Council of the European Union

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Inter-institutional Exchange of Views pursuant to Article 16 of Regulation (EU, Euratom) No 883/2013: Mandate for the meeting on 03 December 2024

I.   BACKGROUND

1.   In accordance with Article 16 of Regulation (EU, Euratom) No 883/2013[1] (the OLAF Regulation), as last amended by Regulation 2020/2223[2], "the European Parliament, the Council and the Commission shall once a year meet the Director-General for an exchange of views at political level to discuss the Office's policy relating to methods of preventing and combating fraud, corruption or any other illegal activity affecting the financial interests of the Union".

2. The representatives of the European Parliament, the Council and the Commission agreed by common accord, as foreseen in the relevant Working Arrangements3, to hold the tenth Inter-institutional Exchange of Views on 3 December 2024. A technical preparatory meeting, as provided for in Recital 41 of the OLAF Regulation, took place on 19 June 2024.

3. Based on a Commission proposal, a draft annotated agenda for the exchange of views was discussed between representatives of the three institutions and agreed subsequently in writing. The draft annotated agenda was presented to the members of the Working Party on Combating Fraud at its meeting on 14 November 2024 and was accepted (see ANNEX). At the same meeting, the Commission provided and presented an information note on the agenda item (see Annex to the ANNEX).

4. In line with the provisions of point 3.1 of the practical arrangements for the Inter-institutional Exchange of Views4, this year's meeting will be hosted and chaired by the European Commission.

II. **GUIDANCE FOR THE EXCHANGE OF VIEWS**

5. Based on the draft annotated agenda presented to the members of the Working Party on Combating Fraud, including the background document, this mandate intends to provide guidance to the delegation representing the Council at the Inter-institutional Exchange of Views, composed of the Hungarian, Polish and Danish representatives.

6. The lines to take to represent the Council's position on the use of artificial intelligence (AI) by EU anti-fraud actors are as follows:

    -   The Council welcomes this topic of discussion and is interested to hear the views of the institutions involved in the EU's anti-fraud architecture. Both the potential benefits of AI and the risks and challenges need to be carefully considered, particularly taking into account the subsidiarity principle and the specific legal systems of the Member States. This will require a thorough impact assessment and consultation of experts in the Council.

    -   In this respect, particular attention needs to be given to data protection and privacy, as well as the governance framework which includes assigning responsibility, both in terms of fuelling the data bases used and in terms of usage only when needed and in strict compliance with the EU and national law.

    -   On the other hand, given the opportunities offered by AI, the Council calls on the Commission, within the available administrative capacities, to assess the needs to develop policy initiatives aiming at further exploiting the potential of the AI in the fight against fraud, in close cooperation with the Member States.

III. **<u>CONCLUSION</u>**

7. Against this background, the Permanent Representatives Committee is invited to entrust the mandate set out under point II.6 above to the delegation representing the Council at the Inter-institutional Exchange of Views.

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DRAFT ANNOTATED AGENDA

2024 INTERINSTITUTIONAL EXCHANGE OF VIEWS on OLAF (EoV)

3 December 2024, 13:30 – 15-30

Welcome by Chair and adoption of the agenda (5 minutes)

> **Agenda Item: Use of Artificial Intelligence by EU anti-fraud actors (110 minutes TBC)**
> • **Potential of AI to improve prevention, detection and investigation (AI use cases)**
> • **Risks and challenges related to AI**
>
> • **Building up internal AI capacities**

The cooperation between ECA, Eurojust, Europol, EPPO and OLAF is crucial for the prevention, detection and investigation of fraud against EU funds. Artificial Intelligence will influence the future of the fight against fraud concerning EU funds in coming years and given its importance, it deserves an early and in-depth discussion by all EU anti-fraud actors.

The debate will explore in concrete and practical terms:

- experiences of EU anti-fraud actors with exploring AI to prevent, detect and investigate fraud against EU funds,
- synergies between the actors and how to enhance the use of AI for the benefit of
- perspectives for the way forward.

- Fraud prevention, including through the Early detection and Exclusion System (for funds disbursed under direct management or indirect management), and capacity building for national authorities.

