



WORKING ARRANGEMENT

BETWEEN

THE EUROPEAN ANTI-FRAUD OFFICE ('OLAF')

AND THE EUROPEAN UNION AGENCY FOR CRIMINAL JUSTICE

COOPERATION ('EUROJUST')

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Preamble

The European Anti-Fraud Office (hereinafter referred to as 'OLAF') and the European Union Agency for Criminal Justice Cooperation (hereinafter referred to as 'Eurojust'), together referred to as 'the Parties',

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 85 and 325 thereof,

Having regard to Commission Decision 1999/352/EC of 28 April 1999¹ as amended establishing the European Anti-fraud Office, and in particular OLAF's mandate to carry out administrative investigations intended to combat fraud, corruption and any other illegal activity adversely affecting the Union's financial interests,

Having regard to Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013² concerning investigations conducted by the European Anti-Fraud Office, hereinafter referred to as 'the OLAF Regulation', and in particular Articles 13 and 16 thereof, as basis for cooperation with Eurojust,

Having regard to Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust) and replacing and repealing Council Decision 2002/187/JHA, hereinafter referred to as 'the Eurojust Regulation', and in particular Articles 2(1), 3(6), 47 and 51 thereof,

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018³ on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC,

¹ OJ L 136, 31.5.1999, p. 20–22.

² OJ L 248, 18.9.2013, p. 1–22, as modified by Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations, OJ L 437, 28.12.2020, p. 49.

³ OJ L 295, 21.11.2018, p. 39.

Having regard to Commission Decision (EU) 2018/1962 of 11 December 2018⁴ laying down internal rules concerning the processing of personal data by OLAF,

Having regard to the Rules of Procedure on the processing and protection of personal data at Eurojust approved by the Council by Implementing Decision (EU) 2019/2250 of 19 December 2019 and adopted by the College on 20 December 2019,

Considering that it is within the common interest of the Parties to enhance their cooperation, in an effort to make the fight against fraud, corruption and any other illegal activity adversely affecting the financial interests of the European Union as efficient as possible and to avoid duplication of efforts,

Considering that the Practical Agreement on arrangements of cooperation between Eurojust and OLAF of 24 September 2008 (2008/C 314/02) should be replaced by the present Arrangement,

Considering that in accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not bound by the Eurojust Regulation or subject to its application,

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose of cooperation

1. This Working Arrangement (hereafter referred to as 'Arrangement') establishes the framework for cooperation between the Parties, including the exchange of information and personal data.
2. The cooperation between the Parties aims at enhancing the fight against fraud, corruption or any other criminal offence or illegal activity affecting the EU's financial interests.
3. The Parties shall cooperate in full respect of their respective legal frameworks. In this regard, this Arrangement does not create any additional rights or obligations under European Law and is without prejudice to the provisions governing the mandates of OLAF and Eurojust.

⁴ OJ L 315, 12.12.2018, p. 41.

Article 2

Definitions

For the purpose of this Arrangement, the following definitions apply:

- a) 'Member State' means a Member State of the European Union which takes part in the Eurojust and the OLAF Regulations;
- b) 'Post holder' means any person working for one of the Parties and, in particular, Eurojust national members, deputies and assistants, the representative of Denmark at Eurojust, Liaison Prosecutors of third countries at Eurojust, staff, Seconded National Experts, interims, contractors and trainees;
- c) 'Staff' means any person employed by one of the Parties subject to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community;
- d) 'Liaison prosecutor' (and his/her assistants) means a person seconded by a third country to Eurojust on the basis of a cooperation agreement concluded between Eurojust and that third country before 12 December 2019; or a working arrangement between Eurojust and a third country under Article 47(1) of the Eurojust Regulation;
- e) 'Personal data' shall be understood as defined in Article 3(1) of Regulation 2018/1725.

Article 3

Scope of cooperation

1. The Parties shall cooperate in institutional, strategic and operational matters. The cooperation as established in this Arrangement shall relate to the relevant areas within the respective mandates of the Parties, including fraud, corruption, money laundering, environmental crime, intellectual property crime or any other illegal activity within the scope of the current or future mandates of the Parties.
2. The Parties shall also cooperate in cases that only affect one Member State but which have repercussions at Union level and for which assistance by Eurojust has been requested by the competent authority of a Member State or by OLAF.
3. The specific objectives between the Parties may be agreed in an annual or multi-annual action plan that takes due account of the human and financial resources available to the Parties.
4. This Arrangement shall not apply to internal investigations carried out by OLAF concerning Eurojust post holders in accordance with Article 4 of the OLAF Regulation, Article 75(1) of the Eurojust Regulation and with the College Decision 2020-03 of 15 July 2020 concerning the terms and conditions for internal investigations at Eurojust in relation with the prevention of fraud, corruption and any other illegal activity detrimental to the interests of the Union.

