



**Agreement establishing the modalities of cooperation
between the European Commission and the
European Public Prosecutor's Office**



Brussels, 2.6.2021
C(2021) 4012 final

ANNEX

ANNEX

to the

Communication to the Commission

**on the Agreement between the European Commission and the European Public
Prosecutor's Office (EPPO)**

DRAFT

Agreement

establishing the modalities of cooperation

between the European Commission and the European Public Prosecutor's Office

(hereafter referred to as 'the EPPO')

– together referred to as 'The Parties' –

Considering that:

- 1) Article 103(1) of Council Regulation (EU) 2017/1939¹ provides that the EPPO shall establish and maintain a cooperative relationship with the European Commission for the purpose of protecting the financial interests of the Union and shall conclude to that end an agreement setting out the modalities for their cooperation.
- 2) According to Article 317 of the Treaty on the Functioning of the European Union, the Commission shall implement the budget in cooperation with the Member States, in accordance with the provisions of the regulations adopted pursuant to Article 322, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management and the provisions of the EU Financial Regulation²,
- 3) This agreement is without prejudice to the Decision 2009/496/EC, Euratom on the organisation and operation of the Publications Office of the European Union, in particular to the provisions of Article (12)2 concerning the agreement setting out mutual information arrangements between the Chairperson of the Management Committee of the Publications Office and the Director of OLAF,

Have agreed as follows:

¹ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283, 31.10.2017, p. 1)–71.

² Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, (OJ L 193, 30.7.2018, p. 1)–222.

Chapter I – Purpose and Scope

Article 1

Purpose

In accordance with Article 103(1) of Regulation (EU) 2017/1939, the purpose of this Agreement is to establish and maintain a cooperative relationship between the Parties for the purpose of protecting the financial interests of the Union, and to set out the modalities for this cooperation.

Article 2

Nature

This Agreement is not intended to modify any existing legal rules or to interfere with the legal frameworks governing the Parties.

Article 3

Scope of application

1. Without prejudice to paragraph 2, this Agreement applies to the relations between the EPPO and the Commission, including as regards staff of the Commission assigned to third countries and hosted by EU Delegations.
2. Relations between the EPPO and the European Anti-fraud Office (hereafter referred to as ‘OLAF’) when the latter exercises its investigative function pursuant to Regulation (EU, Euratom) No 883/2013 of the European Parliament and of Council³ are governed by the specific applicable provisions of Regulation (EU) 2017/1939 and Regulation (EU, Euratom) 883/2013, and by specific separate working arrangements between the EPPO and OLAF. This agreement is without prejudice to those arrangements.

³ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) (OJ L 248, 18.9.2013, p. 1 – 22=, as last amended by Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020, OJ L 437, 28.12.2020, p. 49–73.

3. The Commission will facilitate the conclusion of separate working arrangements between executive agencies set up by it and the EPPO.
4. This agreement does not govern the relations between the European External Action Service (EEAS), including its departments at Headquarters or in EU Delegations, and the EPPO.

Article 4

Scope of the cooperation

The cooperation between the Parties may, in addition to the exchange of information under the conditions laid down in this Agreement, include collaboration in the performance of each Party's tasks as outlined in their respective legal frameworks and related to the protection of the financial interests of the Union.

Chapter II – Modalities of cooperation

Article 5

Reporting by the Commission

1. In accordance with Article 24(1) of Regulation (EU) 2017/1939, the Commission shall report to the EPPO without undue delay any criminal conduct in respect of which the EPPO could exercise its competence in accordance with Article 22, and Article 25(2) and (3) of that Regulation, taking into account the joint interest of the Parties in protecting the financial interests of the Union, their reciprocal obligation to cooperate, and more broadly the general interest of the Union.
2. In accordance with Article 24(5) of Regulation (EU) 2017/1939, the Commission shall also inform the EPPO of cases where it is not possible to make an assessment of whether the criteria in Article 25(2) of Regulation (EU) 2017/1939 for the EPPO to exercise its competence are met.
3. For the purposes of paragraphs 1 and 2 of this Article, the Commission shall transmit to the EPPO, in accordance with Article 24(4) of Regulation (EU) 2017/1939, any information and evidence relating to the criminal conduct referred to in paragraph 1 of this Article.

