

Investigations by the European Anti-Fraud Office (OLAF)

2006/0084(COD) - 06/12/2006 - Court of Auditors: opinion, report

The Court of Auditors has delivered its opinion on the proposed modifications concerning investigations conducted by the European Anti-Fraud Office (amending Regulation (EC) No 1073/1999).

To recall, the present proposal replaces an earlier proposal made by the Commission in 2004. The reason, in part, for replacing the 2004 proposal was to take account of recommendations made by OLAF as well as the conclusions of a public hearing on the reinforcement of OLAF organised by the European Parliament.

Requiring notification of an investigation: The Court notes that the new proposal has largely taken account of most of its observations in a previous opinion in June 2005 – with the exception of one point. This concerns the non-notification of investigations on the pretext that secrecy is necessary to guarantee the efficiency of the investigation.

Review Advisor to monitor compliance with procedures: The Court welcomes this new requirement. At the same time the Court suggests that the role and responsibilities of the Review Advisor should be explicitly set out in the Regulation, as should the legality of investigative measures envisaged for this function. The Court reiterates the importance of the Review Advisor's strict independence and therefore expresses some concern that this independence may be compromised by the Director General's authority to instigate disciplinary measures. Further, the Review Advisor should no longer intervene once the results of an investigation have been transmitted to the authorities concerned.

The discretionary powers of the Director-General: The Court considers that the circumstances under which the proposed new discretionary powers of the Director-General can be exerted (with regard to deciding on whether or not to submit a final report to the judicial authorities of the Member States) needs to be more clearly established.