European Chief Public Prosecutor shall meet at least once per year to discuss matters of common interest.

Amendment 118

Proposal for a regulation

Article 1 – paragraph 1 – point 12 a (new) – point a (new)

Regulation (EU, Euratom) No 883/2013

Article 15 – paragraph 1 – subparagraph 2

Present text

Amendment

*(12a) Article 15 is amended as follows:
(a) in paragraph 1, subparagraph 2 is*

The Supervisory Committee shall in particular monitor developments concerning the application of procedural guarantees and the duration of investigations ***in the light of the information supplied by the Director-General in accordance with Article 7(8).***

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 119

Proposal for a regulation

Article 1 – paragraph 1 – point 12 a (new) – point b (new)

Regulation (EU, Euratom) No 883/2013

Article 15 – paragraph 1 – subparagraph 5

Present text

In duly justified situations, the Supervisory Committee may ask the Office for additional information on investigations, including reports and recommendations on closed investigations, without however interfering with the conduct of investigations in progress.

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Partly based on a suggestion by the Supervisory Committee contained in its letter of 20 November 2018.

replaced by the following:

“The Supervisory Committee shall in particular monitor developments concerning the application of procedural guarantees and the duration of investigations.”

Amendment

(b) in paragraph 1, subparagraph 5 is replaced by the following:

“The Supervisory Committee shall be granted access to all the information and documents it considers necessary for the performance of its tasks, including reports and recommendations on closed investigations ***and cases dismissed***, without however interfering with the conduct of investigations in progress, ***and with due regard to the requirements of confidentiality and data protection.***”

Amendment 120

Proposal for a regulation

Article 1 – paragraph 1 – point 12 a (new) – point c (new)

Regulation (EU, Euratom) No 883/2013

Article 15 – paragraph 8 – subparagraph 1

Present text

The Supervisory Committee shall appoint its chair. It shall adopt its own rules of procedure, which shall, before adoption, be submitted to the European Parliament, the Council, the Commission and the European Data Protection Supervisor for information. Meetings of the Supervisory Committee shall be convened on the initiative of its chair or the Director-General. It shall hold at least 10 meetings per year. The Supervisory Committee shall take its decisions by a majority of its component members. Its secretariat shall be provided by the Commission, ***independently from the Office***, and in close cooperation with the Supervisory Committee. Before the appointment of any staff to the secretariat, the Supervisory Committee shall be consulted and its views shall be taken into account. The secretariat shall act on the instructions of the Supervisory Committee and independently from the Commission. Without prejudice to its control over the budget of the Supervisory Committee and its secretariat, the Commission shall not interfere with the monitoring functions of the Supervisory Committee.

Amendment

(c) in paragraph 8, subparagraph 1 is replaced by the following:

“The Supervisory Committee shall appoint its chair. It shall adopt its own rules of procedure, which shall, before adoption, be submitted to the European Parliament, the Council, the Commission and the European Data Protection Supervisor for information. Meetings of the Supervisory Committee shall be convened on the initiative of its chair or the Director-General. It shall hold at least 10 meetings per year. The Supervisory Committee shall take its decisions by a majority of its component members. Its secretariat shall be provided by the Commission and in close cooperation with the Supervisory Committee. Before the appointment of any staff to the secretariat, the Supervisory Committee shall be consulted and its views shall be taken into account. The secretariat shall act on the instructions of the Supervisory Committee and independently from the Commission. Without prejudice to its control over the budget of the Supervisory Committee and its secretariat, the Commission shall not interfere with the monitoring functions of the Supervisory Committee.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

As suggested by the Supervisory Committee in its letter of 20 November 2018.

Amendment 121

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 16 – paragraph 1

Present text

1. The European Parliament, the Council and the Commission shall once a year meet the Director-General for an exchange of views at political level to discuss the Office’s policy relating to methods of preventing and combating fraud, corruption or any other illegal activity affecting the financial interests of the Union. The Supervisory Committee shall participate in the exchange of views. Representatives of the Court of Auditors, Eurojust and/or Europol may be invited to attend on an ad hoc basis upon request of the European Parliament, the Council, the Commission, the Director-General or the Supervisory Committee.

Amendment

(-a) paragraph 1 is replaced by the following:

“1. The European Parliament, the Council and the Commission shall once a year meet the Director-General for an exchange of views at political level to discuss the Office’s policy relating to methods of preventing and combating fraud, corruption or any other illegal activity **or irregularity** affecting the financial interests of the Union. The Supervisory Committee shall participate in the exchange of views. **The Chief European Public Prosecutor is invited to participate in the exchange of views.** Representatives of the Court of Auditors, Eurojust and/or Europol may be invited to attend on an ad hoc basis upon request of the European Parliament, the Council, the Commission, the Director-General or the Supervisory Committee.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

See amendment to Art. 1(1).

Amendment 122

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point a

Regulation (EU, Euratom) No 883/2013

Article 16 – paragraph 1 – third sentence

Text proposed by the Commission

Amendment

(a) in paragraph 1, the third sentence

deleted

is replaced by the following:

“Representatives of the Court of Auditors, the EPPO, Eurojust and/or Europol may be invited to attend on an ad hoc basis upon request of the European Parliament, the Council, the Commission, the Director-General or the Supervisory Committee.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Technical deletion – see previous amendment.

Amendment 123

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 16 – paragraph 2 – introductory part

Present Text

Amendment

2. The exchange of views may relate to:

(aa) in paragraph 2, the introductory part is replaced by the following:

“2. The exchange of views may relate to any subject the European Parliament, the Council and the Commission agree on. More particularly, the exchange of views may relate to:”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 124

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point b

Regulation (EU, Euratom) No 883/2013

Article 16 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) the framework of the relations between the Office and the institutions,

(d) the framework of the relations between the Office and the institutions,

bodies, offices and agencies, in particular the EPPO.

bodies, offices and agencies, in particular the EPPO, **and action taken on the Office's final investigation reports and other information forwarded by the Office;**

Justification

To monitor and improve the follow-up on OLAF recommendations by the IBOAs and the EPPO.

Amendment 125

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point b a (new)

Regulation (EU, Euratom) No 883/2013

Article 16 – paragraph 2 – point e

Present text

Amendment

(e) the framework of the relations between the Office and the competent authorities of the Member States;

(ba) in paragraph 2, point e is replaced by the following:

"(e) the framework of the relations between the Office and the competent authorities of the Member States **and action taken by competent authorities in the Member States on the Office's final investigation reports and other information forwarded by the Office;**"

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

To monitor and improve the follow-up on OLAF recommendations by the Member States.

Amendment 126

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point b b (new)

Regulation (EU, Euratom) No 883/2013

Article 16 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(bb) after paragraph 4, a new

paragraph 4a is added:

“4a. The presidency of the exchange of views shall rotate between the European Parliament, the Council and the Commission.”

Amendment 127

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point -a (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 1

Present text

1. The Office shall be headed by a Director-General. The Director-General shall be appointed by the Commission, in accordance with the procedure specified in paragraph 2. The term of office of the Director-General shall be seven years and shall not be renewable.

Amendment

(-a) paragraph 1 is replaced by the following:

“1. The Office shall be headed by a Director-General. The Director-General shall be appointed by the Commission, in accordance with the procedure specified in paragraph 2. The term of office of the Director-General shall be seven years and shall not be renewable. **The Director-General shall be recruited as a temporary agent under the Staff Regulations.**”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 128

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point -a a (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 2

Present text

2. In order to appoint a new Director-General, the Commission shall publish a call for applications in the Official Journal of the European Union. Such publication shall take place at the latest six months

Amendment

(-aa) paragraph 2 is replaced by the following:

“2. In order to appoint a new Director-General, the Commission shall publish a call for applications in the Official Journal of the European Union. Such publication shall take place at the latest six months

before the end of the term of office of the Director-General in office. After a favourable opinion has been given by the Supervisory Committee on the selection procedure applied by the Commission, the Commission shall draw up a list of suitably qualified candidates. ***After consultation with the European Parliament and the Council, the Commission shall appoint the Director-General.***

before the end of the term of office of the Director-General in office. After a favourable opinion has been given by the Supervisory Committee on the selection procedure applied by the Commission, the Commission shall draw up a list of suitably qualified candidates. ***The Director-General shall be nominated by common accord between the European Parliament, the Council and the Commission, and shall, subsequently, be appointed by the latter.***

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 129

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point a
Regulation (EU, Euratom) No 883/2013
Article 17 – paragraph 3

Text proposed by the Commission

3. The Director-General shall neither seek nor take instructions from any government or any institution, body, office or agency in the performance of his duties with regard to the opening and carrying-out of ***external and internal*** investigations or coordination activities, or to the drafting of reports following such investigations or coordination activities. If the Director-General considers that a measure taken by the Commission calls his independence into question, he shall immediately inform the Supervisory Committee, and shall decide whether to bring an action against the Commission before the Court of Justice.

Amendment

3. The Director-General shall neither seek nor take instructions from any government or any institution, body, office or agency in the performance of his duties with regard to the opening and carrying-out of investigations or coordination activities, or to the drafting of reports following such investigations or coordination activities. If the Director-General considers that a measure taken by the Commission calls his independence into question, he shall immediately inform the Supervisory Committee, and shall decide whether to bring an action against the Commission before the Court of Justice.

Justification

In line with the proposed abolition of the distinction between external and internal investigations.

Amendment 130

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 4

Present text

4. The Director-General shall report regularly to the European Parliament, the Council, the Commission and the Court of Auditors on the findings of investigations carried out by the Office, the action taken **and** the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate, national law applicable to judicial proceedings.

Amendment

(aa) paragraph 4 is replaced by the following:

“4. The Director-General shall report regularly, **and at least annually**, to the European Parliament, the Council, the Commission and the Court of Auditors on the findings of investigations carried out by the Office, the action taken, the problems encountered **and the Office’s follow-up to the recommendations made by the Supervisory Committee in accordance with Article 15**, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate, national law applicable to judicial proceedings.

The annual report shall also include an assessment of the degree of cooperation with the competent authorities of the Member States and the institutions, bodies, offices and agencies, with particular regard to the implementation of Article 11 (2) and (6a).”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Amendment 131

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point a b (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 4 a (new)

(ab) paragraph 4a is added:

“4a. At the request of the European Parliament in the context of its budgetary control rights, the Director-General may provide information about the Office’s activities, respecting the confidentiality of investigations and follow-up proceedings. The European Parliament shall ensure the confidentiality of information provided in accordance with this paragraph.”

Amendment 132

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point a c (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 5 – subparagraph 1

Present text

Amendment

(ac) in paragraph 5, subparagraph 1 is deleted;

The Director-General shall each year determine, within the context of the annual management plan, the investigation policy priorities of the Office and shall, prior to their publication, forward them to the Supervisory Committee.

Justification

The introduction of IPPs has not proven useful.

Amendment 133

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point b

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 5 – subparagraph 3 – point b

Text proposed by the Commission

Amendment

(b) of cases in which information has been transmitted to judicial authorities of the Member States **and** to the EPPO;

(b) of cases in which information has been transmitted to judicial authorities of the Member States **or** to the EPPO;

Amendment 134

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point b a (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 5 – subparagraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) in paragraph 5, subparagraph 3, a new point is inserted after point b:

“(ba) of cases dismissed;”

Amendment 135

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point b b (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 7

Present text

Amendment

7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and of the national law of the Member States concerned, with particular reference to Article 11(2).