4. Reporting by the Commission in application of this Article will preferably take place by using the template in Annex IV.
5. The Commission will address reports falling under this Article to the EPPO via the contact points indicated in Annex I.
6. The EPPO will without undue delay acknowledge receipt of the Commission's reports.
7. In accordance with Article 24(9) of Regulation (EU) 2017/1939, the EPPO may, in specific cases and based on a reasoned request, request further relevant information available to the Commission.

The requested information may concern infringements which caused damage to the Union's financial interests, other than that within the competence of the EPPO in accordance with Article 25(2) of Regulation (EU) 2017/1939.

The Commission will respond to such requests for information as soon as possible, having regard to the time limit specified by the EPPO in its request and justified by the EPPO with reference to objective needs linked to its investigation.

Where the Commission is unable to respect the deadline, it will inform the EPPO as soon as possible, and give an indication of the time within which it expects to be able to respond.

8. As provided for by Article 24(10) of Regulation (EU) 2017/1939, the EPPO may request other information in order to enable the College of the EPPO, in accordance with Article 9(2) of that Regulation, to issue general guidelines on the interpretation of the obligation to inform the EPPO of cases in respect of which the EPPO could exercise its competence pursuant to Article 25(2) of Regulation (EU) 2017/1939.
9. The EPPO will address its requests for other or further information to the Commission in application of this Article via the contact points indicated in Annex I.

The relevant contact point in the Commission may direct the EPPO services to single

contact points in the relevant Directorates-General and equivalent departments of the Commission to facilitate the exchange of information.

10. Whenever the EPPO consults the Commission on the basis of this Article or of Article 25(2), second subparagraph, of Regulation (EU) 2017/1939, it will do so through the contact point in the Central Office of the EPPO indicated in Annex I.

Article 5a

Cooperation with EPPO investigations and prosecutions

1. The Parties will engage in close cooperation in the framework of the criminal investigations and prosecutions carried out by the EPPO.
2. The Commission will encourage its Members and staff members to contribute to the investigations carried out by the EPPO and will facilitate such contribution, subject to:
 - the relevant provisions of the Staff Regulations relating to the prohibition of unauthorised disclosure of information and the disclosure of information in legal proceedings, and
 - the analogous requirements for Members of the Commission, which shall apply without prejudice to the relevant provisions of the Treaties in particular the Protocol on privileges and immunities, and the texts implementing them.
3. For the purpose of granting the permission set out in Article. 19 of the Staff Regulations, the EPPO will send a reasoned request to the Commission, in particular to authorise the appearance of relevant persons at the relevant stage(s) of criminal proceedings as witnesses, or expert witnesses, or other equivalent roles provided for by the applicable law of a participating Member State. The request will be treated as soon as possible, having regard to the time-limit specified by the EPPO in the request taking into account the time constraints linked to the specific criminal proceedings concerned as detailed by the EPPO.

Whenever the Commission is unable to respect the deadline, it will inform the EPPO as soon as possible, and give an indication of the time within which it expects to be able to respond.

The Commission will cooperate closely with the EPPO throughout the process.

This procedure is without prejudice to the notification to the relevant persons of appropriate convocations or summons in accordance with applicable national procedural law.

4. The EPPO will transmit its requests falling under this Article via the contact point indicated in Annex I.
5. By derogation from paragraph 4, whenever, in the framework of an ongoing investigation, it is possible for the EPPO to directly contact the relevant Commission departments for the purpose of obtaining factual information regarding the policies and activities administered by the relevant Commission department, the Commission will indicate this in writing to the EPPO.
6. The EPPO will, as a rule, forward communications and requests to the Commission in accordance with this Article through the contact point in its Central Office indicated in Annex I.

