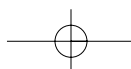
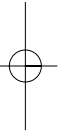
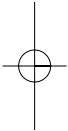
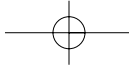


Policing European Union Expenditure A Critical Appraisal of the Transnational Institutions

Brendan Quirke & Christopher J Pyke
Liverpool Business School,
Liverpool John Moores University





Abstract

The policing of European Union spending programmes is characterised both at the national and the transnational level by fragmentation. For example, in the U.K. there are organisations such as the National Audit Office and the Audit Commission which seek to establish legality and regularity as well as value for money in the spending of public funds. There are also bodies such as the Anti-fraud unit of the Intervention Board (the main payment agency for the Common Agricultural Policy in the U.K.) and the National Investigation Service of Customs and Excise, as well as the various police fraud squads which have specific responsibilities in the area of fraud investigation and prevention.

At the transnational level, there is the European Court of Auditors which seeks to establish legality and regularity in the spending of European public funds, there is also the European Fraud Prevention Office (OLAF, formerly UCLAF) which has the power to initiate fraud investigations across the European Union.

When this degree of fragmentation is coupled with the need to work across fifteen different legal systems as well as fifteen different administrative systems with all the inherent delays and potential conflicts then it can be seen that there are potential difficulties in ensuring a co-ordinated approach to the policing of European institutions and spending programmes. Fraudsters of course face no such difficulties: they are well organised, they work in real time and do not encounter legal barriers in the way law enforcement agencies do. This paper critically appraises the role of the transnational institutions in the fight against fraud.

The research is based on:

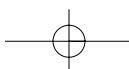
- (i) Semi-structured interviews with officials from both the European Fraud Prevention Office and the European Court of Auditors, as well as the officials of national agencies in the United Kingdom and Republic of Ireland. These interviews were conducted between 1998 and 2000.
- (ii) A review of desk material was also undertaken in order to establish the degree of co-operation and co-ordination between various agencies and Member States.

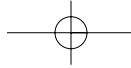
Introduction

The policing of Europe Union expenditure programmes at both a national and transnational level is complex and fragmented. For example in the U.K, there are organisations such as the National Audit Office and the Audit Commission which seek to establish legality and regularity as well as value for money in the spending of public funds. There are also bodies such as Anti-fraud unit of the Intervention Board (the main payment agency for the Common Agricultural Policy in the U.K.) and the National Investigation Service of Customs and Excise as well as the various police fraud squads which have specific responsibilities in the area of fraud investigation and prevention. At a transnational level there is the European Court of Auditors which seeks to establish legality and regularity in the spending of European public funds there is also the European Fraud Prevention Office (OLAF, formerly UCLAF) which has the power to initiate fraud investigations across the European Union. The problems associated with this degree of fragmentation have been illustrated by Doig (1996). He identified that;

“the lack of any permanent or central organisational framework... raises issues about cross-organisation fraud where individuals or groups are defrauding several organisations at the same time or working across organisational or geographic boundaries”.

When this degree of fragmentation is coupled with the need to work across fifteen different legal systems as well as fifteen different administrative systems with all the inherent delays and potential conflicts then it can be seen that there are potential difficulties in terms of ensuring a co-ordinated





approach to the policing of European institutions as well as European spending programmes. Fraudsters of course face no such difficulties as they work in real time and do not encounter legal barriers in the way law enforcement agencies do.

This paper critically appraises the role of the European-wide anti-fraud institutions. The paper firstly considers the structure and organisation of the European Court of Auditors and critically appraises its role in relation to fraud. The paper then examines the formation of OLAF from UCLAF and critically appraises its ability to prevent fraud in Europe.

