



# REPLIES OF THE EUROPEAN COMMISSION

## TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

on **EU bodies fighting fraud**

# Contents

I. THE COMMISSION REPLIES IN BRIEF .....	2
II. REPLIES TO THE RECOMMENDATIONS.....	4
Recommendation 1 - Establish a system for an efficient exchange of information on fraud allegations and investigations .....	4
Recommendation 2 - Analyse the variations in the levels of fraud reported across the EU .....	5
Recommendation 3 - Enhance oversight of the follow up of fraud investigations.....	5
III. REPLIES TO OBSERVATIONS.....	6
1. Procedures for reporting and handling fraud allegations.....	6
2. Commission's oversight of amounts owed to the EU budget or actually recovered from fraud investigations .....	7
3. Reporting on fraud data by Member States.....	7

This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 265 of the [Financial Regulation](#). These replies are to be published by the European Court of Auditors together with the Special Report.

# I. THE COMMISSION REPLIES IN BRIEF

The EU and its Member States shall counter fraud and other illegal activities affecting the financial interests of the EU. The protection of the EU budget is of utmost importance to the Commission, especially as the preparatory work on the next multiannual financial framework (MFF) is ongoing. The EU's anti-fraud architecture (AFA) is the framework of policies, institutions, bodies, and mechanisms established to protect the financial interests of the EU by preventing, detecting, and fighting fraud and other illegal activities that could affect the EU budget. The anti-fraud architecture is designed to safeguard EU funds, maintain public trust, and ensure that financial resources are used effectively to achieve the Union's policy objectives. The Commission welcomes the European Court of Auditors' (ECA) audit report on the cooperation between key institutions, bodies, offices and agencies in this area.

The EU anti-fraud architecture has evolved over time to adapt to threats to the EU's financial interests. The establishment of the European Public Prosecutor's Office (EPPO) in 2017, with responsibility for investigating and prosecuting criminal offences affecting the EU's financial interests as set out in the PIF Directive (hereinafter 'PIF offences') to judgment has been a remarkable and unprecedented step forward in the criminal justice domain, in terms of criminal investigations. The EPPO combines EU and national prosecutorial efforts in a unified approach to the fight against PIF offences. Other actors in the anti-fraud area namely the European Anti-fraud Office (OLAF), Eurojust and Europol have adapted to this revamped legal framework.

The development and evolution of the increased cooperation between these anti-fraud actors has been thoroughly examined by the ECA in this report and the Commission is satisfied to note that the mandates of the respective actors are clearly established and do not overlap. However, the report has identified a number of areas in the anti-fraud cycle that can be strengthened to ensure a more coherent anti-fraud architecture.

An important aspect of the cooperation between OLAF and the EPPO relates to the timely exchange of actionable information to allow the effective intervention of the competent actors, in line with their respective mandates. To best ensure the protection of the EU financial interests, the co-existence of administrative and criminal reporting channels needs to be optimised. The Commission recognises that the procedures to support the consultation and exchange of information regarding fraud allegations between these two investigative bodies are complex and welcomes the recommendation of the ECA to develop an IT infrastructure. To this end, the system of exchanging information between OLAF and the EPPO needs to be interoperable and efficient, to ensure that protective measures to the EU budget are exploited to their full potential. Access to the system must be fully compliant with the legal framework and in accordance with the mandates of the respective actors.

The Commission welcomes the analysis conducted by the ECA on the levels of reporting by Member States and Institutions, Bodies, Organisations and Agencies (IBOAs). It is recalled that, at national level, Member States have the main responsibility for detecting and timely reporting PIF offences to the EPPO, and irregularities to OLAF. Commission services and other IBOAs also have reporting obligations towards OLAF and the EPPO. The Commission acknowledges that there are variations in the level of fraud reporting by Member States and IBOAs and agrees that these should be further analysed.

The Commission notes the findings of the ECA that the amounts related to the outcomes of OLAF and EPPO investigations are not comparable. Notwithstanding the impressive results achieved by OLAF and the EPPO in their respective fields (over 5 bln. EUR was recovered to the EU budget based

on OLAF investigations, and the EPPO had more than 2 660 ongoing investigations by the end of 2024, i.e. less than four years after the start of its operations, and having obtained, in 2024 only, the freezing of EUR 849 million), there is scope to further develop a methodology to measure all the amounts of fraud or irregularities established, prevented and actually recovered based on both administrative and criminal procedures, at EU and national level. Furthermore, the Commission will consider how best to seek compensation for damage suffered to the EU budget on the basis of judicial proceedings. This will contribute to a comprehensive overview of the overall effectiveness of the EU anti-fraud architecture in protecting the EU budget.

