



Council of the  
European Union

101479/EU XXV. GP  
Eingelangt am 26/04/16

Brussels, 26 April 2016  
(OR. en)

8284/16

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**Interinstitutional File:**  
**2016/0064 (COD)**

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GAF 21  
FIN 252  
CODEC 523

#### 'I' ITEM NOTE

From:	Working Party on Combating Fraud
To:	Permanent Representatives Committee
No. Cion doc.:	6803/16 GAF 10 FIN 145 CODEC 246 - COM(2016) 113 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013, as regards the secretariat of the Supervisory Committee of the European Anti-Fraud Office (OLAF) (first reading) – <i>Mandate for negotiations with the European Parliament</i>

1. On 4 March 2016, the Commission transmitted to the European Parliament and to the Council the above mentioned proposal for a Regulation.
2. This proposal is based on Article 325 TFEU on combating fraud and is aimed at changing the framework for the implementation of the budgetary appropriations relating to the Members and the secretariat of the Supervisory Committee in a way which avoids any appearance of a possible interference of the European Anti-Fraud Office (OLAF) in their duties.

The European Court of Auditors delivered its opinion on 15 April 2016<sup>1</sup>.

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<sup>1</sup> Not yet published in the *Official Journal of the European Union*.

3. The Working Party on Combating Fraud examined the Commission proposal at its meetings on 10 March and 21 April 2016 and was able to agree on the text in the ANNEX as a basis for negotiations with the European Parliament.
4. The Permanent Representatives Committee is invited to:
  - agree on the mandate with regard to the proposed regulation, as set out in the ANNEX;
  - invite the Presidency to conduct negotiations with the European Parliament on the basis of this mandate.

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**Proposal for a  
Regulation of the European Parliament and of the Council  
amending Regulation (EU, Euratom) No 883/2013, as regards the secretariat of the  
Supervisory Committee of the European Anti-Fraud Office (OLAF)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 325 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Supervisory Committee of the European Anti-Fraud Office ("the Office") is tasked with regularly monitoring the implementation by the Office of its investigative function, in order to reinforce the Office's independence.

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<sup>1</sup> Not yet published in the *Official Journal of the European Union*.

- (2) The framework for the implementation of the budgetary appropriations relating to the Members of the Supervisory Committee should be set up in a way which avoids any appearance of a possible interference of the Office in their duties. Regulation (EC, Euratom) No 883/2013 should be adapted in order to allow for such a framework, while guaranteeing the same transparency of the appropriations for the operation of the Supervisory Committee as before. The secretariat of the Supervisory Committee should be provided directly by the Commission, independently from the Office. The Commission should refrain from interfering with the monitoring functions of the Supervisory Committee in order to safeguard the Supervisory Committee's independence.
- (3) Where the Office appoints a Data Protection Officer in accordance with Article 10(4) of Regulation No 883/2013, that Data Protection Officer should continue to be competent for the processing of data by the secretariat of the Supervisory Committee.
- (4) Confidentiality obligations for the staff of the secretariat of the Supervisory Committee should continue to apply.
- (5) The European Data Protection Supervisor has been consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and on 18 March 2016 decided not to issue any comment,

HAVE ADOPTED THIS REGULATION:

## *Article 1*

Regulation (EU, Euratom) No 883/2013 is amended as follows:

(1) Article 10 is amended as follows:

(a) in paragraph 4, the following subparagraph is added:

"The Data Protection Officer shall be competent for the processing of data by the Office and the secretariat of the Supervisory Committee."

(b) in paragraph 5, the second subparagraph is replaced by the following:

"In accordance with the Staff Regulations, the staff of the Office and the staff of the secretariat of the Supervisory Committee shall refrain from any unauthorised disclosure of information received in the exercise of their functions, unless that information has already been lawfully made public or is accessible to the public, and shall continue to be bound by that obligation after leaving the service."

(c) in paragraph 5, a third subparagraph is added:

"The members of the Supervisory Committee shall also refrain from any unauthorised disclosure of information received in the exercise of their functions, unless that information has already been lawfully made public or is accessible to the public, and shall continue to be bound by that obligation after the end of their mandate."

(2) Article 15 is amended as follows:

(a) in paragraph 8, the last sentence is replaced by the following:

"Its secretariat shall be provided by the Commission, independently from the Office and in close cooperation with the Supervisory Committee. Before the appointment of any staff to the secretariat, the chairman of the Supervisory Committee shall be consulted. The secretariat shall act on the instructions of the Supervisory Committee and independently from the Commission. Without prejudice to its control over the budget of the Supervisory Committee and its secretariat, the Commission shall not interfere with the monitoring functions of the Supervisory Committee."

(b) in paragraph 8, a second subparagraph is added:

"By derogation from Article 11, first paragraph, second sentence, of the Staff Regulations, officials assigned to the secretariat of the Supervisory Committee shall neither seek nor take instructions from the Commission relating to the exercise of the monitoring functions of the Supervisory Committee."

(3) Article 18 is replaced by the following:

"Article 18  
Financing

The total appropriations for the Office shall be entered under a specific budget line within the section of the general budget of the European Union relating to the Commission and shall be set out in detail in an Annex to that section. The appropriations for the Supervisory Committee and its secretariat shall be entered into the section of the general budget of the European Union relating to the Commission.

The establishment plan of the Office shall be annexed to the establishment plan of the Commission. The establishment plan of the Commission shall include the secretariat of the Supervisory Committee."

## *Article 2*

This Regulation shall enter into force on the [first day of the month] following that of its publication in the *Official Journal of the European Union*. It shall apply as from 1 January 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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