Article 6

Information provided by the EPPO

1. In accordance with Article 24(7) and Article 26(2) of Regulation (EU) 2017/1939, where the Commission has reported criminal conduct and, upon verification, the EPPO decides to initiate an investigation the EPPO shall without undue delay, and in principle within fifteen days from the date of its decision, inform the Commission to that effect in case the latter reported the criminal conduct. Where the EPPO decides that there are no grounds to initiate an investigation, it will inform the Commission as soon as possible.

This information obligation also covers possible criminal offences for which the EPPO considers that it is not competent, or for which it may not exercise its competence.

In accordance with Article 87 the Decision of the College of the EPPO 002/2021 of 13 January 2021 and Article 86 of the framework financial regulation for Union bodies that receive contributions charged to the Union budget referred to in Article 70 of Regulation (EU, Euratom) 2018/1046, the EPPO shall also inform the Commission without delay and, without endangering the confidentiality and effectiveness of its investigations, in the following instances:

- where the Commission's responsibility to implement the Union's budget may be affected; and
- where a case involves a potentially serious reputational risk for the Union.

Annexes II and III detail the conditions for providing such information and its content.

2. In accordance with Article 34(8) of Regulation (EU) 2017/1939, the EPPO will inform the Commission as soon as possible, and in principle within fifteen days from the date of its decision, if a case is transferred to the competent national authorities in accordance with paragraphs (1), (2) or (3) of that Article and Article 25(3) of Regulation (EU) 2017/1939.
3. In accordance with Article 39(4) of Regulation (EU) 2017/1939, where a case has been dismissed, the EPPO will inform the Commission as soon as possible of such dismissal in the following cases:
 - where the Commission is the relevant institution, or
 - where the bodies referred to in paragraph 1, second subparagraph are the relevant bodies and the facts forming the subject of the EPPO's decision could affect the general responsibility of the Commission for the implementation of the Union budget or could lead to a potentially serious reputational risk for the Union as detailed in Annex II.

4. In accordance with Article 103(2) of Regulation (EU) 2017/1939, the EPPO shall, without delay and without prejudice to the proper conduct and confidentiality of its investigations, provide the Commission with sufficient information in order to allow the Commission to take appropriate measures in view of its responsibility for the implementation of the budget as well as its responsibility as Appointing Authority for its staff, in particular:

(a) administrative measures, such as precautionary measures under Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁴ ('the Financial Regulation' or under Staff Regulations of Officials of the European Union ('the Staff Regulations') and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/685, to protect the financial interests or the reputation of the Commission or of the Union, in this regard.

The EPPO may recommend specific measures to the Commission in relation to the protection of the financial interests of the Union;

(b) intervention as a civil party in the proceedings;

(c) measures for the purpose of administrative recovery of sums due to the Union budget or disciplinary action.

The information to be provided includes, in particular, information on the decision to bring a case to judgment pursuant to Article 36(6) of Regulation (EU) 2017/1939, on judgments rendered in a case or the lodging of appeals by the EPPO or the prosecuted person.

This information will not be due:

⁴ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁵ OJ L 56, 4.3.1968, p. 1.

- where the Commission is a party to the relevant proceedings and has therefore already been informed via other channels;
 - where the Commission, duly informed of its right to become a party to the proceedings, has decided not to exercise it.
5. The information referred to in paragraph 4 will be provided on the EPPO's own initiative.

Notwithstanding the above, where the Commission requests such information, it will address its request via the contact points indicated in Annex I. It will specify in its request the legal grounds and reasons based on which the information request is justified and necessary.

The EPPO may decline the request by duly motivated reasoned decision where the transmission of the information requested would violate applicable criminal procedural law or would otherwise harm the proper conduct or confidentiality of its investigations.