## II. REPLIES TO THE RECOMMENDATIONS

### **Recommendation 1 - Establish a system for an efficient exchange of information on fraud allegations and investigations**

Against the background of the ongoing review of the EU anti-fraud architecture, the Commission, in collaboration with EPPO, should establish an interoperable antifraud system, in full compliance with the relevant legal framework, data protection rules and the need for confidentiality in criminal investigations. The system should make it clear where allegations of fraud should be reported, and facilitate an efficient exchange of information on fraud allegations and investigations. Within this framework, the new system should be based on the following principles:

- all allegations received are channelled to a central repository with a view to establishing an efficient process for their assessment;
- fraud allegations originated by OLAF and ongoing OLAF investigations that uncover suspicions of criminal conduct, are referred to EPPO without undue delay, or, where EPPO is not competent, to the competent national prosecuting office;
- in the course of its investigations, as soon as EPPO considers that an allegation is not of a criminal nature, key information is made available to OLAF or, when applicable, to other administrative bodies, copied to the Commission, to determine whether it would be cost effective to open an administrative investigation; and
- during EPPO investigations, EPPO periodically assesses at what point access to relevant information may be granted to the Commission, to determine the scope for administrative action, and to OLAF, to determine whether it would be cost effective for OLAF to propose a complementary investigation.

**(Target implementation date: end 2028).**

The Commission **accepts** recommendation 1.

The Commission accepts this recommendation with the understanding that the creation of such a repository would require specific modalities to address matters such as ownership of the repository and access to it, as well as the Commission's role in its establishment. As these matters are foreseen to be discussed and decided upon in the framework and timeline of the AFA review process, it is suggested that the implementation of this recommendation should be aligned accordingly.

The Commission would like to note that, firstly, the principle of confidentiality and the rights of the individual persons determine the right to access allegations. Secondly, whenever an allegation is qualified from the very beginning as amounting to a PIF crime, the EPPO should have access to it immediately, without any further assessment by any other body. Thirdly, more generally, in order to

ensure the effective protection of the EU budget, the Commission needs to have an overview of the amounts relating to the financial interests of the EU.

## **Recommendation 2 - Analyse the variations in the levels of fraud reported across the EU**

**The Commission should analyse the variations in the levels of fraud reported across the EU and take appropriate action by, for example, investigating the causes where significant under-reporting is identified and providing guidance to member states and EU bodies on reporting practices. The analysis should cover in particular why:**

- **the relative number of fraud allegations reported, concerning both revenue and expenditure fraud, varies significantly between member states; and**
- **the relative number of fraud allegations reported to EPPO and OLAF varies significantly between EU bodies.**

**(Target implementation date: end 2026).**

The Commission **accepts** recommendation 2.

The Commission will analyse the variations in fraud reporting by Member States and IBOAs, taking into account the intrinsic reasons that might explain differing levels of reporting.

For example, under the current system, the Commission services and other IBOAs can send to OLAF information regarding possible irregularities or fraud in order to ensure that the level of possible criminal suspicion is assessed by experts, leading to consistency and best practices in criminal reporting.

There are other objective external factors that may explain the different levels of reporting by Member States depending on the area of the budget. These will be analysed in detail.

## **Recommendation 3 - Enhance oversight of the follow up of fraud investigations**

**To obtain oversight of the extent to which amounts due to the EU budget have been repaid, the Commission should develop a methodology to measure the overall financial impact of EPPO and OLAF investigations, including repayment to the EU budget following a national court decision resulting from criminal proceedings, in addition to monitoring the follow up of recommendations made as a result of OLAF investigations. This should include requesting regular updates from member states on asset conversion and recovery amounts, and assessing the proportion related to the EU budget.**

**(Target implementation date: end 2028).**

The Commission **accepts** recommendation 3.

In its recent White Paper on the AFA review, the Commission indicated that it wanted to explore the need to define a common set of indicators to ensure consistent reporting and to obtain a clearer overview of how the AFA actors collectively protect the EU's financial interests, within their respective mandates.

The Commission acknowledges that efforts should continue in order to effectively ensure in practice that the Union budget obtains compensation for the damage it has suffered. This will include proposing appropriate improvements of the existing legal frameworks.

The Commission will develop a coherent methodology to measure all the amounts of fraud or irregularities established, prevented and actually recovered based on both administrative and criminal procedures, at EU and national level, building on the systems in place.

This will contribute to a comprehensive overview of the overall effectiveness of the EU anti-fraud architecture in protecting the EU budget and contributing to better measuring the levels of fraud, prevailing confirmed figures over a priori estimations.