Methodology

The findings of this paper are based on:

- (i) Semi-structured interviews with officials both from the European Fraud Prevention Office and the European Court of Auditors, as well as officials of the national agencies in the United Kingdom and the Republic of Ireland. These interviews were conducted between 1998 and 2000. Senior officials were approached who were most directly involved in investigating CAP frauds and frauds against the Structural Funds. A semi-structured interview was adopted because a proforma of key areas for discussion could be used in each interview but there was flexibility to diverge from the planned structure if this was necessary and there was greater freedom in the sequencing of questions. This was particularly appropriate when officials from different organisations were being interviewed: some had a transnational perspective, i.e. those working for OLAF and the European Court of Auditors; others for example, working for the U.K. Intervention Board, had more of a national perspective. The paper concentrated on the Common Agricultural Policy and Structural Funds as these account for over 70% of the E.U. budget and built on previous work undertaken by the authors.
- (ii) A review of desk material was also undertaken in order to establish the degree of co-operation and co-ordination between various agencies and member states.

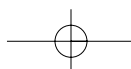
The European Court of Auditors

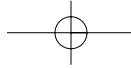
The European Court of Auditors is a fully-fledged European Institution in its own right. It gained its current status as a result of the Maastricht Treaty on European Union. The Court is based in Luxembourg and was described as the 'financial conscience' of the Union by the President of the European Court of Justice, Mr. H. Kutscher, at the time of its inauguration in October 1977.

The decision to establish an independent audit office was as a result of the 1975 Brussels Treaty. Prior to 1975, audit duties were carried out by the European Audit Board, which was a committee of representatives of national audit bodies which met infrequently to give an opinion on the arrangements for securing financial control within EC institutions. The European Audit Board had limited access to Commission files and no control over the national agencies that spent Community funds, Laffan (1997) states that;

"The external audit function suffered from inherent weaknesses that rendered its work purely symbolic. Given the growing size of the budget...there was a growing realisation of the need to ensure that EU monies were collected and spent in a transparent and correct manner".

There was considerable debate about the role, functions and powers of an audit authority for the European Communities. Should it be a collegiate body or a small committee? In the end, the tradition of national representation dictated that there should be one member per Member State. Each successive enlargement of the European Union has brought additional members to the Court; so, at present, there are fifteen members.





Members of the Court are appointed by the Council of Ministers acting unanimously after consulting the European Parliament. The Parliament gives its opinion on individual nominations. The treaty on European Union specifies that nominees to the Court must be independent although they may have belonged to the external audit bodies of their respective countries or be 'specially qualified' for the office. The latter provision allows Member States to nominate non-professional auditors to the Court such as politicians, lawyers and civil servants. The balance is about 50:50 between "professional" auditors and "non-professional" (Source: Interviewee ECA1¹). Whilst this may be a recipe for a certain degree of tension, on balance, commentators such as Laffan (1997) believe that to have former politicians sitting as members of the Court is an advantage because it operates in a highly-politicised institutional environment.

The Organisation of the Court

The Court's fifteen members act as a collegiate body that takes decisions by majority voting. This collegiate body elects a president for a term of three years which in certain circumstances can be renewable. The term 'president' is slightly misleading as it implies a potential for executive decision making. In fact the president is little more than a "first among equals". The president has no special powers, and has to rely on the backing of the other Members of the Court.

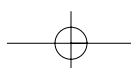
The president speaks on behalf of the Court in public and presents the annual report of the Court to Parliament and the Council. The president's role is to mould the College of members into a cohesive group with an agreed work programme. In an effort to strengthen collegiality, the members of the Court work as part of audit groups or teams:

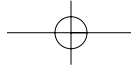
- Audit Group 1: European Guidance and Guarantee Fund (EAGGF) crops, - management and budgetary control procedures, financial audit, risk analysis, EAGGF - markets (livestock, sugar)
- Audit Group 2: Regional policy, Tourism, Transport, Cohesion Fund, Social Sector, Rural Development
- Audit Group 3: European Development Fund, co-operation with third countries, Central and Eastern European countries.
- Audit Group 4: Administrative expenditure of the institutions, Own Resources, Banking, European Coal and Steel Community (ECSC)
- Audit Development and Reports (ADAR) Group: Co-ordination of annual report, auditing standards, work programme, audit manual, relations with OLAF (European Anti-Fraud Office)
- Statement of Assurance Group: Drawing up the draft Statement of Assurance, coordination of financial audit and general accounting audit

The Members of the Court are supported by a staff of approximately 450, about 250 of these are auditors, the remainder are administrative support staff as well as approximately 70 staff who work as interpreters and translators. Staff are recruited through a competitive process and in terms of the backgrounds of new recruits there is something of a north/south split. The Northern Europeans are either accountants or auditors while the Southern Europeans tend to be lawyers or economists. Approximately 50% have a public sector background and 50% a private sector one (Source: Interviewee ECA1).

