

# Fight against fraud: protection of the Community financial interests, Hercule II action programme 2007-2013

2006/0114(COD) - 13/11/2006 - Document attached to the procedure

## **OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the Amended Proposal for a Regulation of the European Parliament and of the Council on mutual administrative assistance for the protection of the financial interests of the European Community against fraud and any other illegal activities.**

The Amended Proposal for a Regulation on mutual administrative assistance for the protection of the financial interests of the EC against fraud and any other illegal activities sets forth communication and assistance procedures between the Commission and Member States in order to protect the Community financial interests. Such procedures include mutual administrative assistance as well as exchange of information. In this context, the Amended Proposal establishes the role of the Commission, particularly through the European Antifraud Office ('OLAF'), as a coordinator and facilitator of the above mentioned procedures.

This opinion comprises **additional advice** on the Amended Proposal, given that the EDPS already gave its first opinion in October 2004.

The EDPS considers that the Amended Proposal does not include new rules on data protection nor exceptions to the existing data protection framework, namely [Directive 95/46/EC](#) and [Regulation \(EC\) No 45/2001](#).

Nevertheless, the EDPS notes that whether such standards of data protection will indeed be maintained will depend on the specific content of implementing legislation for which the Amended Proposal creates a legal basis. Since implementing legislation will be crucial for the protection of personal data in this context, the EDPS particularly welcomes the inclusion in the Amended Proposal of the obligation to consult him on the drafting of such implementing legislation.

It suggests some overall improvements to the proposed text which may be summarised as follows:

**Clarification of Article 17.1:** the EDPS notes that at least in one case, the Amended Proposal contains a provision which may have a negative effect as far as the protection of personal data is concerned. As in 2004, the EDPS suggested adding the following sentence at the end of Article 17.1., second paragraph: 'This shall not affect the rights of data subjects to have access to personal data relating to them, in accordance with Directive 95/46 and Regulation (EC) No 45/2001'.

**Proposal for alternative language:** the EDPS welcomes the fact that the Amended Proposal takes into account some of the remarks made by the EDPS in his opinion of 2004. It requested simply that the following sentence be included in the Preamble of the Proposal: 'After consulting the European Data Protection Supervisor', in line with standard practice'.

In summary, besides the abovementioned amendments, the EDPS is satisfied with the content of the Amended Proposal and does not see the need for additional changes to it.