6. Without prejudice to Article 6a and to the proper conduct and confidentiality of its investigations, the EPPO will assess whether it is appropriate to consult or inform the Commission before sending any information to authorities of third countries or international organisations in cases regarding suspected or accused staff members or Members of the Commission, in particular when this transmission could raise a serious reputational risk for the Union in accordance with the first paragraph of this Article, or where the EPPO would need information or assessment from the Commission as regards the wider implications of a case.
7. The EPPO will preferably transmit information or send consultations pursuant to this Article via the contact points indicated in Annex I.
8. The EPPO will preferably use the templates in Annex III to provide the information falling under this Article.

9. The Parties will discuss, at the request of either Party, the general application of Article 103(2) of Regulation (EU) 2017/1939 with a view to ensuring that the Commission can effectively protect the financial interests of the Union and carry out its other responsibilities. The Parties will endeavour to resolve any difficulty that may arise in that regard.

Article 6a

Information transmitted for the purpose of the adoption of measures for the protection of the financial interests of the Union

1. Without prejudice to the proper conduct and confidentiality of its investigations, in accordance with Article 103(2)(a) of Regulation (EU) 2017/1939, the EPPO shall provide the Commission with sufficient factual, legal and financial information as is necessary for the Commission's responsible authorising officer(s) to assess the need for, and the scope and magnitude of, precautionary measures or other measures of an administrative, financial or contractual nature to protect the financial interests of the Union, and in particular to prevent damage or further damage to the Union's budget. It shall do so without delay and in the most specific and complete manner possible.

This will include an estimate of the possible damage to the Union budget and identify the legal provisions infringed.

2. The EPPO may also recommend to the Commission specific administrative measures, contractual measures or other measures aimed at protecting the Union's financial interests, in accordance with the provisions laid down in the Financial Regulation or with the relevant contract or grant agreement, pursuant to Article 103(2)(a) of Regulation (EU) 2017/1939.
3. The Parties may exchange further information as regards the appropriate measures referred to in paragraphs 1 and 2.

The Commission will inform the EPPO of the follow-up measures it has taken.

4. In relation to proceedings before the Panel referred to in Article 143 of the Financial Regulation ('the Panel') and other measures which cannot be adopted by the Commission without hearing the person concerned and revealing the existence of a

criminal investigation or information relating to it, the EPPO will indicate, where there are reasons to preserve the confidentiality of an investigation or criminal proceedings:

- which information or evidence should be kept confidential with respect to the person concerned; and
- which information may be disclosed by the Commission to the person concerned with a view to adopting measures to protect the financial interests of the Union and without affecting the proper conduct of the investigation.

The EPPO will also inform the Commission when such legitimate grounds cease to exist, so that the Commission may share this material evidence or part of it with the person concerned.

5. The Parties may, without prejudice to the proper conduct and confidentiality of the EPPO's investigations, exchange information to allow the Commission to consider measures that may be adopted by the Commission without hearing the person concerned or without revealing the existence of a criminal investigation or information relating to it, with a view to protecting the Union's financial interests.
6. In matters where Commission administrative proceedings are based, in whole or in part, on information transmitted by the EPPO, an EPPO representative will be invited to the meetings of the Panel and participate in oral and written procedures as an observer without voting rights. The representative may attend and provide comments on his/her own initiative or at the request of the Chair of the Panel.
7. Where the EPPO is an observer in Panel proceedings, the recommendations on administrative sanctions and the ensuing administrative decisions will be communicated to its representative, except in disciplinary cases.

Article 6b

Information transmitted for the purpose of disciplinary action under Article 86 and Annex IX to the Staff Regulations

1. For the purpose of Article 103(2)(c) of the Regulation (EU) 2017/1939, where the EPPO opens an investigation concerning Commission staff, it shall provide the

Commission with sufficient information, in order to allow the latter to assess whether it is necessary to:

- (a) open the proceedings in accordance with Article 86 of and Annex IX to the Staff Regulations; or
- (b) take precautionary measures, including suspension pursuant to Articles 23 and 24 of Annex IX to the Staff Regulations.