What does the Court do?

Under Article 188c of the Treaty on European Union, the Court is required to examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management is sound. The Court seeks to achieve this by undertaking an





annual Statement of Assurance audit which seeks to establish the reliability of the accounts as well as the legality and regularity of the underlying transactions. Legality and regularity covers every aspect of transactions from the eligibility of the recipient, to correct calculation of sums paid or owed. The Court must satisfy itself that the accounts are accurate and reliable. If the Court finds that the accounts are not reliable it can refuse to give the assurance or may only give a partial assurance. The Court has to make its position clear regarding the accounts. If it cannot give an assurance it will have to state clearly why this is the case. It is similar in some respects to the true and fair opinion given to the financial statements of private and public sector organisations in the UK.

Laffan (1997) suggests that the need to deliver a statement of assurance has meant a fundamental rethinking of the working methods of the Court. First it has had to adapt its sampling techniques to ensure that it examines a representative sample of transactions. Second, the volume of tests that must be carried out to gauge the accuracy of the accounts for the budget as a whole is much greater than for anything the Court had undertaken in the past. Third, the auditors have to follow the audit trail of its selected tests right down to the intended beneficiary of Community funding. This implies that the Court has to carry out much more extensive auditing in the Member States than it had done in the past. However the Courts powers are limited, for example they cannot turn up unannounced in Member States. Instead it has to liaise with national audit bodies but it does have the right to make "on the spot" checks (Source: Interviewee ECA1). It also has the right to have access to all relevant documentation and people, however it cannot seize documents.

Clearly this type of inspection work by the Court of Auditors is time consuming and complex. A more effective mode of operation would be to develop a partnership relationship with the national audit bodies of member states. This would enable the Court to place far greater reliance on the work of these bodies and perhaps reduce the need for as much "on the spot" checking. One practical approach would be for the Court to negotiate service level agreements that clearly state the responsibilities and duties of the national audit bodies and the Court. A service level agreement approach would also help avoid unnecessary duplication of effort and reinforce the important role Member States have in the fight against fraud.

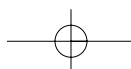
The role of the Court in relation to fraud

The role of the Court in relation to prevention and detection of fraud is not specifically defined in Article 188c of the Treaty on European Union. However, Article 205 of the Treaty does explicitly place responsibility for the implementation of the Community budget with the Commission and Article 209a requires the Member States to;

"take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests".

Usher (1997) defines the Courts primary role as

*"to promote the deterrence and prevention of irregularities (including fraud), rather than to **detect** fraud...the Court does in certain circumstances undertake audits which are designed to consider the elements of its strategy that contribute towards the deterrence and prevention of fraud and irregularity."*



Usher also goes on to identify four main elements of the Courts work:

- the evaluation of the performance of the authorities responsible for the detection and repression of cases of fraud and irregularity
- the screening of legislation and associated administrative and control systems
- the systematic identification of high risk areas that are especially prone to fraud or other forms of irregularity, and
- enhanced audit procedures during the course of the Court's normal audits of areas where the risk of fraud and irregularity is considered to be especially high.

Who does the Court Report to?

The Court's annual report consists of the findings from financial audits and value for money investigations and is published in November of the year following the financial year to which the report relates. This annual report plays an important role in the discharge procedure operated by the Council and Parliament. The purpose of granting a discharge is to verify the accuracy of the Commission's budgetary management and to determine precise revenue and expenditure for a given year. Parliament has the power to grant or refuse the Commission a discharge for its implementation of the budget, based on a recommendation of the Council. The discharge procedure will also include special reports by the Court.

