



**2018/0170(COD)**

26.11.2018

# **AMENDMENTS**

## **17 - 87**

**Draft opinion**  
**Jean-Marie Cavada**  
(PE630.425v01-00)

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

Proposal for a regulation  
(COM(2018)0338 – C8-0214/2018 – 2018/0170(COD))



**Amendment 17**  
**Gilles Lebreton**

**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 Council<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, 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.***

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<sup>3</sup> ***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).***

<sup>4</sup> ***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) ***Rejects 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.***

Or. fr

*Justification*

*This proposal offers no added value, as indicated by the European Court of Auditors in its Opinion No 8/2018.*

**Amendment 18**  
**Daniel Buda**

**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 Council<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, 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.

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<sup>3</sup> 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).

<sup>4</sup> 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 Council<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, 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.

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<sup>3</sup> 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).

<sup>4</sup> 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).

Or. ro

**Amendment 19**  
**Daniel Buda**

**Proposal for a regulation**  
**Recital 2**

*Text proposed by the Commission*

(2) The European Anti-Fraud Office ("the Office") conducts administrative investigations into administrative

*Amendment*

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

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.*

Or. ro

**Amendment 20**  
**Kostas Chrysogonos**

**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 No 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.***

Or. en

**Amendment 21**  
**Daniel Buda**

**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 Council<sup>5</sup> 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.

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<sup>5</sup> 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 Council<sup>5</sup> 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***

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<sup>5</sup> 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).

Or. ro

**Amendment 22**  
**Kostas Chrysogonos**

**Proposal for a regulation**  
**Recital 4**

*Text proposed by the Commission*

(4) In view of their common goal to

*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 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.

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.

***However, in various cases, the activities of OLAF and the EPPO will not need to be coordinated due to their distinct mandates, with the EPPO conducting criminal investigations and OLAF administrative investigations focusing on financial, disciplinary and administrative follow-up.***

Or. en

## **Amendment 23**

### **Ana Miranda**

## **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 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. ***To foster good cooperation, the EPPO and***

*the Office should meet on a regular basis, in particular to discuss ongoing investigations, and identify trends and possible links between different cases*

Or. en

**Amendment 24**  
**Daniel Buda**

**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 effective* 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 *and ensuring full compliance with procedural guarantees and the rights of the economic operators concerned.*

Or. ro

**Amendment 25**  
**Răzvan Popa**

**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,

*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 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.

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 **and secure** the financial interests of the Union and avoiding unnecessary duplication of efforts.

Or. ro

**Amendment 26**  
**Kostas Chrysogonos**

**Proposal for a regulation**  
**Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) Once the EPPO is established, OLAF's overall mandate shall not change, but its operation shall be adapted in several ways to the existence of the EPPO. OLAF shall 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.***

Or. en

**Amendment 27**  
**Răzvan Popa**

**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.

Or. ro

**Amendment 28**  
**Ana Miranda**

**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.

Or. en

**Amendment 29**

**Răzvan Popa**

**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. 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.

Or. ro

**Amendment 30**

**Angel Dzhambazki**

**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)*

Or. en

*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 31**  
**Angel Dzhambazki**

**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))*

Or. en

*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 32**  
**Daniel Buda**

**Proposal for a regulation**  
**Recital 8**

*Text proposed by the Commission*

*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.

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

Or. ro

**Amendment 33**

Ana Miranda

## 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 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. ***Such investigations should be carried out in agreement with the EPPO.***

Or. en

## Amendment 34

Răzvan Popa

## 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

#### *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. However, in certain cases,

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.

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.

Or. ro

## **Amendment 35**

**Ana Miranda**

### **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

##### *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 ***and following the agreement of 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 does not

conducted in close consultation with the EPPO.

object, the Office investigation should be conducted in close consultation with the EPPO.

Or. en

## **Amendment 36**

**Daniel Buda**

### **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 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.

Or. ro

## **Amendment 37**

**Răzvan Popa**

### **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

##### *Amendment*

(11) The Office should actively ***and effectively*** 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

operations within the limits of its powers and within the framework provided for in this Regulation.

should perform these operations **only** within the limits of its powers and within the framework provided for in this Regulation.