CHAPTER II

INSTITUTIONAL AND STRATEGIC COOPERATION

Article 4 Liaison teams

1. Each Party shall establish a liaison team. Each Party shall designate the members of its liaison team and inform the other Party in writing.
2. A member of each liaison team shall act as contact point and coordinate cooperation between the Parties. The Parties may decide to appoint ad-hoc contact points for specific cooperation activities.
3. Liaison teams shall meet at least once a year, either physically or by electronic means, to discuss and coordinate matters of common interest and to assess the practical implementation of this Arrangement. The Parties shall take turns in chairing the meetings of the liaison teams.
4. The liaison teams shall prepare the high-level meetings referred to in Article 5 of this Arrangement and the assessments of the implementation of this Arrangement in accordance with its Article 20.

Article 5 High-level meetings

1. The Director General of OLAF and the President of Eurojust shall meet at the request of either Party, and at least once a year, to discuss issues of common interest and agree on strategic directions for enhancing cooperation.
2. Unless otherwise agreed, the Parties shall take turns in organising the meetings. Meetings shall take place at the premises of the organising Party or, if that is not feasible, by electronic means.

Article 6 Forms of strategic cooperation

1. The Parties may exchange information of strategic nature, such as trends and challenges, reports, lessons learned and other observations and findings related to their respective activities, which could support their work.
2. The Parties may cooperate with regard to seminars, workshops and conferences, including by informing and inviting each other to such activities, or by organising joint activities of common interest.

Article 7
Exchange of views with the Institutions

The Director General of OLAF may invite Eurojust to attend the exchange of views referred to in Article 16(1) of the OLAF Regulation on an ad hoc basis, in particular where they relate to horizontal and systemic issues encountered in the follow-up to OLAF's final investigation reports.

Article 8
Cooperation as regards post holders

1. The Parties may cooperate in the area of professional training, including by organising joint activities in this field.
2. The Parties may establish an exchange programme for their post holders.
3. The Parties may agree to the secondment of a representative to the other Party. The tasks, rights and obligations, services, costs and other implementation details will be agreed by the Parties in a separate Arrangement.

CHAPTER III

OPERATIONAL COOPERATION

Article 9
Forms of operational cooperation

The operational cooperation between the Parties may include:

- a) Provision of such mutual assistance and advice as may be useful to the Parties for the efficient and effective fulfilment of their respective tasks;
- b) Cooperation in operational cases, in particular in the framework of coordination meetings, coordination centres and other operational meetings;
- c) Participation in Joint Investigation Teams (JITs);
- d) Support in relation to OLAF's judicial recommendations, including the transmission and follow up thereof;
- e) Cooperation in the framework of Eurojust's own initiative cases;
- f) Transmission of operational information including personal data spontaneously or upon request;

- g) Making use of the other Party's established relationships with Denmark, third countries and international organisations by benefiting from the respective network of contact points provided the individual contact points agree.

Article 10

Operational meetings

Whenever a Party is involved in an operational meeting concerning a case under investigation in one or more Member States, it shall inform the national authorities concerned of the added value of the other Party's involvement, and promote the other Party's participation in such operational meetings.

Article 11

Joint Investigation Teams

1. If either Eurojust or OLAF participates in a JIT set up by Member States and falling under the scope of this Arrangement, the Party shall, when appropriate, inform the other Party and propose to the Member States to consider inviting the other Party to participate in the JIT.
2. OLAF may request Eurojust to ask the competent authorities of the Member States concerned to set up a JIT in cases dealing with an illegal activity within OLAF's mandate. In such a case, OLAF may also encourage the relevant competent authorities to agree to the setting up of the JIT.

Article 12

Judicial recommendations

1. With regard to its judicial recommendations, OLAF may seek Eurojust's assistance, including by:
 - a) Involving Eurojust to provide clarifications and advice regarding national rules on statutes of limitation, admissibility of evidence and other relevant considerations;
 - b) Requesting Eurojust's assistance in the identification of the competent judicial authorities;
 - c) Enhancing judicial follow-up.
2. OLAF shall transmit to Eurojust relevant information related to any judicial recommendation transmitted to the competent authorities of one or more Member States.

Article 13
Exchange of operational information

1. Any exchange or transfer of operational information, including personal data, between the Parties may only take place for the purposes set out in Article 1 of this Arrangement and in accordance with the Parties' respective legal frameworks.
2. Exchange of operational information shall in principle take place between the national member(s) or his/her substitutes pursuant to the Eurojust Regulation and OLAF investigators/Heads of Unit concerned by a concrete case. To the extent necessary to identify the competent national member or his/her substitutes pursuant to the Eurojust Regulation, preliminary exchanges of operational information may take place between the designated operational contact points of each Party.
3. The Parties may exchange operational information, spontaneously or upon request. A Party requesting operational information shall notify the other Party of the purpose for which the information is requested. In case of spontaneous transfer of information, the Party providing the information shall notify the other Party of the purpose for which the information is supplied as well as of any applicable restrictions to the use of such information.
4. Where this may support and strengthen coordination and cooperation between national investigating and prosecuting authorities, or where OLAF has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, OLAF shall transmit relevant information to Eurojust, within the mandate of Eurojust.
5. When operational information transmitted by one Party matches information processed by the other Party, the receiving Party shall communicate the existence of the match. The receiving Party shall seek, when necessary, the consent of the provider of the information originating the match in order to be able to transmit the operational information to the other Party.
6. The Parties shall endeavour to keep each other informed of any follow-up given to the operational information exchanged, including decisions to close or not to pursue a specific case.