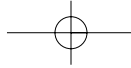
The annual report has three parts:

- Part 1: Detailed chapters on various internal and external spending programmes;
- Part 2: Observations on the different kinds of administrative expenditure (e.g. travelling allowances and expenditure on buildings);
- Part 3: The Commission's replies to the Court.

The annual report is drafted in an iterative manner by the auditors, the cabinets and members of the Court and the full Court. As Laffan (1997) outlines, once the full Court has produced a draft, the observations contained within it are discussed with the Commission in a procedure known as the: "the contradictory procedure". This allows the Commission to reply to the Court and to ensure that there is agreement on the facts. This "contradictory procedure" normally involves meetings between the responsible auditors and members of the cabinet with the relevant Commission staff, but Court members and Commissioners also participate as necessary. Once this process has reached a conclusion, the final report, including the Commission's comments, is presented to the European Parliament and the Council by the President of the Court.

Each annual report is a litany of questions and observations concerning weaknesses in financial controls and systems of financial management. There is some evidence to suggest that the findings reported in the Annual Report are not acted upon. For example, the Court has repeatedly expressed its concerns with regard to the Common Agricultural Policy and the system of export refunds. However, as yet this scheme is still wide open to abuse by the serious fraudster. Another example of the Court's findings going unheeded relate to the accounting for expenditure under the CAP. The European Union's financial regulations require the expenditure commitments of Member States to be entered into within the two months following receipt of the statements submitted by the Member States. However, this financial regulation is never complied with because on average

"the commitments are registered 17 days late, which hinders the use of the Sincom accounting system to monitor agricultural expenditure. These delays are attributable in particular to the time taken up by the various operations to verify and authorise the expenditure required by the legislation, and also to the procedures associated with transferring appropriations" (Annual Report, 1997).



There have also been allegations which suggest that the Court's reports can be subject to political editing by the Commission. Watson (1999) observes that the Court made a critical report of a body called The Human Rights Foundation which was funded by the Commission's DG1a Department. 'The draft made it clear that, contrary to the regulations, DG1a was using its contract with the Foundation to overcome staff shortages'. The Court's report was blunt: 'The clandestine use of the Foundation as a means of providing support staff and equipment circumvents all internal controls'. But, after the draft had been submitted to the Commission for checking this phrase was struck out, victim to the red pen. In its place was a bland statement...' (Watson, 1999). If these allegations have any substance, then this must weaken the effectiveness of the Court as means of ensuring greater accountability of institutions.

The Court also communicates some of its audit findings privately to its auditees through 'sector letters', which may form the basis for special reports later. Where the audit has taken place within the Commission, the sector letters are sent to DG XIX. If the audit has been undertaken in a Member State, then they are sent to the National Audit Institution (NAI), with a copy to DG XIX. Both types of letter are forwarded to the appropriate Commission departments for information or action. As Harden *et al* (1995) points out where the letter is sent to an NAI;

"the Commission has to tread carefully so as to avoid giving the appearance of interfering in a procedure which, unless and until the relevant information is included in an annual or special report, is confidential between the Member State and the Court".

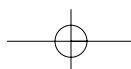
After widespread concern regarding the instances of fraud and mismanagement within the European Commission, in January 1999 the European Parliament adopted a resolution on improving the financial management of the Commission. The resolution called for;

"...a committee of independent experts to be convened under the auspices of the Parliament and the Commission with a mandate to examine the way in which the Commission detects and deals with fraud, mismanagement and nepotism ...to report by 15 March 1999" (European Parliament, 1999).