(bb) paragraph 7 is replaced by the following:

“7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of ***the*** procedural guarantees and fundamental rights of the persons concerned ***and of witnesses***, and of the national law of the Member States concerned, with particular reference to Article 11(2). ***The legality check shall be carried out by Office experts in law and investigative procedures who are qualified to hold judicial office in a Member State. Their opinion shall be annexed to the final investigation report.***”

Justification

The amendment is based on plenary amendments 10 and 23 from the second reading of the 2006-2013 OLAF revision (see plenary document A7-0225/2013 and working document PE 510.603)

Amendment 136

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point b c (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 8

Present text

Amendment

8. *The Director-General shall adopt guidelines on investigation procedures for the staff of the Office. Those guidelines shall be in accordance with this Regulation and shall cover, inter alia:*

(a) *the conduct of investigations;*

(b) *the procedural guarantees;*

(c) *details on the internal advisory and control procedures, including the legality check;*

(d) *data protection;*

Those guidelines, and any modification

(bc) paragraph 8 is replaced by the following:

“8. The Commission shall be empowered to adopt delegated acts in accordance with Article 19a concerning the establishment of a procedural code for investigations to be followed by the staff of the Office. Those delegated acts shall cover, in particular:

(a) the practices to be observed in implementing the mandate and statute of the Office;

(b) detailed rules governing investigation procedures as well as the investigation acts permitted;

(c) the legitimate rights of the persons concerned;

(d) procedural guarantees;

(da) provisions relating to data protection and policies on communication and access to documents;

(db) provisions on the legality check and the means of redress open to the persons concerned;

(dc) relations with the EPPO.

During its preparatory work, the

thereto, shall be adopted after the Supervisory Committee has been given the opportunity to submit its observations thereon and shall then be transmitted for information to the European Parliament, the Council and the Commission, and published for information purposes on the Office's website in the official languages of the institutions of the Union.

Commission shall consult the Supervisory Committee and the European Data Protection Supervisor.

Any delegated act adopted in accordance with this paragraph shall be published for information purposes on the Office's website in all official languages of the Union."

Justification

The amendment is based on plenary amendments 11 and 24 from the second reading of the 2006-2013 OLAF revision (see plenary document A7-0225/2013 and working document PE 510.603).

Amendment 137

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 8 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(c) in the first subparagraph of paragraph 8, the following point (e) is added:

deleted

“(e) relations with the EPPO.”

Justification

Technical deletion – see previous amendment.

Amendment 138

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c a (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 9 – subparagraph 1

Present text

Amendment

Before imposing any disciplinary penalty on the Director-General, the Commission shall consult the Supervisory Committee.

(ca) in paragraph 9, subparagraph 1 is replaced by the following:

“Before imposing any disciplinary penalty on the Director-General **or waiving his or her immunity**, the Commission shall consult the Supervisory Committee.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0883-20170101&qid=1547480450198&from=EN>)

Justification

Based on a suggestion by the Supervisory Committee contained in its letter of 20 November 2018.

Amendment 139

Proposal for a regulation

Article 1 – paragraph 1 – point 14 a (new)

Regulation (EU, Euratom) No 883/2013

Article 19

Present text

Amendment

Article 19

Evaluation report

By 2 October 2017, the Commission shall submit to the European Parliament and the Council an evaluation report on the application of this Regulation. That report shall be accompanied by an opinion of the Supervisory Committee **and shall state whether there is a need to amend this Regulation**.

(14a) Article 19 is replaced by the following:

“Article 19

Evaluation report **and revision**

No later than five years after the date determined in accordance with the second subparagraph of Article 120(2) of Regulation (EU) 2017/1939, the Commission shall submit to the European Parliament and the Council an evaluation report on the application **and impact** of this Regulation, **in particular as regards the effectiveness and efficiency of the cooperation between the Office and the EPPO**. That report shall be accompanied by an opinion of the Supervisory Committee.

No later than two years after the submission of the evaluation report

pursuant to the first subparagraph, the Commission shall submit a legislative proposal to the European Parliament and the Council to modernise the Office’s framework, including additional or more detailed rules on the setting up of the Office, its functions or the procedures applicable to its activities, with particular regard to its co-operation with the EPPO, cross-border investigations and investigations in Member States not participating in the EPPO.”

Amendment 140

Proposal for a regulation

Article 1 – paragraph 1 – point 14 b (new)

Regulation (EU, Euratom) No 883/2013

Article 19 a (new)

Text proposed by the Commission

Amendment

(14b) *A new Article 19a is inserted:*

“Article 19a

Exercise of the delegation

1. *The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*

2. *The power to adopt delegated acts referred to in Article 17(8) shall be conferred on the Commission for a period of four years from ... (date of entry into force of this Regulation). The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*

3. *The delegation of power referred to in Article 17(8) may be revoked at any time by the European Parliament or by*

the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 17(8) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”

Justification

Standard Article on delegated acts (for the procedural code).

EXPLANATORY STATEMENT

The Creation of the European Public Prosecutor's Office (EPPO) is one of Parliament's key achievements during the current legislative period. We expect that it will be a game changer for the protection of the EU's financial interests. It will also have a far-reaching impact on the EU's institutional setup in the area of fight against fraud and irregularities, with the European Anti-Fraud Office (OLAF) being the body most affected. In light of this impending institutional upheaval, the Commission has submitted a proposal to amend Regulation 883/2013, which focuses on the following aspects:

- adapting the OLAF Regulation to the creation of the EPPO,
- implementing some key findings from the 2017 evaluation to increase the effectiveness of OLAF's investigations in certain areas, such as disambiguating the provisions for on-the-spot-checks and inspections in the Member States following the 'Sigma Orionis' judgement (case T-48/16), and facilitating the access to bank accounts,
- various clarifications and simplifications.

Your rapporteur welcomes and supports the amendments proposed by the Commission. Nevertheless, your rapporteur considers that further measures need to be taken to better prepare the ground for the EPPO. Furthermore, OLAF's work under its current legal basis showed several severe shortcomings. The evaluation report underlines how an efficient fight against fraud and irregularities is hampered by problems inherent in the regulation. Moreover, in 2014, the Commission put forward a legislative proposal to create a Controller of procedural guarantees, which has not been taken up yet.

Your rapporteur therefore suggests the following approach:

- abolishing the distinction between external and internal investigations, which has become obsolete, in particular with the new focus of OLAF on administrative irregularities and recovery (Art. 3 and 4),
- abolishing IPPs (Art. 5(1) and 17(5)),
- improving the Supervisory Committee's access to information (Art. 5(6a), 15(1) and 17(5)),
- promoting a better follow-up of the Director-General's recommendations by the Member States and the institutions, bodies, offices and agencies (Art. 7(6), 11(3) and (6a), and 17(4)),
- promoting a faster closure of investigations (Art. 7(8)),
- further promoting the admissibility of OLAF reports in national judicial and administrative proceedings (Art. 11(2)),
- streamlining the cooperation with the EPPO (Art. 12c – 12g),

- creating a dismissal procedure for the Director-General, along the lines of the dismissal procedure for the EPPO (Art. 17(9a)).

Furthermore, several amendments are introduced with the aim of improving the protection of procedural guarantees and fundamental rights of persons involved in OLAF investigations:

- clarifying the status of MEPs' offices (Art. 4(2a)),
- creating a right for persons concerned to access the final report (Art. 9(5a)),
- creating a Controller of procedural guarantees (Art. 9a and 9b),
- creating a right for persons concerned to bring a lawsuit against a final OLAF report (Art. 11a),
- creating a procedural code, to be adopted as a delegated act (Art. 17(8)).

These measures will be crucial for OLAF to become more effective in performing its tasks, and to ensure a smooth cooperation between OLAF and the EPPO from the outset.

25.1.2019

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Budgetary Control

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations (COM(2018)0338 – C8-0214/2018 – 2018/0170(COD))

Rapporteur for opinion: Jean-Marie Cavada

SHORT JUSTIFICATION

Following the establishment of the European Public Prosecutors' Office (EPPO), the existing Regulation No 883/2013, governing currently the investigations by the European Anti-Fraud Office (OLAF) needs to be revised in order to adapt the collaboration between both institutions, in order to enhance the effectiveness of OLAF's investigation function, to clarify and simplify the provisions laid down in Regulation No 883/2013.

Both, EPP and OLAF – within their respective remits – are entrusted with the mandate to protect the Union's financial interests.

The EPPO, once operational, will have the power to conduct criminal investigations and prosecute before national courts as regards crimes affecting the Union budget. OLAF investigates administrative irregularities as well as criminal behaviour. However, its administrative powers are limited compared to criminal investigations. Therefore, the proposal envisages that the two bodies cooperate as closely as possible together leading to more prosecution, convictions and a higher level of recovery.

In order to allow for a smooth transition into the new framework, the amended Regulation 883/2013 should enter into force before the EPPO becomes operational which is foreseen for the end of 2020.

Your rapporteur supports the Commission's endeavour to foresee for the time being only a limited number of changes, which are essential, according to the analytical Staff Working document accompanying the Commission proposal, which is based on the evaluation report, external studies and the result of the stakeholder consultation. He therefore supports the proposal by the Commission to focus on three areas: the relationship between EPPO and OLAF, enhancing the effectiveness of OLAF investigations and clarifications and simplifications.

I. Relationship between EPPO and OLAF

The proposal introduces the following necessary provisions to regulate the relationship between OLAF and the EPPO:

- OLAF's obligation to report without undue delay to the EPPO any conduct over which the latter may exercise its competence; the information provided to the EPPO shall be sufficiently substantiated and contain the necessary information;
- non-duplication of investigations: OLAF shall not open an unnecessary parallel investigation into facts identical to those under investigation by the EPPO;
- the specific procedural rules applicable to requests from the EPPO to OLAF to support or complement the work of the EPPO.

II. Enhancing the effectiveness of OLAF investigations

In order to implement Court ruling T-48/16, *Sigma Orionis SA v European Commission*, it is important to clarify that OLAF conducts **on-the-spot-checks** and inspections based on Regulation N°883/2013 and Regulation N° 2185/1996, unless the economic operator opposes (Art. 3). Union law suspends national law when a matter is regulated by Regulation N° 883/2013 and N° 2185/1996. The Court further stated that the opposition of the economic operator does not entail a "*right to oppose*" but simply has the consequence that the check might be imposed through the assistants of national authorities, following national law. As regards procedural guarantees, OLAF must respect fundamental rights as laid down in Union law, namely the Charter of Fundamental Rights.

Your rapporteur welcomes the proposed amendments as regards **bank account information** which reflect the 5th Anti-Money laundering Directive (Art. 7(3)), exchange of **VAT** information on the basis of Regulation N° 904/2010 (Art. 12(5)), the introduction of a **principle of admissibility of collected evidence** by OLAF (Art. 11(2)), the role of the **anti-fraud coordination service in the Member States** (Art. 12a) and the provision specifying the **coordination activities** that OLAF can conduct (Art. 12b).

Your rapporteur suggests amendments, which are meant to further enhance transparency and efficiency. Your rapporteur also suggests a reference to the protection of whistle blowers in the context of OLAF investigations.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Budgetary Control, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) With the adoption of Directive (EU) 2017/1371 of the European Parliament and of the Council³ and Council Regulation (EU) 2017/1939⁴, the Union has substantially strengthened the means available to protect the financial interests of the Union by means of criminal law. The European Public Prosecutor's Office ("EPPO") **will have** the power to carry out criminal investigations and bring indictments related to criminal offences affecting the Union budget, as defined in Directive (EU) 2017/1371, in the participating Member States.

³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁴ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Amendment

(1) With the adoption of Directive (EU) 2017/1371 of the European Parliament and of the Council³ and Council Regulation (EU) 2017/1939⁴, the Union has substantially strengthened the **harmonised legal framework provisions regarding** means available to protect the financial interests of the Union by means of criminal law. The European Public Prosecutor's Office ("EPPO") **is a key Commission priority in the field of criminal justice and anti-fraud policy, having** the power to carry out criminal investigations and bring indictments related to criminal offences affecting the Union budget, as defined in Directive (EU) 2017/1371, in the participating Member States.

³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁴ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The European Anti-Fraud Office ("the Office") conducts administrative investigations into administrative irregularities as well as into criminal behaviour. At the end of its investigations, it may make judicial recommendations to the national prosecution authorities, aimed at enabling indictments and prosecutions in the Member States. In future, in the Member States participating in the EPPO, it will report suspected criminal offences to the EPPO, and will collaborate with it in the context of its investigations.