That information shall be provided without delay and without prejudice to the proper conduct and confidentiality of the investigation.

2. The information provided by the EPPO to the Commission pursuant to paragraph 1 will include all the factual and legal information necessary for the Commission to assess the need for disciplinary measures.

The EPPO will inform the Commission of any conduct of Commission staff which is not subject to its investigation, but which could be relevant for disciplinary purposes.

3. For the purposes set out in Article 25 of Annex IX to the Staff Regulations, the EPPO will also transmit to the Commission any decision to dismiss the case, to apply a simplified prosecution procedure, or to prosecute the case before a court. The EPPO will inform the Commission of judicial decisions on the merits of the accusation rendered in the case and of the moment where they become final or appealed.

It will, where appropriate, keep the Commission informed of any development that may be relevant for the purpose of disciplinary action or precautionary measures.

4. The Commission may adopt precautionary measures for the purposes of the Staff Regulations, on condition that this does not affect the proper conduct and confidentiality of the EPPO investigation. The EPPO will inform the Commission as soon as the confidentiality requirement ceases to exist.
5. Where the Commission considers opening the proceedings set out in Article 86 of Annex IX to the Staff Regulations, the EPPO will indicate, at the Commission's request and within a timeframe of 20 working days from its receipt, which information

or evidence must be kept confidential vis-à-vis the person concerned and which information may be used without affecting the proper conduct of the EPPO investigation.

Article 6c

Intervention as civil party in criminal proceedings

1. Where appropriate, the Parties shall cooperate for the purpose of facilitating the participation of the Commission, representing the Union or on its own behalf, as a civil party in criminal proceedings and investigations. This cooperation shall take place in full respect of each Party's independence, in conformity with the applicable procedural rules.
2. Where the Commission may make a request to intervene as a civil party in proceedings, the EPPO shall provide the Commission with sufficient information in writing and without undue delay, as well as of the applicable time limits and other procedural requirements.

The information will include:

- a short summary of the facts;
- a preliminary assessment of the potential material and reputational risk for the Union; and
- information on whether Union officials may be involved in the offence.

The EPPO may also add any other information that it deems relevant, including its assessment as to the added value of the Commission's participation as civil party, where appropriate.

3. Where the Commission intervenes as a civil party in proceedings in which the EPPO is exercising its competence, the Parties will consult regularly, as appropriate, on questions of common interest related to those proceedings, such as on:
 - measures aimed at sustaining the effectiveness of the proceedings and ensuring that the proceedings are conducted without unreasonable delays;

- measures for the protection of the financial interests of the Union through precautionary measures; and
 - other measures aimed at recovering sums unduly subtracted from the Union budget.
4. The EPPO will transmit its requests for information or consultations falling under this Article to the Commission via the contact points indicated in Annex I.

Article 7

Waiving of immunities

1. For the purposes of Article 29(2) of Regulation (EU) 2017/1939, where the immunity of a person protected by privileges or immunities under Union law, in particular the Protocol on the privileges and immunities of the European Union, presents an obstacle to the conduct of a specific investigation, to the ensuing prosecution or to the possibility of presenting evidence gathered during the investigation, the European Chief Prosecutor shall send a reasoned written request for that immunity to be waived in accordance with the procedures laid down by Union law.
2. The reasoned written request of the European Chief Prosecutor will be addressed to the contact points indicated in Annex I. Where the reasoned written request concerns the Secretary-General him/herself or a Member of the Commission, the European Chief Prosecutor will address the reasoned written request to the President of the Commission.
3. Where the EPPO considers that the person whose immunity is requested to be waived cannot, in accordance with applicable case-law⁶, be informed and heard on the request to waive the immunity, the reasoned written request will contain the detailed grounds for not hearing the person concerned.

⁶ Judgment of 18 June 2020, *Commission v RQ*, C-831/18P, EU:C:2020:481.