Committee of Independent Experts

The Committee of Independent Experts examined the Commission's procedures and practices in relation to specific cases such as Tourism (McMullen, 1999), ECHO (European Community Humanitarian Office), MED programmes (their aim was to strengthen political and economic cooperation with the Southern Mediterranean Countries), Leonardo programme (its purpose was to implement a vocational training policy) and so on. After a detailed analysis of the problems regarding fraud, mismanagement and nepotism in the above programmes: the Committee posed the central and inevitable question: 'Why were the control and audit mechanisms not adequate to rectify these problems in good time?' (European Parliament, 1999). The Committee comments that the external auditor (The Court of Auditors) had clearly pointed out many of the issues concerning the Tourism case and the ECHO and Med programmes, and yet, only one of the two components of the budgetary authority gave them the proper attention. Within the Commission;

"the internal audit and control mechanisms failed to work effectively. The Committee regards this as a central issue. In order to analyse it, a clear distinction must be drawn between auditing and a priori control" (European Parliament, 1999).



The Committee of Independent Experts recognised that a priori control as exercised by DG XX, the Financial Control Directorate, was very ineffective as most of the irregularities highlighted arose from decisions that the Directorate had approved. The Committee also reported that the Internal Audit section of DG XX did not deal with all cases warranting its attention in good time and that UCLAF (the European Anti-Fraud Unit at the time) was being asked to carry out inquiries of an internal nature that were in direct competition with the internal audit section. This, in the view of the Committee, had the effect of undermining the Internal Audit Section's authority. As the Committee point out, a priori control and internal auditing address different concerns and use different techniques. Part of the brief of Internal Audit is to check on the effectiveness of priori controls. The authors would argue that it is unacceptable for this role to remain within the Directorate as independence is compromised.

However, the Internal Audit Service needs to be adequately resourced so that independence can be both effective and transparent. Ideally the Internal Audit Service should report to a committee of the European Parliament composed of MEPs. Its work programme could also be drafted in consultation with the committee. The "contradictory procedures" which the Committee of Independent Experts recognised is an integral part of the internal audit process are too long and delay the publication of audit reports and their implementation. This process should be cut down to one month and once a department has been audited, if it does not reply to the initial report within one month, then the report should be published without delay.

With regard to UCLAF, the Committee of Independent Experts believed its position in the Commission was unclear. The Committee's view was that UCLAF should not act as an internal audit service because the majority of its staff did not have the necessary professional expertise. This was certainly true as the majority of UCLAF's staff came from an investigative background such as customs, police, or a from a legal background such as lawyers, investigating magistrates and so on. In addition, the Committee of Experts believed that there was competition between UCLAF and the internal audit service based in DGXX. This has been confirmed by the 'whistle-blower', Paul Van Buitenen, who worked for the internal audit service of DG XX, and has stated that UCLAF did not co-ordinate its actions with DG XX;

"Sometimes DG XX staff discovered UCLAF had been visiting DG XXII just after their (DGXX) visit, asking the same questions as they did (and even wanting to know what DG XX had asked)" (Van Buitenen, 1999).

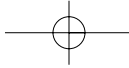
With respect to the cases such as the Tourism case and the Leonardo programme which were considered by the Committee, it took the view that UCLAF had not carried out its primary mission in a wholly satisfactory manner. Namely to consider from all available information;

"all situations in which the protection of the Communities' financial interests is at stake, preparing the files to be forwarded to the judicial authorities of the Member States and then monitoring the entire proceedings". (European Parliament, 1999).

The conclusion of the Committee was that UCLAF did not operate exactly in the above manner and;

"indeed its intervention sometimes slows the procedures down, without necessarily improving the end result" (European Parliament, 1999).

This assessment of UCLAF's performance did nothing to enhance its reputation and kept up the momentum for the establishment of an independent Fraud Prevention Office (OLAF). The establishment of OLAF and its effectiveness is discussed below.



From UCLAF to OLAF

Prior to 1999, Unite de Co-ordination de la Lutte Anti-Fraude (UCLAF) was the European Union agency with lead responsibility in the fight against fraud. It was created in 1988 following the recommendations of a Commission report concerning the means by which the fight against frauds on the Community budget could be intensified. UCLAF was part of the Secretariat-General of the European Commission.