Amendment

(2) ***To protect the financial interests of the Union***, the European Anti-Fraud Office ("the Office") conducts administrative investigations into administrative irregularities as well as into criminal behaviour. At the end of its investigations, it may make judicial recommendations to the national prosecution authorities, aimed at enabling indictments and prosecutions in the Member States. In future, in the Member States participating in the EPPO, it will report suspected criminal offences to the EPPO, and will collaborate with it in the context of its investigations, ***by offering technical and logistic support for example.***

Amendment 3

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Therefore, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵ should be amended following the adoption of Regulation (EU) 2017/1939. The provisions governing the relationship between the EPPO and the Office in Regulation (EU) 2017/1939 should be reflected and complemented by the rules in Regulation (EU, Euratom) No 883/2013 to ensure the highest level of protection of the financial interests of the Union through synergies between the two bodies.

Amendment

(3) Therefore, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵ should be amended ***and correspondingly adapted*** following the adoption of Regulation (EU) 2017/1939. The provisions governing the relationship between the EPPO and the Office in Regulation (EU) 2017/1939 should be reflected and complemented by the rules in Regulation (EU, Euratom) No 883/2013 to ensure the highest level of protection of the financial interests of the Union through synergies between the two bodies, ***which means implementing the principles of close cooperation, information exchange, complementarity and avoidance of duplication***

⁵ Regulation (EU, EURATOM) No 883/2013 of the European Parliament and

⁵ Regulation (EU, EURATOM) No 883/2013 of the European Parliament and

of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (EURATOM) No 1074/1999 (OJ L 248, 18.9.2013, p.1).

of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (EURATOM) No 1074/1999 (OJ L 248, 18.9.2013, p.1).

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) In view of their common goal to preserve the integrity of the Union budget, the Office and the EPPO should establish and maintain a close relationship based on sincere cooperation and aimed at ensuring the complementarity of their respective mandates and coordination of their action, in particular as regards the scope of the enhanced cooperation for the establishment on the EPPO. Ultimately, the relationship should contribute to ensuring that all means are used to protect the financial interests of the Union and avoiding unnecessary duplication of efforts.

Amendment

(4) In view of their common goal to preserve the integrity of the Union budget, the Office and the EPPO should establish and maintain a close relationship based on sincere ***and efficient*** cooperation and aimed at ensuring the complementarity of their respective mandates and coordination of their action, in particular as regards the scope of the enhanced cooperation for the establishment on the EPPO. Ultimately, the relationship should contribute to ensuring that all means are used to protect ***and secure*** the financial interests of the Union and avoiding unnecessary duplication of ***efforts and ensuring full compliance with procedural guarantees and the rights of the economic operators concerned. In order to foster good cooperation, the EPPO and the Office should establish a regular exchange to identify trends and possible links between different cases in respect of their different purviews. Due to their different mandates, with the EPPO conducting criminal and OLAF administrative investigations, a coordination of their activities might in some cases not be necessary.***

Amendment 5

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Regulation (EU) 2017/1939 requires the Office, as well as all institutions, bodies, offices and agencies of the Union and competent national authorities, to report to the EPPO without undue delay criminal conduct in respect of which the EPPO may exercise its competence. Since the mandate of the Office is to carry out administrative investigations into fraud, corruption and any other illegal activity affecting the financial interest of the Union, it is ideally placed and equipped to act as a natural partner and privileged source of information for the EPPO.

Amendment

(5) Regulation (EU) 2017/1939 requires the Office, as well as all institutions, bodies, offices and agencies of the Union and competent national authorities, to report to the EPPO without undue delay **suspected** criminal conduct in respect of which the EPPO may exercise its competence. Since the mandate of the Office is to carry out administrative investigations into fraud, corruption and any other illegal activity affecting the financial interest of the Union, it is ideally placed and equipped to act as a natural partner and privileged source of information for the EPPO.

Amendment 6

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Elements pointing to possible criminal conduct falling within the competence of the EPPO may, in practice, be present in initial allegations received by the Office or may emerge only in the course of an administrative investigation opened by the Office on the grounds of suspicion of administrative irregularity. In order to comply with its duty to report to the EPPO, the Office should therefore, as the case may be, report criminal conduct at any stage before or during an investigation.

Amendment

(6) Elements pointing to possible criminal conduct falling within the competence of the EPPO may, in practice, be present in initial allegations received by the Office or may emerge only in the course of an administrative investigation opened by the Office on the grounds of suspicion of administrative irregularity. In order to comply with its duty to report to the EPPO, the Office should therefore, as the case may be, **immediately** report criminal conduct at any stage before or during an investigation.

Amendment 7

Proposal for a regulation

Recital 7

Text proposed by the Commission

Amendment

(7) Regulation (EU) 2017/1939 specifies the minimum elements that, as a rule, reports should contain. The Office may need to conduct a preliminary evaluation of allegations to ascertain these elements and collect the necessary information. The Office should conduct this evaluation expeditiously and through means which do not risk jeopardising a possible future criminal investigation. Upon completion of its evaluation, it should report to the EPPO where a suspicion of an offence within its competence is identified.

(7) Regulation (EU) 2017/1939 specifies the minimum elements that, as a rule, reports should contain. The Office may need to conduct a preliminary evaluation of allegations to ascertain these elements and collect the necessary information. The Office should conduct this evaluation expeditiously, ***with no unjustified delay*** and through means which do not risk jeopardising a possible future criminal investigation. Upon completion of its evaluation, it should report to the EPPO, ***with no unjustified delay*** where a suspicion of an offence within its competence is identified.

Amendment 8

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) all reporting or communication from and among the EPPO and the Office should be conducted with due regard to prevailing Union legislation on data protection and confidentiality standards.

(This amendment applies throughout the text)

Justification

Due to the nature of cases treated by the Office and EPPO they are to be held to the highest standards of data protection and confidentiality.

Amendment 9

Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

(8) In consideration of the Office's expertise, the institutions, bodies, offices

(8) ***In order to ensure effective cooperation and*** in consideration of the

and agencies of the Union should have the choice to make use of the Office to conduct such preliminary evaluation of allegations reported to them.

Office's expertise, *experience, mandate and powers*, the institutions, bodies, offices and agencies of the Union should have the choice to make use of the Office to conduct such preliminary evaluation of allegations reported to them.

Amendment 10

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) In conformity with Regulation (EU) 2017/1939, the Office should in principle not open an administrative investigation parallel to an investigation conducted by the EPPO into the same facts. *However*, in certain cases, the protection of the Union's financial interests may require that the Office carry out a complementary administrative investigation before the conclusion of criminal proceedings initiated by the EPPO with the purpose of ascertaining whether precautionary measures are necessary, or financial, disciplinary or administrative action should be taken. These complementary investigations may be appropriate, inter alia, when necessary to recover amounts due to the Union budget subject to specific time-barring rules, when the amounts at risk are very high, or where there is the need to avoid further expenditure in risk situations through administrative measures.

Amendment

(9) In conformity with Regulation (EU) 2017/1939, the Office should not open an administrative investigation parallel to an investigation conducted by the EPPO into the same facts, *except* in certain cases, *when* the protection of the Union's financial interests may require that the Office carry out a complementary administrative investigation before the conclusion of criminal proceedings initiated by the EPPO with the purpose of ascertaining whether precautionary measures are necessary, or financial, disciplinary or administrative action should be taken. These complementary investigations may be appropriate, inter alia, when necessary to recover amounts due to the Union budget subject to specific time-barring rules, when the amounts at risk are very high, or where there is the need to avoid further expenditure in risk situations through administrative measures.

Amendment 11

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) Regulation (EU) 2017/1939 provides that the EPPO may request such complementary investigations to the

Amendment

(10) Regulation (EU) 2017/1939 provides that the EPPO may request such complementary investigations to the

Office. In cases where the EPPO does not request it, such a complementary investigation should also be possible on the initiative of the Office, under certain conditions. In particular, the EPPO should be able to object to the opening or continuation of an investigation by the Office, or to the performance of specific acts of investigation by it. ***The reasons for this objection should be based on the need to protect the effectiveness of the EPPO's investigation and should be proportionate to this aim.*** The Office should refrain from performing the action on which the EPPO raised an objection. If the EPPO does not object, the Office investigation should be conducted in close consultation with the EPPO.

Office. In cases where the EPPO does not request it, such a complementary investigation should also be possible on the initiative of the Office, under certain conditions. In particular, the EPPO should be able to object to the opening or continuation of an investigation by the Office, or to the performance of specific acts of investigation by it, ***if it would counter the effectiveness of the EPPO's own investigation. Such an objection should always be duly justified and*** proportionate. ***In that case, the*** Office should refrain from performing the action on which the EPPO raised an objection. If the EPPO does not object, the Office investigation should be conducted in close consultation with the EPPO.

Amendment 12

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The Office should actively support the EPPO in its investigations. In this regard, the EPPO may request the Office to support or complement its criminal investigations through the exercise of powers under this Regulation. In these cases the Office should perform these operations within the limits of its powers and within the framework provided for in this Regulation.

Amendment

(11) The Office should actively ***and effectively*** support the EPPO in the course of its investigations, ***for example by providing appropriate technical and logistical support.*** In this regard, the EPPO may request the Office to support or complement its criminal investigations through the exercise of ***its mandate and*** powers under this Regulation. In these cases the Office should perform these operations within the limits of its powers and within the framework provided for in this Regulation.

Amendment 13

Proposal for a regulation

Recital 12

Text proposed by the Commission

Amendment

(12) To ensure effective coordination between the Office and the EPPO, information should be exchanged between them on a continuous basis. The exchange of information in the stages prior to the opening of investigations by the Office and the EPPO is particularly relevant to ensure proper coordination between the respective actions and avoid duplication. The Office and the EPPO should specify the modalities and conditions of this exchange of information in their working arrangements.

(12) To ensure effective coordination, ***cooperation and transparency*** between the Office and the EPPO, information should be exchanged between them on a continuous basis. The exchange of information in the stages prior to the opening of investigations by the Office and the EPPO is particularly relevant to ensure proper coordination between the respective actions ***to guarantee complementarity*** and avoid duplication. The Office and the EPPO should specify the modalities and conditions of this exchange of information in their working arrangements, ***including the possibility to exchange comprehensive procedural files***.

Amendment 14

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) The Commission Report on Evaluation of the application of Regulation (EU, Euratom) No 883/2013⁶, adopted on 2 October 2017, concluded that the 2013 changes to the legal framework brought clear improvements, as regards the conduct of investigations, cooperation with partners and the rights of persons concerned. At the same time, the evaluation has highlighted some shortcomings which impact on the effectiveness and efficiency of investigations.

Amendment

(13) The Commission Report on Evaluation of the application of Regulation (EU, Euratom) No 883/2013⁶, adopted on 2 October 2017, concluded that the 2013 changes to the legal framework brought clear improvements, as regards the conduct of investigations, cooperation with partners and the rights of persons concerned. At the same time, the evaluation has highlighted some shortcomings which impact on the effectiveness and efficiency of investigations, ***for example in the exercise of powers and use of OLAF's investigative resources, or as regards uniform conditions for conducting internal investigations, cooperation between Member States and their institutions, on the one hand, and the offices, agencies, bodies and institutions of the EU, on the other, as well differences in the application of Union legal framework provisions***.

⁶ COM(2017) 589. The report was accompanied by an evaluation Staff Working Document, SWD(2017) 332, and an Opinion of the Office's Supervisory Committee, Opinion 2/2017.

⁶ COM(2017) 589. The report was accompanied by an evaluation Staff Working Document, SWD(2017) 332, and an Opinion of the Office's Supervisory Committee, Opinion 2/2017.

Amendment 15

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) These changes do not affect the procedural guarantees applicable in the framework of investigations. The Office is bound to apply the procedural guarantees of Regulation (EU, Euratom) No 883/2013, Council Regulation (Euratom, EC) No 2185/967 and those contained in the Charter of Fundamental Rights of the Union. This framework requires that the Office conducts its investigations objectively, impartially and confidentially, seeking evidence for and against the person concerned, and carries out investigative acts on the basis of a written authorisation and following a legality check. **The** Office must ensure the respect of the rights of persons concerned by **its** investigations, including the presumption of innocence and the right to avoid self-incrimination. When interviewed, persons concerned have inter alia the rights to be assisted by a person of choice, to approve the record of the interview, and to use any of the official languages of the Union. Persons concerned also have the right to comment on the facts of the case before conclusions are drawn.

