

## **ADMINISTRATIVE COOPERATION ARRANGEMENT**

**BETWEEN**

**THE EUROPEAN ANTI-FRAUD OFFICE**

**AND**

**THE OFFICE OF THE PROSECUTOR GENERAL OF HUNGARY**

### **1. Purpose of the Arrangement**

1.1. The European Anti-Fraud Office (OLAF) and the Office of the Prosecutor General of Hungary (the Office of the Prosecutor General), hereinafter referred to as the “partners”,

Having regard to Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) 1074/1999<sup>1</sup>, and in particular its Article 1(5),

Having regard to paragraph (2) of Section 101 of Act XC of 2017 on Criminal Proceedings which imposes an obligation under national law on the Prosecution Service of Hungary to provide information in criminal proceedings and grant access to criminal files to OLAF,

Having regard to their common interest in:

- protecting the financial interests of the European Union by combating fraud, corruption and any other illegal activities;
- strengthening the cooperation in the fight against fraud, corruption or any other illegal activity affecting the financial interests of the European Union;
- protecting the reputation of the European institutions, bodies, offices and agencies by investigating serious misconduct by their Members and staff that could result in disciplinary or criminal proceedings (hereinafter referred to as “serious misconduct of EU staff or Members”),

the partners will cooperate, within the scope of their respective mandates, as set out under point 2 of this Arrangement.

1.2. This administrative cooperation arrangement (hereinafter referred to as the “Arrangement”) sets out the framework for the working relationship between the partners subject to available resources. The Arrangement is not intended to create any additional rights or to impose any additional obligations under European Union law, to modify any existing legal rules or to interfere with the legal frameworks governing the partners. This Arrangement does not cover mutual legal assistance nor other forms of judicial cooperation in criminal matters and does not affect any future cooperation of the partners with the European Public Prosecutor’s Office.



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<sup>1</sup> OJ L 248, 18.9.2013, p. 1.

## **2. Cooperation activities**

2.1. The cooperation between the partners will include, in particular, the following activities:

- exchange of information;
- operational assistance;
- training;
- technical assistance.

### **2.2. Exchange of information**

2.2.1. The partners, spontaneously or upon request, will provide each other information that may be relevant for the other partner to fulfil their respective tasks, subject to the relevant confidentiality and personal data protection rules.

2.2.2. When cooperating on a particular case, the partners will provide each other any relevant information that may be necessary for the other partner to fulfil their respective tasks and to achieve the objective of this Arrangement, subject to the relevant confidentiality and personal data protection rules. When exchanging information, the partners will endeavour to provide each other with sufficient elements to identify:

- the persons, companies or entities suspected of being involved in fraud, corruption or any other illegal activity affecting the financial interests of the European Union, or the persons (EU staff or Members) suspected of serious misconduct;
- the reference of the case used within the organisation of the requested partner;
- the investigative body responsible for the case;
- the nature of the fraud, corruption or other illegal activity or the nature of the serious misconduct of EU staff or Members; and
- any other relevant circumstances.

2.2.3. OLAF will provide the Office of the Prosecutor General with the final reports of investigations related to Hungary, which are accompanied by the judicial recommendations of the Director-General of OLAF and any relevant related documents, pursuant to Article 11 (3) and (5) of Regulation No (EU, Euratom) 883/2013.

2.2.4. The Office of the Prosecutor General will forward the final reports of investigations drawn up by OLAF, the recommendations of the Director-General of OLAF and any relevant related documents referred to in point 2.2.3 above to the competent judicial authority.

2.2.5. Upon OLAF's request, the Office of the Prosecutor General will inform OLAF, by using the forms provided by the Office, of the measures taken following the transmission of the recommendations referred to in point 2.2.3 above, namely of the opening of an investigation, the dismissal, the indictment, the final judgment and the amount of EU money recovered, in particular directly from the defendant, as well as of the completion of the main stages of criminal proceedings started based on the information transmitted by OLAF pursuant to Articles 11 (3) and (5) and 12 (1) and (2)

of Regulation (EU, Euratom) No 883/2013.

2.2.6. When a case that was opened following the transmission of an OLAF judicial recommendation is dismissed, the Office of the Prosecutor General takes the necessary steps to guarantee that the relevant dismissal decision be sent by the competent prosecution service or the investigation authority in due time to OLAF and to the Legal Service of the European Commission.

2.2.7. According to Article 12 (1) of Regulation (EU, Euratom) No 883/2013, the Office may transmit to the competent authorities of the Member States concerned information obtained in the course of external investigations in due time to enable them to take appropriate action in accordance with their national law. Without prejudice to Article 2 (6) of Commission Decision 1999/352/EC, if OLAF uncovers facts, which could give rise to criminal proceedings and chooses to transmit this information, the Office of the Prosecutor General will be the addressee of such transmission or informed about it.

