Investigations by the European Anti-Fraud Office (OLAF)

2006/0084(COD) - 27/02/2013 - Council position

Council's position at first reading reflects the **compromise** reached during the negotiations between the European Parliament and the Council, with the support of the Commission. This compromise was confirmed by a letter to the Chairman of the Permanent Representatives Committee in which the Chairman of the Budget Control Committee indicated that he would recommend the members of that committee, and subsequently Plenary, to **accept Council's position at first reading without amendments at European Parliament's second reading**, subject to verification by the lawyer-linguists of both institutions.

The tripartite discussions focussed, in particular, on the following key issues:

Investigation procedures: more detailed provisions were defined, clarifying the tasks and duties of the various stakeholders in the opening, conduct and closing of OLAF's investigations. Furthermore, the co-legislators agreed that OLAF's Director-General shall put in place an internal advisory and control procedure, including a legality check.

Role of OLAF's Director-General: the tasks, duties and the scope of action of OLAF's Director-General were more explicitly outlined, taking stock of the current practice and aiming at streamlining procedures, making them more transparent and reducing their duration. Moreover, in order to strengthen OLAF's independence, the once renewable five-year term under the current rules was replaced by a **non-renewable seven-year term**.

Specific reference to the applicable procedural guarantees: in line with the charter of fundamental rights of the EU, the procedural rights of persons concerned by OLAF's investigations, witnesses and informants were set out in the Regulation and further strengthened.

Role of the Supervisory Committee (SC): the SC's fundamental task - to ensure that OLAF exercises its mission in full independence - was reaffirmed. In addition to its current duties, the SC was also mandated to monitor the application of the procedural guarantees. With respect to its appointment, in order to preserve the continuity of the SC's action, the co-legislators agreed to introduce a five-year term and a staggered renewal of its members.

Information flows and cooperation arrangements: the compromise provides for : (i) improved rules in order to allow for a more timely and effective exchange of information during the various phases of the investigations; (ii) more clear reporting processes were set out, particularly on the follow-up given to the recommendations of OLAF's Director-General; (iii) Member States' designation of a service ("the anti-fraud coordination service") to facilitate effective cooperation and exchange of information with OLAF; (iv) the possibility for OLAF to conclude administrative arrangements with Europol, Eurojust, third countries' competent authorities and international organisations.

Exchange of views: an agreement was reached on the introduction of a regular exchange of views between OLAF's Director-General, the European Parliament, the Council and the Commission.

Access to information in databases prior to the opening of an investigation: OLAF's right of immediate and unannounced access to information held by EU institutions, bodies, offices or agencies was extended to the stage prior to the opening of an investigation in order to assess the basis in fact of allegations.