Reference document: Information note by OLAF on the Use of Artificial Intelligence by EU anti-fraud actors

The Chair (Commissioner) will open the Exchange of Views and invite the representatives of the European Court of Auditors, Eurojust, Europol, EPPO, and then the OLAF Director- General to present their respective perspectives on the potential but also the challenges of using AI for anti-fraud work, covering all sub-points. (time each - tbc)

➢ *The Chair will invite the Institutions (European Parliament, Council) as well as the Supervisory Committee of OLAF to express their views on these matters. (time each - tbc)*

➢ *The representatives of the European Court of Auditors, Eurojust, Europol, EPPO, and the OLAF Director-General will respond to comments made by the Institutions and the Supervisory Committee of OLAF. (time in total - tbc)*

➢ *The Chair will conclude the agenda item.*

Information note for the Inter-institutional Exchange of Views

3 December 2024

Agenda Item: Use of Artificial Intelligence by EU anti-fraud actors

The discussion will be an occasion for the ECA, Eurojust, Europol, EPPO and OLAF to exchange views and update each other on their experiences with using artificial intelligence (AI). With the AI Act now in force, this is a good moment to take stock of planned projects based on AI and to discuss common challenges in the ethical, regulatory, technical and skills domains.

a. Potential of AI to improve prevention, detection and investigation (AI use cases)

At a time of scarce resources, the technologies deriving from AI hold considerable potential for the prevention, detection and investigation of fraud to the detriment of the EU budget.

Certain support activities, such as the processing of large data-sets, can be handled much faster by AI tools. As a result, AI can enhance administrative efficiency and effectiveness and eventually reduce the duration of complex cases. Moreover, AI is also capable to support the fight against rising cyber-crime.

Generative AI, in particular, can provide advanced capabilities for identifying patterns and anomalies in large data sets that might be missed through traditional methods, offering new ways to prevent fraudulent activities. By tackling semantically large quantities of fraud related text, generative AI can assist anti-fraud practitioners in better understanding fraud schemes, thereby supporting the creation of more effective risk analysis indicators. Additionally, there are substantial efficiency gains in classic administrative tasks such as summarisations, translations, annotations, drafting assistance and text generation.

At the same time, the determination whether certain behaviour amounts to irregularities, fraud or corruption will necessarily be reserved for the assessment by humans.

The anti-fraud actors, like many public authorities, are currently in various stages of exploring the use of AI-based tools to support their work. One of the key questions is to know for which specific tasks, or "use cases", AI brings the largest benefit. There may well be synergies for experts from the anti-fraud actors to compare notes on how they plan to leverage the power of AI-based tools for their respective missions.

b. Risks and challenges related to AI

The use of AI tools also presents the anti-fraud actors with certain challenges. First, ethical questions about potential bias and discrimination of such tools need to be fully addressed. Secondly, integrating AI tools known for their opacity and unpredictability into the rules-based environment characteristic of anti-fraud work puts limits on what these tools can contribute in such an environment. Third, to the extent that some anti-fraud actors are considered as law enforcement for the purposes of the AI Act, they will have to comply with stringent regulatory requirements for certain tasks set out in Annex III of the AI Act. More generally, the new regulatory environment established by the AI Act contains new concepts that will need to be progressively implemented. The EU data protection regime remains fully applicable in parallel to the AI Act.

The anti-fraud actors would benefit from a shared understanding of the applicable regulatory requirements. This would also facilitate the joint work of anti-fraud actors on a given case for which AI tools have been used. There may thus be interest to discuss how to address the regulatory challenges associated with this promising but complex and fast-moving technology.

c. Building up internal AI capacities

In practice, building up AI literacy among their staff will be one of the biggest challenges for the anti-fraud actors in this context. This holds especially true in light of the sensitive nature of data they handle: there are restrictions on the use of public AI tools, the storage of data in a cloud, and the outsourcing of the development of AI-based tools to external service providers. As a result, the anti-fraud actors will have to invest in building up AI capacity, including both technical and user skills, in-house. Also recruiting and retaining specialised staff will be vital to the success of this mission.