2.2.8. The partners will exchange any information via the contact persons referred to in point 4 below. In the event of an information request, the requested partner will provide an initial reply to the request as soon as possible. Where the requested partner cannot provide the relevant information within 15 working days from receipt of the request, it will inform the requesting partner of any particular circumstances and the date when the reply may be expected.

2.2.9. In the context of the publication of their respective Annual Reports presenting their activities, the Office of the Prosecutor General and OLAF will endeavour to send to each other a list of criminal cases / cases under judicial monitoring, which are ongoing at the end of the reporting period or in which, during the reporting period, the judicial inquiry ended with an indictment or with a dismissal of the case respectively, as far as those cases are represented in the reported figures concerning the partners' cooperation. The partners will endeavour to cross-check these data as far as possible.

### **2.3. Operational assistance**

2.3.1. Within the scope of their respective mandates, the partners will assist each other in investigative and other operational activities of common interest, including synchronising investigative activities such as exchanging information as to their investigative plans or coordinating investigative steps, if necessary.

2.3.2. Before conducting on-the-spot checks and inspections on the territory of Hungary, OLAF may request the Office of the Prosecutor General to confirm whether, in that specific case, any criminal proceedings within the scope of the on-the-spot check or inspection are being conducted or have been conducted in the past.

2.3.3. If OLAF is planning to conduct an on-the-spot check or inspection on the territory of Hungary regarding a case that according to OLAF's knowledge is, at the same time, the subject of ongoing criminal proceedings, OLAF shall inform the supervising Prosecutor on the purpose, scope and timing of the on-the-spot check or inspection.

2.3.4. For the requests referred to in point 2.3.2., the Office of the Prosecutor General will provide a reply as soon as possible and no later than 15 working days from the reception of the request.

2.3.5. When a criminal investigation is already ongoing, in parallel with an OLAF investigation, upon request by OLAF, the Office of the Prosecutor General will support OLAF, in consulting with the national investigative bodies to synchronise the conduct of on-the-spot checks by OLAF and the

inspections or searches of premises by the national investigating bodies.

## **2.4. Training**

Subject to the availability of resources, the partners will cooperate in the area of training. They will inform each other of, and invite each other to relevant seminars, workshops, conferences and other similar activities.

## **2.5. Technical assistance**

In conformity with the relevant rules and subject to the availability of resources, the partners will provide each other with technical assistance, including exchange of best practices and exchange of any necessary technical information. This exchange may include:

- information on technical investigation tools;
- know-how in processing and analysing investigation data;
- information on IT equipment and expertise.

## **3. Confidentiality and data protection**

### **3.1. Confidentiality, use of information by the partners and in relation to third parties**

3.1.1. Information communicated or acquired under this Arrangement shall be covered by professional secrecy, in accordance with the national legal rules applicable to the Office of the Prosecutor General and, as regards OLAF on the basis of Article 10 of Regulation (EU, Euratom) No 883/2013.

3.1.2. The partners should only disclose information provided pursuant to this Arrangement to third parties after consultation with the partner, which has provided the information. Where such disclosure is required by virtue of the statutory duties of a partner, the latter will inform the other beforehand.

### **3.2. Personal data protection**

3.2.1. Any processing of personal data within the framework of the exchange of information between the partners under this Arrangement shall be governed by the relevant rules applicable to the partners.

3.2.2. In particular, any transmission of personal data made by OLAF to the Office of the Prosecutor General will be performed in compliance with Article 9 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 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<sup>2</sup>. Any processing by OLAF of personal data transmitted by the Office of the Prosecutor General will be subject to the rules of the said Regulation and to Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to

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<sup>2</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 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 (OJ L 295, 21.11.2018, p. 39).

data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>3</sup>.

3.2.3. Any transmission of personal data made by the Office of the Prosecutor General to OLAF and any processing by the Office of the Prosecutor General of personal data transmitted by OLAF are subject to the Personal Data Protection Act and the Criminal Procedure Code, and other national provisions implementing Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data<sup>4</sup>.

#### **4. Contact persons**

4.1. The partners designate contact persons within their respective services, responsible for the implementation of this Arrangement, in particular for the exchange of information and any other communication related to the cooperation activities under this Arrangement.

4.2. The designated contact persons may designate other persons as authorised to maintain direct contact in certain cases.

4.3. The designated contact persons are specified in the Annex. Any change to the designated contact persons will be notified in writing without delay.

#### **5. Evaluation of cooperation**

The partners intend to evaluate when necessary the application of this Arrangement and amend it as appropriate by mutual agreement.

#### **6. Final provisions**

6.1. This Arrangement is drawn up in two bilingual originals (English and Hungarian). Each partner will keep one of each language version of the originals. In case of divergence between the English and Hungarian language version, the English language version prevails.

6.2. This Arrangement is applicable from the date of its signature by both partners.



**Péter POLT**

Prosecutor-General of Hungary

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**Ville ITÄLÄ**

Director-General of OLAF

<sup>3</sup> Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council (OJ L 315, 12.12.2018, p. 41).

<sup>4</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).