UCLAF's primary purpose was to co-ordinate and support the activities of Member states with each other and the relevant offices of the Commission. In addition, it also moved into investigation in its own right, looking at suspected fraud cases with the aim of establishing the sums at risk, the amounts to be recovered and preparing case material suitable for submission to public prosecutors in the Member States. UCLAF also had the power to request that investigations be carried out by the competent services of the Member States involved (Interviewee UCLAF 1²).

In 1998, following embarrassing revelations of fraud and corruption in a number of programme areas, in particular, the humanitarian aid project, ECHO;

"where £600 million of aid could not be accounted for... and a number of instances of corruption: where nine cases involving Commission officials had been referred to the police, eight had been removed from their posts, six downgraded and twenty were under investigation" (Guardian Newspaper, October 7th 1998),

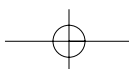
Jacques Santer asked Members of the European Parliament to endorse his call for a Fraud Investigation Office with sweeping powers to investigate all EU institutions.

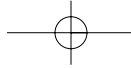
On May 6th 1999, at a first reading, the European Parliament approved the amended proposal by the Council to establish the European Fraud Prevention Office (OLAF) to replace UCLAF. The Council proposal subject to certain amendments required that;

'all institutions, bodies and organs should be subject to a definite obligation to provide the Office with information. In addition, if the Office's Director considers that a measure calls his independence into question, he shall have recourse before the (European) Court of Justice' (OEIL Procedure p.2).

This decision arose from a report by Herbert Bosch (an Austrian MEP) which dealt with the powers of the proposed new Fraud Prevention Office. OLAF would be able to conduct investigations in the Member States and the administrations of all Community institutions and bodies with the objective of protecting the financial interests of the Community and investigating all types of irregularities. The aim would be to ensure complete independence. The Director would have an obligation to forward to the relevant judicial authorities such information that the Office has obtained in its investigations concerning matters that could be subject to criminal charges. The intention was for staff numbers to be greater than those of UCLAF and that it would be monitored by a Supervisory Committee made up of five independent qualified experts. In addition, OLAF would report to not only the Commission, but also Parliament, the Council and the Court of Auditors.

In the first report by the Supervisory Committee which was published in August 2000, concern was expressed about a number of issues. Firstly, the guarantees of independence given to OLAF did not appear to be sufficient. The Committee reported a lack of independence in terms of recruiting, transferring or dismissing staff because of close ties with the administration of the Commission. All UCLAF staff were automatically transferred to OLAF. This is astonishing, considering UCLAF was deemed to have operated less than effectively; should staff have been automatically transferred?





Secondly, the Supervisory Committee expressed concern that it had been unable to fully monitor the investigative activity of OLAF, because in the initial months of its existence, a Director had not been appointed on a permanent basis. The structure of the organisation remained the same as when it was UCLAF consequently it was unable to effectively carry out its new role. An examination of the manner in which investigations had been carried out revealed a lack of standardisation in terms of dealing with investigations which often resulted in an ad hoc approach on the part of investigation officers. This hangover from the days of UCLAF had still not been addressed. If information is not supplied in a standardised manner then this makes the task of monitoring all the more difficult.

Thirdly, the Supervisory Committee was very concerned that it had not been given a mandate to fulfil the role of judicial safeguard, which it believed was necessary in order to oversee the legality of investigations conducted by OLAF. There was a need for a public prosecutor's office in order to secure this.

OLAF a missed Opportunity?

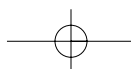
In considering the proposals to establish OLAF, the authors have identified a number of weaknesses. Firstly, there was an opportunity to make the new Office completely independent of the Commission, yet it was decided by Parliament and the Council to retain the OLAF within the Commission. Given the problems identified by the Committee of Independent Experts (Report, March 1999) regarding the previous Commission, and the concerns raised by the Supervisory Committee then that independence must now be made transparent. The current arrangements do not ensure this, despite the safeguards that were built into the proposals.

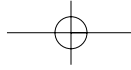
Secondly, OLAF should have been required to report to Parliament, as it is composed of the representatives of the people of Europe. It is their financial interests that are being harmed by the fraudsters and therefore OLAF should be accountable to the citizens of Europe through their elected representatives. Accountability appears to have been fragmented and in some respects diluted by the current arrangements; there need to be clear lines of accountability.