4. The EPPO will preferably use the template in Annex V when submitting requests pursuant to this Article. The Commission may request additional information or explanations from the EPPO.
5. The Commission will provide a written reply within the shortest possible timeframe and according to the principle of mutual sincere cooperation, in principle after having heard the person whose immunity is requested to be waived.

The reply will in principle be provided within 30 working days after reception of the request in cases where the person concerned is heard, and within 20 working days in cases where the person is not heard.

Where the Commission is unable to respect the deadline, it will inform the EPPO as soon as possible, and give an indication of the time within which it expects to be able to respond.

Article 8

Waiving of inviolability of premises, buildings and archives

1. Where the investigations of the EPPO require access to premises, buildings or archives of the Commission, its Directorates-General and equivalent departments, protected by the Protocol on the privileges and immunities of the European Union, the EPPO will address a reasoned written request for the waiver of those privileges and immunities to be waived to the Director-General of OLAF.
2. The EPPO will preferably submit requests in application of this Article by using the template in Annex VI.

The Commission will provide a written reply as soon as possible and based on the principle of mutual sincere cooperation. The reply will in principle be provided within 15 working days after receipt of the request.

Where the Commission is unable to respect the deadline, it will inform the EPPO as soon as possible, and give an indication of the time within which it expects to be able to respond.

3. Once the Commission has waived the inviolability, the EPPO may, for the purpose of accessing the Commission premises, buildings or archives for conducting an investigation, request assistance from the Director of the Security Directorate of the Directorate-General for Human Resources and Security.

Article 9

Databases

1. In application of Article 43(2) of Regulation (EU) 2017/1939, the EPPO shall be able to obtain any relevant information falling within its competence that is stored in databases and registers of the Commission.

Annex VIII lists the relevant databases to which the EPPO can have, respectively, direct or indirect reading access, subject to possible limitations defined in the applicable legal framework, in particular as regards the protection of personal data and the limitation on the use of, or on the granting of access rights to, the databases concerned, or other legal obstacles which prevent the sharing of the information therein.

Where, by derogation to Article 43(2) of Regulation (EU) 2017/1939, it appears that there is a need to modify the underlying legal framework governing the databases concerned, the Commission will inform the EPPO and will consider making the necessary proposals for amendments, providing, where possible and appropriate, for direct access. The Parties will establish the ensuing changes in the list of directly or indirectly accessible databases by exchange of letters.

2. In case of indirect access, the EPPO will submit requests for information stored in databases and registers of the Commission to the contact point(s) indicated in Annex I, preferably by using the template in Annex VII.

The Commission will extract the information from the databases and registers in question and transmit it to the EPPO without delay. It will provide the information as soon as possible, and in any case within 15 working days from reception receipt of the request, taking into account the degree of urgency set out by the EPPO in its request.

Article 10

Confidentiality and professional secrecy

1. Any information exchanged between the Parties in application of this Agreement is protected by the rules concerning confidentiality and professional secrecy in accordance with the Union law applicable to each of the Parties.
2. To safeguard the confidentiality of the exchanged information, both the EPPO and the Commission will agree on appropriate security markings according to the degree of confidentiality required.
3. Any information exchanged between the Parties in application of this Agreement will, unless already initially intended for onward transmission, not be transmitted onward to third parties except:
 - (a) where the onward transmission is necessary to comply with a legal obligation.
In such cases, the recipient Party will inform the transmitting Party in advance of this onward transmission;
 - (b) where the information has been requested by judicial authorities in the Member States in the framework of court proceedings;
 - (c) where that information has already lawfully been made public.

Chapter III – Data Protection

Article 11

Exchange of personal data

1. Any exchange and processing of personal data shall be in accordance with and based upon Regulation (EU) 2018/1725 of the European Parliament and of the Council⁷,

⁷ 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, 1.11.2018, p. 39).

Regulation (EU) 2017/1939 and other applicable rules.