Article 14
Communication channels

The exchange of operational information between the Parties shall take place through secure channels and means of communications using appropriate state of art security measures as encryption, such as the Anti-Fraud Information System mailbox, taking into consideration the specific circumstances of the case.

CHAPTER IV
DATA PROTECTION

Article 15
General provisions

1. Any exchange and further processing of personal data shall be in accordance with and based upon the Parties' respective legal frameworks.
2. The Parties shall keep a record of the transmission and receipt of data communicated under the Arrangement, including the grounds for such transmissions.
3. Special categories of data listed in Article 10 of Regulation (EU) 2018/1725 may only be exchanged if allowed by the Parties' respective legal framework and provided they are strictly necessary and proportionate for the purposes set out in Article 1 of this Arrangement. The Parties will take relevant technical and organisational measures proportional to the sensitivity of such data.
4. The Parties shall consult each other before taking any decision regarding an individual's request for access, rectification, restriction or erasure of personal data which has been processed in the context of this Arrangement to ensure that any reasons for restrictions raised by the other Party are properly considered. As far as Eurojust is concerned, it should ensure that, where relevant, the view of the national authorities that initially provided the personal data to Eurojust is properly considered. The final decision shall be subsequently notified to the transmitting Party.
5. Where a Party has reasons to believe that personal data previously transmitted by it is incorrect, inaccurate, outdated or should not have been transmitted, it shall inform the other Party, which shall correct or erase the personal data, taking into account its legal framework, and provide notification thereof.
6. Where a Party has reasons to believe that personal data previously received from the other Party is incorrect, inaccurate, outdated or should not have been transmitted, it shall inform the other Party which shall provide its position on the matter.
7. The Parties shall ensure that the necessary technical and organisational measures are in place to protect personal data received under this Arrangement against accidental or unlawful destruction, loss, alteration or unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed. Where data transmitted under this Arrangement has been affected by a data breach

occurring at the receiving Party, the receiving Party informs, where appropriate, the sending Party about the breach as well as of the mitigating measures taken.

Article 16

Time limits for the storage of personal data

Personal data shall be stored for no longer that is necessary for the purposes for which the data were collected or further processed in accordance with Article 1 of this Arrangement and the Parties' respective legal framework. Each Party retains the data received in accordance with their respective legal framework and corresponding retention periods.

CHAPTER V

FINAL PROVISIONS

Article 17

Access to documents

1. The Parties shall consult each other before taking any decision regarding a person's request on access to documents that either of the Parties received from the other Party on the basis of this Arrangement.
2. The Party-author consulted shall have a deadline for reply that enables the other Party to comply with its own deadlines for reply, but not shorter than five working days. In the absence of a reply from the Party-author in the prescribed deadline, the Party requested to grant access to a document originating from the other Party shall proceed in accordance with its own rules on public access to documents, taking into account the legitimate interest of the Party-author on the basis of the available information.
3. The provisions of paragraphs 1 and 2 of this Article shall not apply when the Party-author has already disclosed the document or it has agreed in writing with the disclosure of that document.

Article 18

Communication with the media

Communication with the media regarding operations in which both Parties were involved shall take place in agreement between the Parties and, where necessary, the authorities of the Member States, Denmark or third countries concerned.

Article 19 Expenses

The Parties shall bear their own expenses that arise in the course of implementation of this Arrangement, unless otherwise agreed by the Parties.

Article 20 Assessment of implementation

The Parties shall carry out a joint assessment of the implementation of this Arrangement every second year.

Article 21 Dispute settlement

Any dispute arising out of the interpretation or implementation of this Arrangement is to be settled by negotiations between the Parties.

Article 22 Amendments

1. Either Party may request the other Party to enter into negotiations for the amendment of this Arrangement.
2. The Parties may amend this Arrangement by mutual consent in written form at any time.
3. Any amendment shall enter into force on the day following the date upon which the Parties notify each other of the completion of their internal requirements.

Article 23 Termination

1. This Arrangement may be terminated in writing by either Party with three months' notice. The European Commission, the Council and the European Parliament shall be informed about the termination of the Arrangement.
2. In case of termination, the Parties shall ensure the lawful processing of all information that has been already exchanged until the end of the respective retention periods and in respect of all applicable data protection provisions.
3. Without prejudice to paragraph 1 of this Article, the legal effects of acts and decisions taken on the basis of this this Arrangement shall remain in force.

Article 24
Repeal

The Practical Agreement on arrangements for cooperation concluded by the Parties on 24 September 2008 is hereby replaced and repealed.


Article 25
Entry into force

This Arrangement shall enter into force on the day following its signature by the last Party.

Done at The Hague on the 29th of March of 2023, in duplicate in the English language.

For Eurojust

For OLAF



Ladislav HAMRAN
President of Eurojust



Ville ITÄLÄ
Director-General of OLAF

Done in The Hague
On 29 March 2023

Done in The Hague
On 29 March 2023