Thirdly, the Director should be appointed directly by Parliament. The present arrangements allow for 'consultations' between Parliament, the Council and the Commission. This arrangement allows too much scope for 'political horse-trading' between the key players. Will the best qualified individual get the job?

Fourthly, will the proposed expansion of OLAF's staff numbers allow for the recruitment of suitably qualified individuals i.e. those who possess the necessary qualifications in accountancy and auditing who will be able to properly investigate fraud cases. This was not always the case with UCLAF, where appointments were governed by nationality balance as much as by professional qualifications and relevant experience (Interviewee: UCLAF 2³). Given the proposed enlargement of the European Union to the East, this is an issue which will gain in importance.

Fifthly, the same problems that UCLAF faced in terms of mutual assistance in legal matters are still there. There are fifteen different legal systems in operation. It is very difficult to obtain evidence in one jurisdiction and place it before the Courts in another and have it accepted. There is a clash between accusatorial and inquisitorial systems of justice that exist in different member states. Criminals of course face no such restrictions. There are positive advantages to them in operating across legal frontiers and they take full advantage of them (Interviewee 4⁴). The "Corpus Juris" proposals which attempt to define a common European legal area for crimes against the budget are no nearer acceptance and indeed have been the subject of critical comment in the UK by the ninth report of the House of Lords Select Committee on the European Communities.





The House of Lords Select Committee had a number of concerns regarding what they perceived to be fundamental shortcomings of the proposals. Firstly, they were concerned at the sweeping powers given to the European Public Prosecutor (EPP) and the lack of accountability of this particular office (see House of Lords-European Communities - Ninth Report 1999 Part 3). The Select Committee took the view that the EPP should be answerable to a democratically elected body like national parliaments and/or the European Parliament.

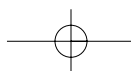
A second weakness identified by the Select Committee, is that the Corpus Juris proposals would be limited to the territories of the Member States. Fraud is international in nature and particularly where there is the involvement of organised crime syndicates. As a UCLAF witness pointed out in evidence to the Committee - fraudulent activity may well take place partially in countries outside the European Union. It is possible that witnesses and evidence may be located outside the European Union. The Corpus Juris proposals do not address this problem and it would be extremely difficult for the EPP to request assistance from countries outside the Union.

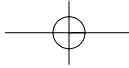
Thirdly, the Select Committee points out that the Corpus Juris is not a complete code. Article 35 requires that national laws should cover any short-comings in the proposals. Would the domestic rules of Member States have to be reviewed and amended to ensure comparability and equity across the European Union? This is likely to be extremely burdensome and time consuming for Member States.

There are also significant problems as far as the British Government is concerned, with the proposal regarding powers of remand given to agents of the EPP. They can request a person's remand in custody without charge for a period of up to six months renewable for three months, where there are reasonable grounds to suspect the accused has committed a Corpus Juris offence. Though it would be up to a national judge to decide the matter, the notion that a person could be kept in custody without charge for such a lengthy period was unacceptable to the Select Committee.

Conclusion

The policing of European institutions and spending programmes is characterised by a lack of genuine accountability and fragmentation. There are major difficulties concerning incompatibility of judicial systems and differing administrative procedures. At the trans-national level, the European Court of Auditors faces problems in getting its voice heard. There appears to be evidence of political editing of its reports by the Commission as in the case of its report on the Human Rights Foundation. The European Fraud Prevention Office (OLAF) has not been given true independence, it still reports to the Commission; it still faces the problems of having to gather evidence across legal frontiers. The Supervisory Committee of OLAF has expressed a number of concerns regarding its independence and investigative effectiveness. Until there is a strengthening of the powers of institutions like these then the policing of Europe Union expenditure will remain weak and less than effective.





- i Principal Administrator, European Court of Auditors
 ii Principal Administrator 1
 iii Principal Administrator 2
 iv Professor Petrus van Duyne, Tilburg University

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