2. The Parties will determine at the latest at the moment of transmission of the personal data the purpose for which the data are transmitted, and any restriction on their use, deletion or destruction, including possible access restrictions grounded in the Parties' respective legal frameworks.

Where the need for such restrictions becomes apparent after the transmission, the transmitting Party shall immediately inform the other Party of such restrictions.

3. The Party receiving personal data in application of this Agreement will determine without undue delay if and to what extent the personal data which have been supplied are necessary for the purpose for which they were supplied.

The personal data shall be deleted when the data are not, or no longer, necessary for the purpose for which they were transmitted or for a legitimate linked data processing operation.

4. The Parties will apply their respective internal rules with regard to the retention and storage of information, without prejudice to paragraph 1.
5. Where a Party has a reason to believe that personal data previously transmitted by it is incorrect, inaccurate, no longer up-to-date or should not have been transmitted, it shall inform the other Party which shall correct or delete the personal data and provide notification thereof.
6. Where a Party has a reason to believe that personal data previously received by it is incorrect, inaccurate, no longer up-to-date or should not have been transmitted, it shall inform the other Party which shall provide its position on the matter.

Article 12

Transmission of special categories of personal data

1. Personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, genetic data, biometric data used for the purpose of uniquely identifying a natural person, operational personal data

concerning health or operational personal data concerning a natural person's sex life or sexual orientation may only be provided if they are strictly necessary for a purpose set forth in Article 1.

2. The Parties shall take adequate safeguards, in particular appropriate technical and organisational security measures, to comply with the specific legal requirements regarding the categories of personal data mentioned in paragraph 1 of this Article.

Article 12a

Rights of data subjects

1. The Parties shall consult each other before any decision is taken regarding an individual's request for access, rectification, restriction or erasure of personal data which had been processed in the context of this Agreement to ensure that any reasons for the restrictions raised by the other Party or, where relevant, the national authorities who initially provided the personal data, are properly considered.
2. Where the personal data originates from a national competent authority, the Party that received the data subject's request shall, prior to consulting the other Party in accordance with paragraph 1, verify with the competent authority concerned whether such personal data are contained in a judicial decision or record or a case file processed in the course of criminal investigations or proceedings in the Member State of that competent authority.

In case the Commission acts as a processor and/or joint controller with national authorities, the Commission will follow a procedure agreed with Member States in such cases.

Chapter IV – Institutional provisions

Article 13

Consultations and close cooperation

1. High-level meetings between the Parties will take place regularly to discuss issues falling under this Agreement.

2. The Parties will consult each other regularly on policy issues and matters of common interest for the purpose of realising their objectives and coordinating their respective activities. This may also include consultations on the effectiveness and consistency of measures adopted by the Commission to protect the Union budget following EPPO investigations. The Parties may also exchange information for the purpose of operational and strategic analysis and statistical purposes.
3. With a view to fostering effective cooperation, the Parties will, in consultation with each other, engage to disseminate to their respective staff information about the scope of action, applicable legal framework and working methods of the other Party. Each Party will, in this respect, facilitate the provision by their staff of training to the staff of the other Party. The Parties will also facilitate, when appropriate, the organisation of joint training to their staff on matters of common interest.

Article 14

Cooperation regarding the ‘General Conditionality Regulation’

In full respect of each Party’s independence, the Parties will cooperate closely and in a timely manner as regards the application of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget.⁸ In particular, the EPPO may send to the Commission, via the contact points specified in Annex I, information on individual or systemic issues that may be relevant for the purpose of that Regulation.

Chapter V – Final provisions

Article 15

Expenses

The Parties will bear their own expenses which arise in the course of the implementation of this Agreement.

⁸ OJ L 433I, 22.12.2020, pages 1-10.

Article 16
Revision and supplements

1. This Agreement may be modified in writing at any time by mutual consent between the Parties, except for the contact points indicated in Annex I, which may, if applicable, be amended by the Parties unilaterally. Any amendment to the Agreement must receive appropriate approval in accordance with the procedures set out in the Parties' respective legal frameworks.
2. One year after the start of the application of this Agreement and at least once a year after that, the Parties will meet to discuss its application and the need for amending it.