Or. ro

**Amendment 38**  
**Daniel Buda**

**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 **and cooperation** 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.

Or. ro

**Amendment 39**  
**Ana Miranda**

**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

*Amendment*

(12) To ensure effective coordination between the Office and the EPPO **and transparency in their cooperation**, information should be exchanged between them on a continuous basis. The exchange



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.

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.

Or. en

#### **Amendment 40** **Daniel Buda**

#### **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 883/2013<sup>6</sup>, 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.

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<sup>6</sup> COM(2017) 589. The report was accompanied by an evaluation Staff Working Document, SWD(2017) 332, and

##### *Amendment*

(13) The Commission Report on Evaluation of the application of Regulation (EU, Euratom) No 883/2013<sup>6</sup>, 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.***

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<sup>6</sup> COM(2017) 589. The report was accompanied by an evaluation Staff Working Document, SWD(2017) 332, and

**Amendment 41**  
**Daniel Buda**

**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 2185/96<sup>7</sup> 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.

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<sup>7</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial

*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 2185/96<sup>7</sup> 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. ***Similarly, both the EPPO and*** the Office 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.

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<sup>7</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial

interests against fraud and other irregularities, OJ L 292, 15.11.1996, p. 2–5

interests against fraud and other irregularities, OJ L 292, 15.11.1996, p. 2–5

Or. ro

**Amendment 42**  
**Răzvan Popa**

**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 2185/96<sup>7</sup> 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.

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<sup>7</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial

*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 2185/96<sup>7</sup> 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 EPPO and*** the Office 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.

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<sup>7</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial

interests against fraud and other irregularities, OJ L 292, 15.11.1996, p. 2–5

interests against fraud and other irregularities, OJ L 292, 15.11.1996, p. 2–5

Or. ro

#### **Amendment 43**

**Ana Miranda**

#### **Proposal for a regulation**

##### **Recital 20**

*Text proposed by the Commission*

(20) A duty for economic operators to cooperate with the Office should be introduced in Regulation (EU, Euratom) No 883/2013. This is in line with their obligation under Regulation (Euratom, EC) No 2185/96 to grant access for the carrying out of on-the-spot checks and inspections to premises, land, means of transport or other areas, used for business purposes, and with the obligation in Article 129<sup>8</sup> of the Financial Regulation that any person or entity receiving Union funds shall fully cooperate in the protection of the financial interests of the Union, including in the context of investigations by the Office.

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<sup>8</sup> Article 129 will be inserted in Regulation (EU) 2018/XX of the European Parliament and the Council (new Financial Regulation), on which a political agreement has been reached and which is expected to be adopted in the coming months.

*Amendment*

(20) A duty for economic operators to cooperate with the Office should be introduced in Regulation (EU, Euratom) No 883/2013. This is in line with their obligation under Regulation (Euratom, EC) No 2185/96 to grant access for the carrying out of on-the-spot checks and inspections to premises, land, means of transport or other areas, used for business purposes, and with the obligation in Article 129<sup>8</sup> of the Financial Regulation that any person or entity receiving Union funds shall fully cooperate in the protection of the financial interests of the Union, including in the context of investigations by the Office. ***The Office should step up its work regarding investigations concerning the misuse of Union funds under the Multi-annual Financial Framework.***

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<sup>8</sup> Article 129 will be inserted in Regulation (EU) 2018/XX of the European Parliament and the Council (new Financial Regulation), on which a political agreement has been reached and which is expected to be adopted in the coming months.

Or. en

#### **Amendment 44**

**Daniel Buda**

**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.***

Or. ro

**Amendment 45**

**Ana Miranda**

**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 and the***

*EPPO, should be fully protected, in particular through the relevant EU provisions on the protection of whistle-blowers.*

Or. en

**Amendment 46**  
**Kostas Chrysogonos**

**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.

Or. en

**Amendment 47**  
**Daniel Buda**

**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

*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 904/2010<sup>9</sup> in order to promote and facilitate cooperation in the fight against VAT fraud.