Amendment

(15) These changes do not affect the procedural guarantees applicable in the framework of investigations. The Office is bound to apply the procedural guarantees of Regulation (EU, Euratom) No 883/2013, Council Regulation (Euratom, EC) No 2185/967 and those contained in the Charter of Fundamental Rights of the Union. This framework requires that the Office conducts its investigations objectively, impartially and confidentially, seeking evidence for and against the person concerned, and carries out investigative acts on the basis of a written authorisation and following a legality check. **Both the Office and the EPPO** must ensure the respect of the rights of persons concerned by **their** investigations, including the presumption of innocence and the right to avoid self-incrimination. When interviewed, persons concerned have inter alia the rights to be assisted by a person of choice, to approve the record of the interview, and to use any of the official languages of the Union. Persons concerned also have the right to comment on the facts of the case before conclusions are drawn.

Amendment 16

Proposal for a regulation

Recital 16 a (new)

(16a) The participating Member States should agree to cooperate with the EPPO and the Office in order to facilitate the efficient conduct of the investigations.

Amendment 17

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) In situations where the Office needs to rely on the assistance of the national competent authorities, particularly in cases where an economic operator opposes an on-the-spot check and inspection, Member States should ensure that the Office's action is effective, and should **provide** the necessary assistance in accordance with the relevant rules of national procedural law.

Amendment

(19) In situations where the Office needs to rely on the assistance of the national competent authorities, particularly in cases where an economic operator opposes an on-the-spot check and inspection, Member States should ensure that the Office's action is effective, and should **guarantee** the necessary assistance in accordance with the relevant rules of national procedural law.

Amendment 18

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) As part of this duty of cooperation, the Office should be able to require economic operators who may have been involved in the matter under investigation, or who might hold relevant information, to supply **relevant** information. When complying with such requests, economic operators are not obliged to admit that they have committed an illegal activity, but they are obliged to answer factual questions **and to provide documents, even if this information may be used to establish against them or against another operator the existence of an illegal activity.**

Amendment

(21) As part of this duty of cooperation, the Office should be able to require economic operators who may have been involved in the matter under investigation, or who might hold relevant information, to supply **such** information. ***As regards the protection of persons reporting breaches of Union law, notably crimes and infringements related to the EU's financial interests, Directive (EU) 2018/... [reference to Directive on the protection of persons reporting on breaches of Union law] applies.*** When complying with such requests, economic operators are not obliged to admit that they have committed

an illegal activity, but they are obliged to answer factual questions.

Amendment 19

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Economic operators should have the possibility to use any of the official languages of the Member State where the check takes place, and the right to be assisted by a person of their choice, including by external legal counsel, during on-the-spot checks and inspections. The presence of a legal counsel should not, however, represent a legal condition for the validity of on-the-spot checks and inspections. To ensure the effectiveness of the on-the-spot checks and inspections, in particular as regards the risk of evidence disappearing, the Office should be able to access to the premises, land, means of transportation or other areas used for business purposes without waiting for the operator to consult its legal counsel. It should only accept a short reasonable delay pending consultation of the legal counsel before starting the conduct of the check. Any such delay must be kept to the strict minimum.

Amendment

(22) Economic operators should have the possibility to use any of the official languages of the Member State where the check takes place, and the right to be assisted by a person of their choice, including by external legal counsel, during on-the-spot checks and inspections. The presence of a legal counsel should not, however, represent a legal condition for the validity of on-the-spot checks and inspections. To ensure the effectiveness of the on-the-spot checks and inspections, in particular as regards the risk of evidence disappearing, the Office should be able to access to the premises, land, means of transportation or other areas used for business purposes without waiting for the operator to consult its legal counsel, ***but without preventing such consultation.*** It should only accept a short reasonable delay pending consultation of the legal counsel before starting the conduct of the check. Any such delay must be kept to the strict minimum, ***provided that the procedural guarantees and the rights of the economic operator concerned are duly respected.***

Amendment 20

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) The Office should dispose of the necessary means to follow the money trail in order to uncover the modus operandi

Amendment

(26) The Office should dispose of the necessary means to follow the money trail in order to uncover the modus operandi

typical of many fraudulent conducts. Today, it is able to obtain banking information relevant for its investigative activity held by credit institutions in a number of Member States, through cooperation with and assistance by the national authorities. To ensure an effective approach throughout the Union, the Regulation should specify the duty of competent national authorities to provide information on bank and payments accounts to the Office, as part of their general duty to assist it. This cooperation should, as a rule, take place through the Financial Intelligence Units in the Member States. When giving this assistance to the Office, the national authorities should act in compliance with the relevant provisions of procedural law provided for in the national legislation of the Member State concerned.

typical of many fraudulent conducts. Today, it is able to obtain banking information relevant for its investigative activity held by credit institutions in a number of Member States, through cooperation with and assistance by the national authorities. To ensure an effective approach throughout the Union, the Regulation should specify the duty of competent national authorities to provide information on bank and payments accounts to the Office, as part of their general duty to assist it. This cooperation should, as a rule, take place through the Financial Intelligence Units in the Member States. When giving this assistance to the Office, the national authorities should act in compliance with the relevant provisions of procedural law provided for in the national legislation of the Member State concerned ***while ensuring proper communication of all information relevant to the investigation to both the EPPO and the Office in a timely manner.***

Amendment 21

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) The early transmission of information by the Office for the purpose of adopting precautionary measures is an essential tool for the protection of the Union's financial interests. In order to ensure close cooperation in this regard between the Office and the institutions, offices, bodies and agencies of the Union, it is appropriate that the latter have the possibility to consult at any time the Office with a view to deciding on any appropriate precautionary measures, including measures for the safeguarding of evidence.

Amendment

(27) The early ***and without delay*** transmission of information by the Office for the purpose of adopting precautionary measures is an essential tool for the protection of the Union's financial interests. In order to ensure close cooperation in this regard between the Office and the institutions, offices, bodies and agencies of the Union, it is appropriate that the latter have the possibility to consult at any time the Office with a view to deciding on any appropriate precautionary measures, including measures for the safeguarding of evidence.

Amendment 22

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) To avoid undue delays that could have detrimental consequences to other investigations, such as some waiver of immunity cases, both the EPPO and the Office should conduct their investigations in a timely manner.

Amendment 23

Proposal for a regulation Recital 29

Text proposed by the Commission

Amendment

(29) The mandate of the Office includes the protection of revenues to the Union budget arising from VAT own resources. In this field, the Office should be able to support and complement the activities of the Member States through investigations conducted in accordance with its mandate, the coordination of national competent authorities in complex, transnational cases, and the support and assistance to Member States and to the EPPO. To this end, the Office should be able to exchange information through the Eurofisc network established by Council Regulation (EU) No 904/2010⁹ in order to promote and facilitate cooperation in the fight against VAT fraud.

(29) The mandate of the Office includes the protection of revenues to the Union budget arising from VAT own resources. In this field, the Office should be able to support and complement the activities of the Member States through investigations conducted in accordance with its mandate, the coordination of national competent authorities in complex, transnational cases, and the support and assistance to Member States and to the EPPO. To this end, the Office should be able to exchange information through the Eurofisc network established by Council Regulation (EU) No 904/2010⁹, ***bearing in mind the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council***^{9a} in order to promote and facilitate cooperation in the fight against VAT fraud.

⁹ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268, 12.10.2010, p. 1–18.

⁹ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268, 12.10.2010, p. 1–18.

^{9a} Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 4a

Text proposed by the Commission

4a. The Office shall establish and maintain a close relationship with the European Public Prosecutor's Office ('the EPPO') established in enhanced cooperation by Council Regulation (EU) 2017/1939¹³. This relationship shall be based on mutual cooperation and on information exchange. It shall aim in particular to ensure that all available means are used to protect the Union's financial interests through the complementarity of their respective mandates and the support provided by the Office to the EPPO.

¹³ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Amendment

4a. The Office shall establish and maintain a close relationship with the European Public Prosecutor's Office ('the EPPO') established in enhanced cooperation by Council Regulation (EU) 2017/1939¹³. This relationship shall be based on mutual cooperation, ***complementarity, avoidance of duplication*** and information exchange. It shall aim in particular to ensure that all available means are used to protect the Union's financial interests through the complementarity of their respective mandates and the support provided by the Office to the EPPO, ***including technical and logistic support***.

¹³ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 2

Text proposed by the Commission

2. On-the-spot checks and inspections shall be conducted in accordance with this Regulation and, to the extent that a matter is not covered by this Regulation, with Regulation (Euratom, EC) No 2185/96.

Amendment

2. On-the-spot checks and inspections shall be conducted in accordance with this Regulation and, to the extent that a matter is not covered by this Regulation, with Regulation (Euratom, EC) No 2185/96 **and all relevant Union legislation on data protection.**

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 3

Text proposed by the Commission

3. Economic operators shall cooperate with the Office in the course of its investigations. The Office may request oral information, including through interviews, and written information from economic operators.

Amendment

3. Economic operators shall **be obliged to** cooperate with the Office in the course of its investigations. The Office may request oral information, including through interviews, and written information from economic operators, **duly documented and processed in accordance with confidentiality standards and data protection legislation.**

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The participating Member States shall ensure that their respective national

authorities guarantee the proper and efficient conduct of the EPPO and Office investigations;

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 5

Text proposed by the Commission

5. In the exercise of these powers, the Office shall comply with the procedural guarantees provided for in this Regulation and in Regulation (Euratom, EC) No 2185/96. In the conduct of an on-the-spot check and inspection, the economic operator concerned shall have the right not to make self-incriminating statements and to be assisted by a person of choice. When making statements during the on the spot checks, the economic operator shall be provided with the possibility to use any of the official languages of the Member State where he is located. The right to be assisted by a person of choice shall not prevent access by the Office to the premises of the economic operator, and shall not unduly delay the start of the check.

Amendment

5. In the exercise of these powers, the Office shall comply with the procedural guarantees provided for in this Regulation and in Regulation (Euratom, EC) No 2185/96, ***as well as Regulation (EU) 2018/1725****. In the conduct of an on-the-spot check and inspection, the economic operator concerned shall have the right not to make self-incriminating statements and to be assisted by a person of choice. When making statements during the on the spot checks, the economic operator shall be ***able*** to use any of the official languages of the Member State where he is located. The right to be assisted by a person of choice ***for a limited and reasonable period*** shall not prevent access by the Office to the premises of the economic operator, and shall not unduly delay the start of the check.

**** Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).***

(This amendment applies throughout the text. Adopting it will necessitate

corresponding changes throughout.)

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 6 – subparagraph 1

Text proposed by the Commission

At the request of the Office, the competent authority of the Member State concerned shall provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

Amendment

At the request of the Office, the competent authority of the Member State concerned shall ***guarantee without delay*** the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The Member State concerned shall ensure, in accordance with Regulation (Euratom, EC) No 2185/96, that the staff of the Office are allowed access to all information and documents relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspection to be carried out effectively and efficiently, and that they are able to assume custody of documents or data to ensure that there is no danger of their disappearance.

Amendment

The Member State concerned shall ensure, in accordance with Regulation (Euratom, EC) No 2185/96, that the staff of the Office are allowed access to all information and documents relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspection to be carried out effectively and efficiently ***and proportionately***, and that they are able to assume custody of documents or data to ensure that there is no danger of their disappearance. ***The fundamental rights, and in particular the right to privacy, shall be fully respected.***

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 7 – subparagraph 2

Text proposed by the Commission

Where the staff of the Office finds that an economic operator resists an on-the-spot check or inspection authorised pursuant to this Regulation, the Member State concerned shall **afford** them the necessary assistance of law enforcement authorities so as to enable the Office to conduct its on-the-spot check or inspection effectively and without undue delay.

