Fight against fraud: mutual administrative assistance for the protection of the financial interests of the Community

2004/0172(COD) - 27/10/2005 - Court of Auditors: opinion, report

PURPOSE: A Court of Auditors Opinion on a proposal for the mutual administrative assistance against fraud and any other illegal activities.

CONTENT: The Court of Auditors has prepared this Opinion following a request from the Council in respect of the Commission's proposed Regulation "on mutual administrative assistance for the protection of the financial interest of the Community against fraud and any other illegal activities."

To recall, the purpose of the proposed Regulation is to enhance the Commission's role as a co-ordinator of Member States' activities in fighting fraud and other illegal activities affecting the financial interests of the Community. This would, in particular be the case with regard to trans-national VAT fraud and money laundering related to EC fraud. When examining the Commission's proposal, the Court took account both of its own auditing work as well as provisions on better law making. Based on these observations it has come to the following conclusions and makes the following recommendations:

- The Court agrees with the Commission's analysis that these is a need for more effective co-operation amongst Member States and the need for more effective co-operation between the Member States and the European Commission in order to protect the Community's financial interest against fraud and other illegal activities.

- The Court agrees that the existing legal framework for combating fraud is both complicated and difficult to implement.

- At the same time, however, the Opinion states that the proposed new Regulation adds further complexity to an already intricate system, notably in terms of definitions and reporting criteria.

- In addition, the proposal to add yet another legal instrument conflicts with the objective of an inter-institutional agreement to update and condense Community legislation and to simplify it significantly.

- Accordingly, the Court proposes that the Commission should make an effort to simplify and consolidate Community anti-fraud legislation with a view to avoiding duplications and overlapping or contradictory provisions.

- Within this context, the Court recalls its recommendation to focus on OLAF's activities on its investigative function. Widening the scope of OLAF in co-ordinating Member States' anti-fraud operations might conflict with this objective.

- The notion of the "financial interest of the Community", which is central to all anti-fraud legislation, should be clearly defined. A single definition of "irregularities" should be used throughout anti-fraud legislation.

- As far as co-operation in the field of value added tax is concerned, the Court reiterates its recommendation that the Commission should concentrate on its responsibility for identifying

malfunctions in the national systems and putting forward adequate remedies to the Member States concerned.