### III. REPLIES TO OBSERVATIONS

#### 1. Procedures for reporting and handling fraud allegations

An important aspect of the cooperation between OLAF and the EPPO relates to the timely exchange of actionable information to allow the effective intervention of the competent actors, in line with the legal framework and their respective mandates (PIF offences for EPPO and irregularities for OLAF).

In certain sections, the audit suggests that the current system of exchange of information between OLAF and the EPPO does not ensure that the EPPO receives all fraud allegations. The Commission recalls its agreement with the EPPO entered into force on 18 June 2021, establishing the modalities of cooperation with the EPPO, which stipulates, in Article 1 of Annex I, that the Commission will transmit reports on criminal conduct to the EPPO via OLAF. In the case of other IBOAs, they may also request OLAF to carry out a preliminary evaluation of allegations reported to them; OLAF will then report any criminal conduct to the EPPO (Articles 12c(4) and (6) of the OLAF Regulation; recital 51 of the EPPO Regulation). This is also reflected in the very high percentage of cases opened by the EPPO following reports from OLAF out of all cases reported by OLAF (while the EPPO has a very high rate of dismissal for other reporting parties).

The Commission recalls that allegations of wrongdoing may or may not contain elements of suspicion of criminal activity. Under the current system, OLAF examines these allegations and establishes if there is any suspicion of criminal activity. Furthermore, all suspicions of criminal conduct uncovered by OLAF in its activities are referred without undue delay to the EPPO or, when the EPPO is not competent, to the competent national prosecuting office, in line with its legal obligations.

In paragraph 44<sup>1</sup>, ECA refers to OLAF's dismissed allegations, which did not reach the EPPO. In this respect, the Commission recalls that OLAF dismissed 2 252 allegations as insufficient to justify an OLAF investigation and also in which no elements of criminal conduct falling within the EPPO's mandate were found. Consequently, in line with the legal framework, there was no reason for the EPPO to have visibility over these allegations.

The Commission notes that OLAF, in line with its mandate, is likely to receive a much broader range of allegations from different actors including serious wrongdoing of staff (e.g. harassment), irregularities, Intellectual Property Rights infringements, waste shipment, etc. OLAF exercises a very

---

<sup>1</sup> Together with corresponding paragraph 11, and the sub-headings above paragraphs 39 and 41.

important role for the EU anti-fraud architecture in assessing and enriching with administrative analytic and operational means all these allegations, dismissing those without suspicion, opening administrative investigations where necessary and reporting to the EPPO those cases for which suspicion of criminal conduct falling within its mandate could be established.

These arrangements are meant to ensure that the EPPO receives all allegations that need to be dealt with by criminal means.

## **2. Commission's oversight of amounts owed to the EU budget or actually recovered from fraud investigations**

Concerning the Commission's overview of amounts owed to the EU budget or actually recovered from fraud investigations<sup>2</sup>, the Commission has a good overview over amounts recovered following OLAF investigations and those amounts still under recovery proceedings.

As regards the follow-up to notifications received from the EPPO following the completion of its investigations, in November 2024, the Commission put in place an 'EPPO Overview Mechanism' to gather and examine the quality and the effective use of information sent by the EPPO to Commission services in this regard. The Commission is looking into the matter to increase communication with EPPO to obtain the necessary information to be able to initiate recovery procedures. As part of this ongoing process the Commission central services, together with OLAF (as a Commission service) are further refining and enhancing its system of follow up to the EPPO notifications in cooperation with the EPPO.

## **3. Reporting on fraud data by Member States**

With regard to the variations of reported data on fraud reported by Member States<sup>3</sup>, the Commission recalls that the Commission services and other IBOAs can send to OLAF information on possible irregularities or fraud in order to ensure that the level of possible criminal suspicion is assessed by experts, leading to consistency and best practices in criminal reporting.

Furthermore, the Commission recalls that OLAF, in line with its mandate, is likely to receive a much broader scope of allegations from different actors including serious wrongdoing of staff (e.g. harassment), Intellectual Property Right infringements, waste shipment, irregularities).

There are certain objective external factors that may explain the varying level of reporting by Member States depending on the area of the budget. For instance, in the revenue domain, reporting of customs fraud will vary between countries with ports where most of the imports into the EU take place in comparison and those with small ports. Similarly, if spending in cohesion funds is concentrated in certain countries, different levels of reporting are to be expected.

---

<sup>2</sup> See ECA observation 70-74.

<sup>3</sup> See ECA observation 62-66.