Amendment

Where the staff of the Office finds that an economic operator resists an on-the-spot check or inspection authorised pursuant to this Regulation, the Member State concerned shall **guarantee** them the necessary assistance of law enforcement authorities so as to enable the Office to conduct its on-the-spot check or inspection effectively and without undue delay.

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 9

Text proposed by the Commission

9. During an external investigation, the Office may have access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. For that purpose Article 4(2) and (4) shall apply.

Amendment

9. During an external investigation, the Office may have access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, ***whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and, where appropriate, national provisions applicable to judicial proceedings***. For that purpose Article 4(2) and (4) shall apply.

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 2 – subparagraph b

Text proposed by the Commission

(b) the Office may request oral information, including through interviews, and written information from officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members.

Amendment

(b) the Office may request oral information, including through interviews, and written information from officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members, ***thoroughly documented according to regular confidentiality and Union data protection standards.***

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Without prejudice to Article 12d, the Director-General may open an investigation when there is a sufficient suspicion, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.;

Amendment

Without prejudice to Article 12d, the Director-General may open an investigation when there is a sufficient suspicion ***or strong indications***, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.;

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point a

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The competent authorities of the Member States shall ***give*** the necessary assistance to

Amendment

The competent authorities of the Member States shall ***guarantee*** the necessary

enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay.;

assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay.;

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point d

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 6 – subparagraph 2

Text proposed by the Commission

In addition to the first subparagraph, the institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence, and shall inform the Office without delay of such decision.;

Amendment

In addition to the first subparagraph, the institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office ***and without duplicating its efforts***, any appropriate precautionary measures, including measures for the safeguarding of evidence, and shall inform the Office without delay of such decision. ***The Office shall cooperate constructively and in full synergy with the institution body, office or agency concerned;***

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point e

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 8

Text proposed by the Commission

"8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and, ***where appropriate***, the remedial measures envisaged with a view to speeding up the investigation.";

Amendment

"8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and the remedial measures envisaged with a view to speeding up the investigation.";

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a
Regulation (EU, Euratom) No 883/2013
Article 8 – paragraph 1 – subparagraph 1a

Text proposed by the Commission

Where the institutions, bodies, offices and agencies report to the EPPO in accordance with Article 24 of Regulation (EU) 2017/1939, they *may instead* transmit to the Office a copy of the report sent to the EPPO.;

Amendment

Where the institutions, bodies, offices and agencies report to the EPPO in accordance with Article 24 of Regulation (EU) 2017/1939, they *shall* transmit to the Office a copy of the report sent to the EPPO.;

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b
Regulation (EU, Euratom) No 883/2013
Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit to the Office any document or information they hold which relates to an ongoing investigation by the Office.

Amendment

The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit *without delay* to the Office any document or information they hold which relates to an ongoing investigation by the Office.

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point c
Regulation (EU, Euratom) No 883/2013
Article 8 – paragraph 3

Text proposed by the Commission

3. The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the

Amendment

3. The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the

Member States shall transmit to the Office any other document or information considered pertinent which they hold relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.;

Member States shall transmit ***without delay*** to the Office any other document or information considered pertinent which they hold relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.;

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph 5a is added:

"5a. Persons reporting crimes and infringements related to the EU's financial interests, to the Office shall be fully protected, in particular through European legislation regarding the protection of persons reporting on breaches of Union law."

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point a

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The report may be accompanied by recommendations of the Director-General on action to be taken. Those recommendations shall, where appropriate, indicate any disciplinary, administrative, financial and/or judicial action by the institutions, bodies, offices and agencies and by the competent authorities of the Member States concerned, and shall specify in particular the estimated amounts to be recovered, as well as the preliminary

The report may be accompanied by ***documented*** recommendations of the Director-General on action to be taken. Those recommendations shall, where appropriate, indicate any disciplinary, administrative, financial and/or judicial action by the institutions, bodies, offices and agencies and by the competent authorities of the Member States concerned, and shall specify in particular the estimated amounts to be recovered, as

classification in law of the facts established.;

well as the preliminary classification in law of the facts established.;

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Office shall take proper internal measures to ensure the consistent quality of final reports and recommendations, and consider whether there is a need to revise the Guidelines on Investigation Procedures, to address any possible inconsistencies.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Reports drawn up by the Office shall constitute admissible evidence in judicial proceedings before the Union courts and in administrative proceedings in the Union.;

Reports drawn up by the Office shall constitute admissible evidence in judicial proceedings before the Union courts and in administrative proceedings in the Union, ***provided that they have been drawn up lawfully.***

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a

Regulation (EU, Euratom) No 883/2013

Article 12 – paragraph 1 – second sentence

Text proposed by the Commission

Amendment

"It may also transmit information to the

"In order to avoid undue delays that could

institution, body, office or agency concerned.";

have detrimental consequences to other investigations, such as some waiver of immunity cases, it may also transmit, upon request, information to the institution, body, office or agency concerned.";

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 1

Text proposed by the Commission

1. The Office shall report to the EPPO without undue delay any criminal conduct in respect of which the EPPO could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of Regulation (EU) 2017/1939. The report shall be sent at any stage before or during an investigation of the Office.

Amendment

1. The Office shall ***immediately notify and*** report to the EPPO without undue delay any criminal conduct in respect of which the EPPO could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of Regulation (EU) 2017/1939. The report shall be sent at any stage before or during an investigation of the Office.

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 2

Text proposed by the Commission

2. The report shall contain, ***as a minimum, a description of*** the facts, including an assessment of the damage caused or likely to be caused the possible legal qualification and any available information about potential victims, suspects and any other involved persons.

Amendment

2. The report shall contain, ***all*** the facts ***and information known by the Office,*** including an assessment of the damage caused or likely to be caused the possible legal qualification and any available information about potential victims, suspects and any other involved persons.

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 3 – subparagraph 1

Text proposed by the Commission

The Office shall ***not be bound to*** report to the EPPO manifestly ***unsubstantiated*** allegations.

Amendment

The Office shall report to the EPPO ***only substantiated allegations, and shall provide annual data on the number and subject matter of such allegations.***

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12 f a (new)

Text proposed by the Commission

Amendment

Article 12 fa

Simultaneous investigations

- 1. In situations of an investigation in a Member State part of the EPPO and a Member State that is not part of the EPPO, the Office and the EPPO shall conclude a working arrangement pursuant to Article 99 (3) of Council Regulation (EU) 2017/1939. Such a working arrangement shall contain, as a minimum, provisions on the exchange of all information, mutual acceptance of evidence and reports, procedural safeguards equivalent to those listed in Chapter VI in Council Regulation (EU) 2017/1939, exchange of personal data.***
- 2. Member States shall cooperate with both the Office and the EPPO and support them in their activities and respective investigations.***

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations
References	COM(2018)0338 – C8-0214/2018 – 2018/0170(COD)
Committee responsible Date announced in plenary	CONT 5.7.2018
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Date adopted	23.1.2019
Result of final vote	+: 20 –: 2 0: 1
Members present for the final vote	Max Andersson, Marie-Christine Boutonnet, Jean-Marie Cavada, Mady Delvaux, Rosa Estaràs Ferragut, Enrico Gasbarra, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Julia Reda, Evelyn Regner, Pavel Svoboda, József Szájer, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
Substitutes present for the final vote	Luis de Grandes Pascual, Pascal Durand, Angelika Niebler, Virginie Rozière, Tiemo Wölken, Kosma Złotowski
Substitutes under Rule 200(2) present for the final vote	Lola Sánchez Caldentey

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

20	+
ALDE	Jean-Marie Cavada, António Marinho e Pinto
ECR	Sajjad Karim, Kosma Złotowski
GUE/NGL	Lola Sánchez Caldentey
PPE	Rosa Estaràs Ferragut, Luis de Grandes Pascual, Pavel Svoboda, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
S&D	Mady Delvaux, Enrico Gasbarra, Lidia Joanna Geringer de Oedenberg, Sylvia-Yvonne Kaufmann, Evelyn Regner, Tiemo Wölken
VERTS/ALE	Max Andersson, Pascal Durand, Julia Reda

2	-
ENF	Marie-Christine Boutonnet, Gilles Lebreton

1	0
PPE	József Szájer

Key to symbols:

+ : in favour

- : against

0 : abstention

11.1.2019

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Budgetary Control

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations (COM(2018)0338 – C8-0214/2018 – 2018/0170(COD))

Rapporteur for opinion: Monica Macovei

SHORT JUSTIFICATION

In the context of its efforts to enhance the protection of the Union's financial interests, the Commission proposed in May 2018 to amend Regulation (EU, Euratom) 883/2013 concerning investigations by the European Anti-Fraud Office (OLAF). This proposal follows the adoption in July 2017 of the Directive on the fight against fraud to the Union's financial interests by means of criminal law, and the adoption in October 2017 of the Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO").

The amended Regulation should enter into force at the end of 2020, before the EPPO becomes operational.

The overall objective of the proposal is to adapt and strengthen the mechanisms for the protection of the EU's financial interests. This should be achieved primarily by laying the foundations for an efficient cooperation with the EPPO, which should be based on the principles of close cooperation, exchange of information, complementary and non-duplication. While the EPPO will conduct criminal investigations and prosecutions, OLAF will continue conducting only administrative investigations concerning the EU's financial interests, complementing the work of the EPPO and converging towards a common goal.

The Rapporteur is of the opinion that it is of utmost importance to ensure that the future relation between EPPO and OLAF will not generate lengthy disputes about competences. For this purpose, both the EPPO and OLAF should make use of the hit/no hit functions of their

respective case management systems, allowing for an immediate check of relevant information on on-going cases. As the case management system of the EPPO requires a high level of security, the Office should inform a person designated by the EPPO, who should verify with the case management of the EPPO whether the EPPO is already conducting an investigation into the same facts.

The report also states that the Office should immediately notify the EPPO of any criminal conduct in respect of which the EPPO could exercise its competence. The notification may be followed by a report, if requested by the EPPO and prepared in close consultation with the EPPO. This would allow a rapid response from the EPPO and would ensure that any criminal investigations are conducted in full compliance with the procedural safeguards applicable to the EPPO.

In the case of complementary investigations opened or continued at the initiative of the Director General of the Office, the report states that the Office should only be allowed to conduct this investigations upon agreement of the EPPO. In case the EPPO objects to the opening of such investigations, the Office should refrain from performing them.

Finally, the rapporteur considers that the institutions , bodies, offices and agencies should request directly to the EPPO to conduct any evaluation of allegations of criminal nature reported to them, in accordance with Art 24 (1) of the EPPO regulation.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) According to the Commission Report on Evaluation of the application of Regulation (EU, Euratom) No 883/2013 the extent to which Regulation 883/2013 makes national law applicable is not completely clear. Different interpretations of the relevant provisions, and differences in national law, lead to a fragmentation in the exercise of OLAF's powers in the Member States, in some cases hindering OLAF's ability to successfully conduct investigations and ultimately to contribute to the Treaty objective of an effective protection of the financial interests across the Union.

Amendment 2

Proposal for a regulation Recital 4

Text proposed by the Commission

Amendment

(4) In view of their common goal to preserve the integrity of the Union budget, the Office and the EPPO should establish and maintain a close relationship based on sincere cooperation and aimed at ensuring the complementarity of their respective mandates and coordination of their action, in particular as regards the scope of the enhanced cooperation for the establishment

(4) In view of their common goal to preserve the integrity of the Union budget, the Office and the EPPO should establish and maintain a close relationship based on sincere cooperation and aimed at ensuring the complementarity of their respective mandates and coordination of their action, in particular as regards the scope of the enhanced cooperation for the establishment

on the EPPO. Ultimately, the relationship should contribute to ensuring that all means are used to protect the financial interests of the Union and avoiding unnecessary duplication of efforts.

on the EPPO. Ultimately, the relationship should contribute to ensuring that all means are used to protect the financial interests of the Union and avoiding unnecessary duplication of efforts. ***To foster good cooperation, the EPPO and the Office are encouraged to meet on a regular basis, in particular to get an overview of ongoing investigations, so as to identify trends and possible links between cases.***

Amendment 3

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Once the EPPO is established, OLAF's overall mandate should not change, but its operation should be adapted in several ways to the existence of the EPPO. OLAF should remain competent for the administrative investigation of suspected fraudulent and non-fraudulent irregularities within the Union IBOAs and in all Member States, with a view to issuing recommendations to launch judicial, disciplinary, financial or administrative procedures.