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<sup>9</sup> 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.

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 904/2010<sup>9</sup>, ***bearing in mind the provisions of Regulation (EC) No 45/2001<sup>1a</sup>*** in order to promote and facilitate cooperation in the fight against VAT fraud.

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<sup>9</sup> 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.

<sup>1a</sup> ***Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).***

Or. ro

## **Amendment 48**

### **Daniel Buda**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 1**

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 1

#### *Text proposed by the Commission*

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) 2017/1939<sup>13</sup>. This relationship shall be based on mutual

#### *Amendment*

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) 2017/1939<sup>13</sup>. 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.

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<sup>13</sup> 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).

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***.

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<sup>13</sup> 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.)*

Or. ro

*(Article 1 – paragraph 1)*

*Justification*

**Amendment 49**  
**Angel Dzhambazki**

**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***.

Or. en



**Amendment 50**  
**Angel Dzhambazki**

**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.***

Or. en

**Amendment 51**  
**Angel Dzhambazki**

**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 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 according to regular confidentiality and data protection standards.***

Or. en

**Amendment 52**  
**Angel Dzhambazki**

**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 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 according to regular confidentiality and data protection standards.***

Or. en

**Amendment 53**

**Răzvan Popa**

**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.

Or. ro

**Amendment 54**

**Răzvan Popa**

**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. 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 **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.

Or. ro

**Amendment 55**

**Daniel Buda**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 3**

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 3

*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

*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(EC) No 45/2001<sup>1a</sup>**. 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**

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.

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.

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*<sup>1a</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).*

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

Or. ro

*(Article 1 – paragraph 3)*

*Justification*

**Amendment 56**  
**Kostas Chrysogonos**

**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***

*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. In the conduct of an on-the-spot check and inspection, the economic operator concerned shall have the right to be assisted by a person of choice. When

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.

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.

Or. en

**Amendment 57**  
**Kostas Chrysogonos**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 3**  
Regulation (EU, Euratom) No 883/2013  
Article 3 – paragraph 6

*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 provide ***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).

Or. en

**Amendment 58**  
**Răzvan Popa**

**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

*Amendment*

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).

shall **guarantee** 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).

Or. ro

**Amendment 59**  
**Kostas Chrysogonos**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 3**  
Regulation (EU, Euratom) No 883/2013  
Article 3 – paragraph 6

*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 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.***

Or. en

**Amendment 60**  
**Daniel Buda**

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

*Text proposed by the Commission*

*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 to ensure that there is no danger of their disappearance.

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.

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

Or. ro

*(Article 1 – paragraph 3)*

*Justification*

‘

## **Amendment 61** **Răzvan Popa**

### **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.

Or. ro

**Amendment 62**  
**Kostas Chrysogonos**

**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.

Or. en

**Amendment 63**  
**Angel Dzhambazki**

**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***



**Amendment 64**  
**Angel Dzhambazki**

**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 65**  
**Kostas Chrysogonos**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 5 – point a**

Regulation (EU, Euratom) No 883/2013

Article 5 – paragraph – 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 66

Răzvan Popa

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

#### *Amendment*

The competent authorities of the Member States shall **guarantee** the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay.;

Or. ro

## Amendment 67

Kostas Chrysogonos

### 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;***

Or. en

## **Amendment 68**

**Daniel Buda**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 6 – point d**

Regulation (EU, Euratom) No 883/2013

Article 1 – paragraph 6 – point d

#### *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.;

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

Or. ro

*(Article 1 – paragraph 6 – point d)*

#### *Justification*

.

## **Amendment 69**

**Răzvan Popa**

### **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

#### *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, *where appropriate*, the remedial measures envisaged with a view to speeding up the investigation.";

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.";

Or. ro

## **Amendment 70**

**Răzvan Popa**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 7 – point a**

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 1

#### *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.;

Or. ro

## **Amendment 71**

**Kostas Chrysogonos**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 7 – point b**

Regulation (EU, Euratom) No 883/2013

Article 8 – paragraph 2

#### *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

#### *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

investigation by the Office.

an ongoing investigation by the Office.