Amendment 4

Proposal for a regulation Recital 5

Text proposed by the Commission

Amendment

(5) Regulation (EU) 2017/1939 requires the Office, as well as all institutions, bodies, offices and agencies of the Union and competent national authorities, to report to the EPPO without undue delay criminal conduct in respect of which the EPPO may exercise its competence. Since the mandate of the

(5) Regulation (EU) 2017/1939 requires the Office, as well as all institutions, bodies, offices and agencies of the Union and competent national authorities, to report to the EPPO without undue delay criminal conduct in respect of which the EPPO may exercise its competence. Since the mandate of the

Office is to carry out administrative investigations into fraud, corruption and any other illegal activity affecting the financial interest of the Union, it is ideally placed and equipped to act as a natural partner and privileged source of information for the EPPO.

Office is to carry out administrative investigations into fraud, corruption and any other illegal activity affecting the financial interest of the Union, it is ideally placed and equipped to act as a natural partner and privileged source of information for the EPPO. ***This is especially the case when investigations involve Member States that participate in the enhanced cooperation for the creation of the EPPO and Member States that do not.***

Amendment 5

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) Elements pointing to possible criminal conduct falling within the competence of the EPPO may, in practice, be present in initial allegations received by the Office or may emerge only in the course of an administrative investigation opened by the Office on the grounds of suspicion of administrative irregularity. In order to comply with its duty to report to the EPPO, the Office should therefore, as the case may be, **report** criminal conduct at any stage before or during an investigation.

Amendment

(6) Elements pointing to possible criminal conduct falling within the competence of the EPPO may, in practice, be present in initial allegations received by the Office or may emerge only in the course of an administrative investigation opened by the Office on the grounds of suspicion of administrative irregularity. In order to comply with its duty to report to the EPPO, the Office should therefore, as the case may be, ***immediately notify any criminal conduct. This notification should be followed by a report, which should be sent without undue delay. The notification and the report can be sent*** at any stage before or during an investigation. ***Information received by the office should in any case be reported to the EPPO as early as possible.***

Amendment 6

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) Regulation (EU) 2017/1939 specifies the minimum elements that, as a rule, reports should contain. The Office may need to conduct a preliminary evaluation of allegations to ascertain these elements and collect the necessary information. The Office should conduct this evaluation expeditiously and through means which do not risk jeopardising a possible future criminal investigation. Upon completion of its evaluation, it should report to the EPPO where a suspicion of an offence within its competence is identified.

Amendment

(7) Regulation (EU) 2017/1939 specifies the minimum elements that, as a rule, reports should contain, ***in order to enhance the effectiveness of reporting any criminal case. In addition to these elements, the Office should transmit to the EPPO all relevant information available to it.*** The Office may need to conduct a preliminary evaluation of allegations to ascertain these elements and collect the necessary information. The Office should conduct this evaluation ***as expeditiously as possible*** and through means which do not risk jeopardising a possible future criminal investigation. Upon completion of its evaluation, it should ***immediately*** report to the EPPO where a suspicion of an offence within its competence is identified.

Amendment 7

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) In consideration of the Office's expertise, the institutions, bodies, offices and agencies of the Union should have the choice to make use of the Office to conduct such preliminary evaluation of allegations reported to them.

Amendment

(8) In consideration of the Office's expertise, the institutions, bodies, offices and agencies of the Union should have the choice to make use of the Office to conduct such preliminary evaluation of allegations reported to them, ***in cases where they are not able to perform this assessment. This should not delay timely reporting to the EPPO.***

Amendment 8

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) In conformity with Regulation (EU)

Amendment

(9) In conformity with Regulation (EU)

2017/1939, the Office should in principle not open an administrative investigation parallel to an investigation conducted by the EPPO into the same facts. However, in certain cases, the protection of the Union's financial interests may require that the Office carry out a complementary administrative investigation before the conclusion of criminal proceedings initiated by the EPPO with the purpose of ascertaining whether precautionary measures are necessary, or financial, disciplinary or administrative action should be taken. These complementary investigations may be appropriate, inter alia, when necessary to recover amounts due to the Union budget subject to specific time-barring rules, when the amounts at risk are very high, or where there is the need to avoid further expenditure in risk situations through administrative measures.

2017/1939, the Office should in principle not open an administrative investigation parallel to an investigation conducted by the EPPO into the same facts. However, in certain cases, the protection of the Union's financial interests may require that the Office carry out a complementary administrative investigation before the conclusion of criminal proceedings initiated by the EPPO with the purpose of ascertaining whether precautionary measures are necessary, or financial, disciplinary or administrative action should be taken. These complementary investigations may be appropriate, inter alia, when necessary to recover amounts due to the Union budget subject to specific time-barring rules, when the amounts at risk are very high, or where there is the need to avoid further expenditure in risk situations through administrative measures. ***Considering their complementary nature, such investigations should only be carried out upon agreement of the EPPO.***

Amendment 9

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Regulation (EU) 2017/1939 provides that the EPPO may request such complementary investigations to the Office. In cases where the EPPO does not request it, such a complementary investigation should also be possible on the initiative of the Office, under ***certain*** conditions. In particular, the EPPO should be able to object to the opening or continuation of an investigation by the Office, or to the performance of specific acts of investigation by it. The reasons for this objection should be based on the need to protect the effectiveness of the EPPO's investigation and should be proportionate to this aim. The Office should refrain from

Amendment

(10) Regulation (EU) 2017/1939 provides that the EPPO may request such complementary investigations to the Office. In cases where the EPPO does not request it, such a complementary investigation should also be possible on the initiative of the Office, under ***specific*** conditions, ***after consultation with the EPPO***. In particular, the EPPO should be able to object to the opening or continuation of an investigation by the Office, or to the performance of specific acts of investigation by it. The reasons for this objection should be based on the need to protect the effectiveness of the EPPO's investigation and should be proportionate

performing the action on which the EPPO raised an objection. If the EPPO **does not object**, the Office investigation should be conducted in close consultation with the EPPO.

to this aim. The Office should refrain from performing the action on which the EPPO raised an objection. If the EPPO **agrees to the request**, the Office investigation should be conducted in close consultation with the EPPO.

Amendment 10

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) To ensure effective coordination between the Office and the EPPO, information should be exchanged between them on a continuous basis. The exchange of information in the stages prior to the opening of investigations by the Office and the EPPO is particularly relevant to ensure proper coordination between the respective actions and avoid duplication. The Office and the EPPO should specify the modalities and conditions of this exchange of information in their working arrangements.

Amendment

(12) To ensure effective coordination between the Office and the EPPO, information should be exchanged between them on a continuous basis. The exchange of information in the stages prior to the opening of investigations by the Office and the EPPO is particularly relevant to ensure proper coordination between the respective actions and avoid duplication ***For this purpose, the Office and the EPPO should make use of the hit/no hit functions of their respective case management systems.*** The Office and the EPPO should specify the modalities and conditions of this exchange of information in their working arrangements. ***The Director-General of the Office and the European Chief Public Prosecutor should meet on a regular basis to discuss matters of common interest.***

Amendment 11

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) In situations where the Office needs to rely on the assistance of the national competent authorities, particularly in cases where an economic operator opposes an on-the-spot check and inspection, Member States should ensure that the Office's action

Amendment

(19) In situations where the Office needs to rely on the assistance of the national competent authorities, particularly in cases where an economic operator opposes an on-the-spot check and inspection, Member States should ensure that the Office's action

is effective, and should provide the necessary assistance in accordance with the relevant rules of national procedural law.

is effective, and should provide *without undue delay* the necessary assistance in accordance with the relevant rules of national procedural law.

Amendment 12

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Persons reporting crimes and infringements related to the EU's financial interests to the Office should be fully protected, in particular through the relevant EU provisions on the protection of whistleblowers.

Amendment 13

Proposal for a regulation Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) The competent authorities of the Member States shall give the necessary assistance to the Office to fulfil their tasks. When the Office makes judicial recommendations to the national prosecution authorities of a Member State and no follow-up is made, the Member State should justify its decision to the Office. Once a year, the Office should draw up a report in order to give an account of the assistance provided by the Member States and on the follow-up of the judicial recommendations.

Amendment 14

Proposal for a regulation Recital 32 b (new)

Text proposed by the Commission

Amendment

(32b) A fundamental rights officer should be appointed among the members of the Supervisory Committee. The fundamental rights officer should monitor the compliance of the Office with fundamental rights and procedural guarantees.

Amendment 15

Proposal for a regulation Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) By 31 December 2022, the Commission should evaluate the application of this Regulation and in particular the efficiency of the cooperation between the Office and the EPPO.

Amendment 16

Proposal for a regulation Article 1 – paragraph 1 – point -1 (new) Regulation (EU, Euratom) No 883/2013 Article 1 – paragraph 3 – point d

Present text

Amendment

(d) Regulation (EC) No 45/2001.

(-1) in Article 1, paragraph 3, point (d) is replaced by the following:

"(d) Regulation (EC) No 45/2001 and Regulation (EU) 2016/679."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883>)

Amendment 17

Proposal for a regulation Article 1 – paragraph 1 – point 3 Regulation (EU, Euratom) No 883/2013 Article 3 – paragraph 2

Text proposed by the Commission

2. On-the-spot checks and inspections shall be conducted in accordance with this Regulation and, to the extent that a matter is not covered by this Regulation, with Regulation (Euratom, EC) No 2185/96.

Amendment

2. On-the-spot checks and inspections **may be conducted without prior notice and** shall be conducted in accordance with this Regulation and, to the extent that a matter is not covered by this Regulation, with Regulation (Euratom, EC) No 2185/96.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 6 – subparagraph 1

Text proposed by the Commission

At the request of the Office, the competent authority of the Member State concerned shall provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

Amendment

At the request of the Office, the competent authority of the Member State concerned shall, **without undue delay**, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The Member State concerned shall ensure, in accordance with Regulation (Euratom, EC) No 2185/96, that the staff of the Office are allowed access to all information and documents relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspection to be carried out effectively and efficiently, and that they are able to assume custody of documents or data to ensure that

Amendment

The Member State concerned shall ensure, in accordance with Regulation (Euratom, EC) No 2185/96, that the staff of the Office are allowed access to all information and documents relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspection to be carried out effectively and efficiently, and that they are able to assume custody of documents or data **during the**

there is no danger of their disappearance.

time necessary to ensure that there is no danger of their disappearance.

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 9

Text proposed by the Commission

9. During an external investigation, the Office may have access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. For that purpose Article 4(2) and (4) shall apply.

Amendment

9. During an external investigation, the Office may have access *without undue delay* to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. For that purpose Article 4(2) and (4) shall apply.

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU, Euratom) No 883/2013

Article 3 – paragraph 10 – subparagraph 1

Text proposed by the Commission

Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.

Amendment

Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned. *Upon request, the competent authorities of the Member States concerned and/or the institution, body,*

office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 2 – point a

Text proposed by the Commission

(a) the Office shall have the right of immediate and unannounced access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, and to their premises. The Office shall be empowered to inspect the accounts of the institutions, bodies, offices and agencies. The Office may take a copy of, and obtain extracts from, any document or the contents of any data medium held by the institutions, bodies, offices and agencies and, if necessary, assume custody of such documents or data to ensure that there is no danger of their disappearance;

Amendment

(a) the Office shall have the right of immediate and unannounced access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, and to their premises. The Office shall be empowered to inspect the accounts of the institutions, bodies, offices and agencies. The Office may take a copy of, and obtain extracts from, any document or the contents of any data medium held by the institutions, bodies, offices and agencies and, if necessary, assume custody of such documents or data **during the time necessary** to ensure that there is no danger of their disappearance;

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b

Regulation (EU, Euratom) No 883/2013

Article 4 – paragraph 3

Text proposed by the Commission

3. In accordance with Article 3, the Office may carry out on-the-spot checks and inspections at the premises of economic operators in order to obtain access to information relevant to the matter under internal investigation.;

Amendment

3. In accordance with Article 3, the Office may carry out, **without prior notice**, on-the-spot checks and inspections at the premises of economic operators in order to obtain access to information relevant to the matter under internal investigation.;

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(aa) in paragraph 2, a new subparagraph is inserted after the first subparagraph:

“An external investigation requested by the EPPO to the Office shall be opened without delay in accordance with Article 12e.”

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0883&from=EN>)

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a b (new)

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph 2 – subparagraph 2

Present text

Amendment

The decision to open an internal investigation shall be taken by the Director-General, acting on his own initiative or following a request from the institution, body, office or agency within which the investigation is to be conducted or from a Member State.

(ab) in paragraph 2, the second subparagraph is replaced by the following:

"The decision to open an internal investigation shall be taken by the Director-General, acting on his own initiative or following a request from **the EPPO or** the institution, body, office or agency within which the investigation is to be conducted or from a Member State."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883>)

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 3 – subparagraph 2

The institutions, bodies, offices and agencies shall ensure that their officials, other servants, members, heads and staff members provide the necessary assistance to enable the staff of the Office to fulfil their tasks effectively.

(aa) in paragraph 3, the second subparagraph is replaced by the following:

"The institutions, bodies, offices and agencies shall ensure that their officials, other servants, members, heads and staff members provide the necessary assistance to enable the staff of the Office to fulfil their tasks ***in accordance with this Regulation effectively and without undue delay.***"

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883>)

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point d

Regulation (EU, Euratom) No 883/2013

Article 7 – paragraph 6 – subparagraph 2

Text proposed by the Commission

In addition to the first subparagraph, the institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence, and shall inform the Office without delay of such decision.;

Amendment

In addition to the first subparagraph, the institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence, and shall inform the Office without delay of such decision. ***The Office shall cooperate constructively and in full synergy with the institution body, office or agency concerned;***

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 1 – subparagraph 1a

Text proposed by the Commission

Where the institutions, bodies, offices and agencies report to the EPPO in accordance with Article 24 of Regulation (EU) 2017/1939, they may instead transmit to the Office a copy of the report sent to the EPPO.

Amendment

Where the institutions, bodies, offices and agencies report to the EPPO in accordance with Article 24 of Regulation (EU) 2017/1939, they may instead transmit to the Office a copy of the report sent to the EPPO **and provide notice to the EPPO of such a transmission;**

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b
Regulation (EU, Euratom) No 883/2013
Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit to the Office any document or information they hold which relates to an ongoing investigation by the Office.

Amendment

The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall, at the request of the Office or on their own initiative, transmit **without delay** to the Office any document or information they hold which relates to an ongoing investigation by the Office.

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point b
Regulation (EU, Euratom) No 883/2013
Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Prior to the opening of an investigation, they shall transmit, at the request of the Office, any document or information they hold which is necessary to assess the allegations or to apply the criteria for opening an investigation as set out in Article 5(1).;

Amendment

Prior to the opening of an investigation, they shall transmit, at the request of the Office **or on their own initiative**, any document or information they hold which is necessary to assess the allegations or to apply the criteria for opening an investigation as set out in Article 5(1).;

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point c

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 3

Text proposed by the Commission

3. The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall transmit to the Office any other document or information considered pertinent which they hold relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.;

Amendment

3. The institutions, bodies, offices and agencies and, unless prevented by national law, the competent authorities of the Member States shall transmit ***without delay*** to the Office, ***at the request of the Office or on their own initiative***, any other document or information considered pertinent which they hold relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union;

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 9 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph is added:
"5a. The investigative acts carried out by OLAF are subject to judicial review by the Court of Justice pursuant to Article 263 TFEU."

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a a (new)

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 5 – subparagraph 1

Present text

Amendment

(aa) in paragraph 5, the first subparagraph is replaced by the

The Director-General shall ensure that any information provided to the public is given neutrally and impartially, and that its disclosure respects the confidentiality of investigations and complies with the principles set out in this Article and in Article 9(1).

following:

"The Director-General shall ensure that any information provided to the public is given neutrally and impartially, and that its disclosure respects the ***data protection requirements***, the confidentiality of investigations and complies with the principles set out in this Article and in Article 9(1)."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883>)

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point a b (new)

Regulation (EU, Euratom) No 883/2013

Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(ab) the following paragraph is added:

"5a. Persons reporting crimes and infringements related to the EU's financial interests to the Office shall be fully protected, in particular through European legislation regarding the protection of persons reporting on breaches of Union law."

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point a

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The report ***may*** be accompanied by recommendations of the Director-General on action ***to*** be taken. Those recommendations shall, where appropriate, indicate any disciplinary, administrative, financial and/or judicial action by the institutions, bodies, offices and agencies

The report ***shall*** be accompanied by ***well documented*** recommendations of the Director-General on ***whether or not*** action ***should*** be taken. Those recommendations shall, where appropriate, indicate any disciplinary, administrative, financial and/or judicial action by the institutions,

and by the competent authorities of the Member States concerned, and shall specify in particular the estimated amounts to be recovered, as well as the preliminary classification in law of the facts established.;

bodies, offices and agencies and by the competent authorities of the Member States concerned, and shall specify in particular the estimated amounts to be recovered, as well as the preliminary classification in law of the facts established;

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Office shall take proper internal measures to ensure the consistent quality of final reports and recommendations, and consider whether there is a need to revise the Guidelines on Investigation Procedures, to address any possible inconsistencies.

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point b

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Reports drawn up by the Office shall constitute admissible evidence in criminal proceedings of the Member State in which their use proves necessary in the same way and under the same conditions as administrative reports drawn up by national administrative inspectors. They shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors and shall have the same evidentiary value as such reports.

Reports drawn up by the Office shall constitute admissible evidence in criminal proceedings of the Member State in which their use proves necessary in the same way and under the same conditions as administrative reports drawn up by national administrative inspectors. They shall be subject to the same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors and shall have the same evidentiary value as such reports. ***In that regard, such reports constitute acts that might adversely affect the persons***

concerned.

Justification

In line with the recommendations of the European Court of Auditors, it should be stipulated that the reports of the Office can adversely affect individuals, to ensure the right of those individuals to an effective remedy.

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point c a (new)

Regulation (EU, Euratom) No 883/2013

Article 11 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

(ca) the following paragraph is added:

“8a. Once a year, a report shall be drawn up, under the authority of the Director-General. That report shall give an account of the follow-up given by the competent authorities of the Member States following requests of assistance made by the Office pursuant to this Regulation. That report shall also give an account of the judicial follow-up made by the competent authorities of the Member States on the basis of the results of the investigations made by the Office. The report shall respect data protection requirements and the confidentiality of investigations and shall be transmitted to the European Parliament, the Council and the Commission.”

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12a – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall, for the purposes of this Regulation, designate a

1. Member States shall, for the purposes of this Regulation, designate a

service ('the anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, in accordance with national law, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation.

service ('the anti-fraud coordination service') to facilitate **quick and** effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, in accordance with national law, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation.

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12a – paragraph 2

Text proposed by the Commission

2. Upon request of the Office, before a decision has been taken as to whether or not to open an investigation, as well as during or after an investigation, the anti-fraud coordination services shall provide, obtain or coordinate the necessary assistance for the Office to carry out its tasks effectively. That assistance shall include in particular the assistance from the national competent authorities provided in accordance with Article 3(6) and (7), Article 7(3) and Article 8(2) and (3).

Amendment

2. Upon request of the Office **or on their own initiative**, before a decision has been taken as to whether or not to open an investigation, as well as during or after an investigation, the anti-fraud coordination services shall provide, obtain or coordinate the necessary assistance for the Office to carry out its tasks effectively. That assistance shall include in particular the assistance from the national competent authorities provided in accordance with Article 3(6) and (7), Article 7(3) and Article 8(2) and (3).

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 1

Text proposed by the Commission

1. The Office shall **report to** the EPPO **without undue delay any** criminal conduct in respect of which the EPPO **could exercise** its competence in accordance with **Article 22 and Article 25(2) and (3)** of

Amendment

1. The Office shall **immediately notify** the EPPO **on any indication of a** criminal conduct in respect of which the EPPO **exercises** its competence in accordance with **Articles 22 and 25** of Regulation (EU)

Regulation (EU) 2017/1939. The report shall be sent at any stage before or during an investigation of the Office.

2017/1939. ***This notification shall be followed by a report sent without undue delay. The notification and the report shall be sent at any stage before or during an investigation of the Office. The EPPO may request the Office to send additional information setting a deadline for this transmission.***

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 2

Text proposed by the Commission

2. The report shall contain, as a minimum, a description of the facts, including an assessment of the damage caused or likely to be caused the possible legal qualification and any available information about potential victims, suspects and any other involved persons.

Amendment

2. The report shall contain, as a minimum, a description of the facts ***and information known by the office***, including an assessment of the damage caused or likely to be caused, ***where the Office has such information***, the possible legal qualification and any available information about potential victims, suspects and any other involved persons. ***Together with the report, the Office shall transmit to the EPPO any other relevant information, on the case, in its possession.***

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 3 – subparagraph 2

Text proposed by the Commission

In cases where the information received by the Office does not include the elements set out in paragraph 2, and there is no investigation of the Office ongoing, the Office may conduct a preliminary evaluation of the allegations. The evaluation shall be carried out

Amendment

In cases where the information received by the Office does not include the elements set out in paragraph 2, and there is no investigation of the Office ongoing, the Office may conduct a preliminary evaluation of the allegations. The evaluation shall be carried out ***as***

expeditiously, and in any case within two months of receipt of the information. In the course of this evaluation, Article 6 and Article 8(2) shall apply.

expeditiously **as possible**, and in any case within two months of receipt of the information. In the course of this evaluation, Article 6 and Article 8(2) shall apply. ***The Office shall refrain from performing any measures that may jeopardise any possible future investigations of the EPPO.***

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 3 – subparagraph 3

Text proposed by the Commission

Following this preliminary evaluation, the Office shall report to the EPPO if the conditions set out in paragraph 1 are met.

Amendment

Following this preliminary evaluation, ***even if not all elements set out in paragraph 2 have been gathered***, the Office shall ***immediately*** report to the EPPO if the conditions set out in paragraph 1 are met.

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12c – paragraph 4 – subparagraph 2

Text proposed by the Commission

For the purpose of applying the first subparagraph, the Office shall verify in accordance with Article 12g(2) ***via the EPPO's case management system*** whether the EPPO is conducting an investigation. The Office may request further information from the EPPO. The EPPO shall reply to such a request ***within 10 working days***.

Amendment

For the purpose of applying the first subparagraph, the Office shall verify in accordance with Article 12g(2) whether the EPPO is conducting an investigation. The Office may request further information from the EPPO. The EPPO shall reply to such a request ***without undue delay***.

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 12
Regulation (EU, Euratom) No 883/2013
Article 12c – paragraph 5

Text proposed by the Commission

5. The institutions, bodies, offices and agencies may request the Office to conduct a preliminary evaluation of allegations reported to them. For the purposes of those requests, paragraph 3 shall apply.

Amendment

5. The institutions, bodies, offices and agencies may request the Office to conduct a preliminary evaluation of allegations reported to them. For the purposes of those requests, paragraph 3 shall apply. ***This shall not delay the timely reporting to the EPPO.***

Amendment 47

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EU, Euratom) No 883/2013
Article 12d – paragraph 2

Text proposed by the Commission

For the purpose of applying the first subparagraph, the Office shall verify in accordance with Article 12g(2) ***via the EPPO's case management system*** whether the EPPO is conducting an investigation. The Office may request further information from the EPPO. The EPPO shall reply to such a request ***within 10 working days***.