Or. en

## **Amendment 72**

**Kostas Chrysogonos**

### **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 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.;

Or. en

## **Amendment 73**

**Ana Miranda**

### **Proposal for a regulation**

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

#### *Text proposed by the Commission*

#### *Amendment*

***(aa) the following paragraph 6 is added:***

***"6. 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 74**  
**Kostas Chrysogonos**

**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*

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.;

*Amendment*

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

Or. en

**Amendment 75**  
**Kostas Chrysogonos**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 10 – point b**  
Regulation (EU, Euratom) No 883/2013  
Article 11 – paragraph 2 – subparagraph 2 (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 76**  
**Kostas Chrysogonos**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 10 – point b**  
Regulation (EU, Euratom) No 883/2013  
Article 11 – paragraph 2

*Text proposed by the Commission*

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

*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, ***provided that they have been drawn up lawfully.***;

Or. en

**Amendment 77**  
**Ana Miranda**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 12**  
Regulation (EU, Euratom) No 883/2013  
Article 12 c – 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.

Or. en

**Amendment 78**

**Ana Miranda**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 12**

Regulation (EU, Euratom) No 883/2013

Article 12 c – 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.

Or. en

**Amendment 79**

**Ana Miranda**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 12**

Regulation (EU, Euratom) No 883/2013

Article 12 c – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

The Office shall not be bound to report to the EPPO manifestly unsubstantiated allegations, ***but shall provide data on the number and object of such allegations on a yearly basis.***

Or. en

**Amendment 80**

**Răzvan Popa**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 12**

Regulation (EU, Euratom) No 883/2013

Article 12 c – 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 be bound to report to the EPPO **only substantiated** allegations.

Or. ro

**Amendment 81**  
**Daniel Buda**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 12**  
Regulation (EU, Euratom) No 883/2013  
Article 1– paragraph 12

*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.

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

Or. ro

*(Article 1 – paragraph 12)*

*Justification*

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**Amendment 82**  
**Angel Dzhambazki**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 12**  
Regulation (EU, Euratom) No 883/2013  
Article 12 d – 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

*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**.

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 ***a reasonable timeframe and no later than one month***.

Or. en

*Justification*

*The timeframe given ought to consider the nature of the individual case and allow sufficient flexibility for the EPPO to properly assess the case and efficiently deal with it without suffering the consequences of an unreasonable time constraint.*

**Amendment 83**  
**Angel Dzhambazki**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 12**  
Regulation (EU, Euratom) No 883/2013  
Article 12 d – 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) 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 ***a reasonable timeframe and no later than one month***.

Or. en

*Justification*

*The timeframe given ought to consider the nature of the individual case and allow sufficient flexibility for the EPPO to properly assess the case and efficiently deal with it without suffering the consequences of an unreasonable time constraint.*

**Amendment 84**  
**Emil Radev**

## Proposal for a regulation

### Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12 f – paragraph 1

#### *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 grounds for the objection cease to apply.

#### *Amendment*

Within 30 days after receipt of this information the EPPO **shall decide on** the opening of an investigation or to the performance of certain acts pertaining to the investigation. **When deciding, it shall** avoid jeopardising its own investigation or prosecution. **Any objection shall be motivated**. The EPPO shall notify to the Office without undue delay when the grounds for the objection cease to apply.

Or. en

## Amendment 85

Emil Radev

## Proposal for a regulation

### Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

Article 12 f – paragraph 1

#### *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 **allows the opening of the investigation** 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.

Or. en

## Amendment 86

Emil Radev

## Proposal for a regulation

### Article 1 – paragraph 1 – point 12

Regulation (EU, Euratom) No 883/2013

*Text proposed by the Commission*

*Amendment*

**2a. 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.**

Or. en

**Amendment 87  
Ana Miranda**

**Proposal for a regulation  
Article 1 – paragraph 1 – point 12  
Regulation (EU, Euratom) No 883/2013  
Article 12 g – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The Office and the EPPO shall meet on a regular basis and at least every three months, in particular to discuss ongoing investigations, and identify trends and possible links between different cases.**

Or. en