Amendment

For the purpose of applying the first subparagraph, the Office shall verify in accordance with Article 12g(2) whether the EPPO is conducting an investigation. The Office may request further information from the EPPO. The EPPO shall reply to such a request ***without undue delay***.

Amendment 48

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EU, Euratom) No 883/2013
Article 12e – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The standards of the procedural guarantees stipulated in Council Regulation (EU) 2017/1939 shall also apply to evidence collected by the Office in these cases. The Court of Justice of the European Union remains competent to

review procedural acts conducted by OLAF on behalf of the EPPO, if those acts are intended to produce legal effects vis-à-vis third parties.

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 1 – subparagraph 1

Text proposed by the Commission

In duly justified cases where the EPPO is conducting an investigation, *where* the Director-General considers that an investigation should be opened in accordance with the mandate of the Office with a view to facilitating the adoption of precautionary measures or of financial, disciplinary or administrative action, the Office shall inform the EPPO *in writing*, specifying the nature *and purpose* of the *investigation*.

Amendment

Where the EPPO is conducting an investigation, *if* the Director-General, *in duly justified cases*, considers that an investigation *by the Office* should *also* be opened in accordance with the mandate of the Office with a view to facilitating the adoption of precautionary measures or of financial, disciplinary or administrative action, the Office shall inform the EPPO *and request its agreement. For that purpose, the Office shall transmit a written request*, specifying the nature of the *measure(s) and the person(s) concerned*.

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 1 – subparagraph 2

Text proposed by the Commission

Within **30** days after receipt of this information the EPPO *may* object to the opening of an investigation or to the performance of certain acts pertaining to the investigation, where necessary to avoid jeopardising its own investigation or prosecution, and for as long as these grounds persist. The EPPO shall notify to the Office without undue delay when the

Amendment

Within **10 working** days after receipt of this information the EPPO *shall either agree or* object to the opening of an investigation or to the performance of certain *any* acts pertaining to the investigation, where necessary to avoid jeopardising its own investigation or prosecution, and for as long as these grounds persist. *If the EPPO objects to the*

grounds for the objection cease to apply.

request, the Office shall not take such action. In exceptional cases, due to the complexity of investigations, the EPPO may inform the Office of the need to extend this deadline by 20 working days.
The EPPO shall notify to the Office without undue delay when the grounds for the objection cease to apply.

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 1 – subparagraph 3

Text proposed by the Commission

In the event that the EPPO does not object within the time period of the previous subparagraph, the Office may open an investigation, and it shall conduct it in close consultation with the EPPO.

Amendment

If the EPPO agrees with the request, the Office shall take such action in close consultation with the EPPO.

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12f – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where the EPPO becomes aware, through the case management system checking mechanism, referred to in Article 12g that the Office is conducting an investigation into the same facts, which the EPPO also wishes to investigate, it shall inform the Office within 24 hours. In such a case, the Office shall close its investigation, unless the EPPO requests the Office to support or complement its activities in accordance to Article 12e.

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12g – paragraph 1

Text proposed by the Commission

1. Where necessary to facilitate the cooperation with the EPPO as set out in Article 1(4a), the Office shall agree with the EPPO on administrative arrangements. Such working arrangements may establish practical details for the exchange of information, including personal data, operational, strategic or technical information and classified information. They shall include detailed arrangements on the continuous exchange of information during the receipt and verification of allegations by both offices.

Amendment

1. Where necessary to facilitate the cooperation with the EPPO as set out in Article 1(4a), the Office shall agree with the EPPO on administrative arrangements. Such working arrangements may establish practical details for the exchange of information, including personal data, operational, strategic or technical information and classified information. They shall include detailed arrangements on the continuous exchange of information during the receipt and verification of allegations by both offices. ***The Director-General of the Office and the European Chief Public Prosecutor shall meet at least once year to discuss matters of common interest.***

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12g – paragraph 2

Text proposed by the Commission

2. The Office shall have indirect access to information in the EPPO's case management system on the basis of a hit/no hit system. Whenever a match is found between data entered into the case management system by the Office and data held by the EPPO, the fact that there is a match shall be communicated to both the EPPO and the Office. The Office shall take appropriate measures to enable the EPPO to have access to information in its case management system on the basis of a

Amendment

2. The Office shall have indirect access to information in the EPPO's case management system on the basis of a hit/no hit system. Whenever a match is found between data entered into the case management system by the Office and data held by the EPPO, the fact that there is a match shall be ***automatically*** communicated to both the EPPO and the Office. The Office shall take appropriate measures to enable the EPPO to have ***a quick*** access to information in its case

hit/no-hit system.;

management system on the basis of a hit/no-hit system. *Each indirect access to information in EPPO's case management system by OLAF shall be carried out only for and in so far as necessary for the performance of OLAF's functions as defined under this Regulation and shall be duly motivated and validated via an internal procedure set up by OLAF. The Office shall keep a log of all instances of access to the EPPO's case management system. The results obtained from such access shall be subject to the rules on confidentiality and data protection referred to in Article 10.*

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 12 a (new)

Regulation (EU, Euratom) No 883/2013

Article 15 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

(12a) in Article 15 the following paragraph is added:

"9a. The Supervisory Committee shall appoint a fundamental rights officer among its members. The fundamental rights officer shall monitor the compliance of the Office with fundamental rights and procedural guarantees. The fundamental rights officer shall address opinions and, where appropriate, recommendations to the Supervisory Committee on the activities and investigations conducted by the Office. The opinions and the recommendations of the fundamental rights officer shall be included in the reports of the Supervisory Committees pursuant to paragraph 9."

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point a

Regulation (EU, Euratom) No 883/2013

Article 16 – paragraph 1 – third sentence

Text proposed by the Commission

Representatives of the Court of Auditors, **the EPPO**, Eurojust and/or Europol may be invited to attend on an ad hoc basis upon request of the European Parliament, the Council, the Commission, the Director-General or the Supervisory Committee.;

Amendment

The Chief European Public Prosecutor is invited to participate in the exchange of views. Representatives of the Court of Auditors, Eurojust and/or Europol may be invited to attend on an ad hoc basis upon request of the European Parliament, the Council, the Commission, the Director-General or the Supervisory Committee.;

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point a (new)

Regulation (EU, Euratom) No 883/2013

Article 17 – paragraph 4

Present text

4. The Director-General shall report regularly to the European Parliament, the Council, the Commission and the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate, national law applicable to judicial proceedings.

Amendment

(aa) paragraph 4 is replaced by the following:

"4. The Director-General shall report regularly to the European Parliament, the Council, the Commission, **the EPPO** and the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations **and data protection principles**, the legitimate rights of the persons concerned and of informants, and, where appropriate, national law applicable to judicial proceedings."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883>)

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 14 a (new)

Regulation (EU, Euratom) No 883/2013

PE626.774v02-00

148/153

RR1180550EN.docx

Article 19

Present text

Article 19

Evaluation report

By 2 October 2017, the Commission shall submit to the European Parliament and the Council an evaluation report on the application of this Regulation. That report shall be accompanied by an opinion of the Supervisory Committee and shall state whether there is a need to amend this Regulation.

Amendment

(14a) Article 19 is replaced by the following:

"Article 19

Evaluation report

By 31 December 2022, the Commission shall submit to the European Parliament and the Council an evaluation report on the application of this Regulation. ***The report shall evaluate in particular the efficiency of the cooperation between the Office and the EPPO.*** That report shall be accompanied by an opinion of the Supervisory Committee and shall state whether there is a need to amend this Regulation."

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0883>)

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations
References	COM(2018)0338 – C8-0214/2018 – 2018/0170(COD)
Committee responsible Date announced in plenary	CONT 5.7.2018
Opinion by Date announced in plenary	LIBE 5.7.2018
Rapporteur Date appointed	Monica Macovei 3.9.2018
Discussed in committee	19.11.2018 10.1.2019
Date adopted	10.1.2019
Result of final vote	+: 40 -: 4 0: 1
Members present for the final vote	Asim Ademov, Martina Anderson, Heinz K. Becker, Monika Beňová, Michał Boni, Caterina Chinnici, Rachida Dati, Frank Engel, Laura Ferrara, Romeo Franz, Ana Gomes, Nathalie Griesbeck, Sylvie Guillaume, Monika Hohlmeier, Sophia in 't Veld, Cécile Kashetu Kyenge, Monica Macovei, Roberta Metsola, Claude Moraes, Ivari Padar, Judith Sargentini, Birgit Sippel, Csaba Sógor, Helga Stevens, Traian Ungureanu, Bodil Valero, Marie-Christine Vergiat, Udo Voigt, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský, Auke Zijlstra
Substitutes present for the final vote	Dennis de Jong, Anna Hedh, Lívia Járóka, Marek Jurek, Jean Lambert, Jeroen Lenaers, Andrejs Mamikins, Angelika Mlinar, Maite Pagazaurtundúa Ruiz, Christine Revault d'Allonnes Bonnefoy
Substitutes under Rule 200(2) present for the final vote	Fernando Ruas, Adam Szejnfeld

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

40	+
ALDE	Nathalie Griesbeck, Sophia in 't Veld, Angelika Mlinar, Maite Pagazaurtundúa Ruiz, Cecilia Wikström
ECR	Monica Macovei, Helga Stevens
EFDD	Laura Ferrara
GUE/NGL	Martina Anderson, Marie-Christine Vergiat
PPE	Asim Ademov, Heinz K. Becker, Michał Boni, Rachida Dati, Frank Engel, Monika Hohlmeier, Livia Járóka, Jeroen Lenaers, Roberta Metsola, Fernando Ruas, Csaba Sógor, Adam Szejnfeld, Traian Ungureanu, Tomáš Zdechovský
S&D	Monika Beňová, Caterina Chinnici, Ana Gomes, Sylvie Guillaume, Anna Hedh, Cécile Kshetu Kyenge, Andrejs Mamikins, Claude Moraes, Ivari Padar, Christine Revault d'Allonnes Bonnefoy, Birgit Sippel, Josef Weidenholzer
VERTS/ALE	Romeo Franz, Jean Lambert, Judith Sargentini, Bodil Valero

4	-
ECR	Marek Jurek, Kristina Winberg
ENF	Auke Zijlstra
NI	Udo Voigt

1	0
GUE/NGL	Dennis de Jong

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations	
References	COM(2018)0338 – C8-0214/2018 – 2018/0170(COD)	
Date submitted to Parliament	24.5.2018	
Committee responsible Date announced in plenary	CONT 5.7.2018	
Committees asked for opinions Date announced in plenary	JURI 5.7.2018	LIBE 5.7.2018
Rapporteurs Date appointed	Ingeborg Gräßle 8.6.2018	
Date adopted	11.3.2019	
Result of final vote	+: 19 -: 1 0: 2	
Members present for the final vote	Inés Ayala Sender, Jonathan Bullock, Martina Dlabajová, Luke Ming Flanagan, Ingeborg Gräßle, Wolf Klinz, Arndt Kohn, Georgi Pirinski, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Indrek Tarand, Marco Valli, Tomáš Zdechovský, Joachim Zeller	
Substitutes present for the final vote	Richard Ashworth, Louis-Joseph Manscour, Julia Pitera, Miroslav Poche, Miguel Viegas	
Substitutes under Rule 200(2) present for the final vote	Martina Werner	
Date tabled	22.3.2019	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

19	+
ALDE	Martina Dlabajová, Wolf Klinz
EFDD	Marco Valli
PPE	Richard Ashworth, Ingeborg Gräßle, Julia Pitera, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Tomáš Zdechovský, Joachim Zeller
S&D	Inés Ayala Sender, Arndt Kohn, Louis-Joseph Manscour, Georgi Pirinski, Miroslav Poche, Martina Werner
VERTS/ALE	Bart Staes, Indrek Tarand

1	-
EFDD	Jonathan Bullock

2	0
GUE/NGL	Luke Ming Flanagan, Miguel Viegas

Key to symbols:

+ : in favour

- : against

0 : abstention