Article 17
Date of application

This Agreement applies from the day following the date of signing.

Article 18
Termination of the Agreement

1. This Agreement may be terminated in writing by either Party with three months' notice.
2. In case of termination, the Parties will endeavor to reach an agreement on the continued use and storage of the information that has already been communicated between them, without prejudice to Article 11, paragraph 1.

Done at Brussels on the 18/06/2021, in duplicate in the English language.


For the European Commission


For the European Public Prosecutor's Office

Annex I

Contact points

1. INFORMATION PROVIDED BY THE COMMISSION UNDER ARTICLE 5

The Commission will as a rule transmit reports on criminal conduct in respect of which the EPPO could exercise its competence and other information falling under Article 5 via the Director-General of OLAF to the Head of Operations in the Central Office of the EPPO, with copy to the Secretary-General of the Commission in case of allegations involving staff or Members of the Commission.

2. INFORMATION REQUESTS AND REQUESTS FOR THE APPEARANCE OF WITNESSES IN THE FRAMEWORK OF THE EPPO'S INVESTIGATIONS AND PROSECUTIONS UNDER ARTICLE 5A

The EPPO will as a rule transmit requests for the appearance of persons as witnesses or expert witnesses and other information requests falling under Article 5a via the Head of Operations in its Central Office to:

- the Director-General of the European Anti-fraud Office (OLAF) in case of Commission staff members;
- the President of the Commission in case of Members of the Commission or the Secretary-General.

3. INFORMATION PROVIDED BY THE EPPO UNDER ARTICLE 6

The EPPO will preferably transmit information pursuant to Article 6:

- on the initiation of an investigation;
- on the absence of grounds to initiate an investigation;
- on the transfer of a file to the competent national authorities in the Member States or to the authorities of a third country or an international organisation;
- on the dismissal of a case;
- on the decision to bring a case to judgment;
- on judgments rendered and on the lodging of appeals;
- and to allow the Commission to take appropriate measures,

via the Head of Operations in its Central Office to the Director-General of OLAF.

4. INFORMATION AND RECOMMENDATIONS PROVIDED BY THE EPPO UNDER ARTICLE 6A

The EPPO will transmit the factual, legal and financial information and recommendations for the purpose of measures for the protection of the EU budget falling under Article 6a via the Head of Operations in its Central Office to the Director-General of OLAF.

5. INFORMATION PROVIDED BY THE EPPO UNDER ARTICLE 6B

The EPPO will transmit, via the Head of Operations in its Central Office to the Director-General of OLAF, and the Director of the Disciplinary and Investigation Office of the Commission (IDOC), any decision and information falling under Article 6b to:

- open an investigation regarding Commission staff in view of possible disciplinary action;
- dismiss the case;
- apply a simplified prosecution procedure or to prosecute the case before a court ,

,as well as:

- all related factual and legal information necessary for the Commission to assess the need for disciplinary measures;
- information on any conduct of Commission staff which would not be subject to its investigation, but which could be relevant for disciplinary purposes;
- information on judicial decisions rendered in that case;
- information on the lodging of any appeal by the EPPO or by the prosecuted person, and any development that may be relevant for the purpose of disciplinary action or precautionary measure ;
- any information that might be relevant for the purpose of disciplinary action or precautionary measures.

6. INFORMATION ON THE POSSIBILITY FOR THE COMMISSION TO INTERVENE AS A CIVIL PARTY UNDER ARTICLE 6C

The EPPO will transmit the information on the possibility for the Commission to act as a civil party in the relevant proceedings via the Head of Operations in its Central Office to the Director-General of the European Anti-Fraud Office (OLAF), to the Secretariat-General and the Legal Service of the Commission.

7. REQUESTS FOR WAIVING OF IMMUNITIES UNDER ARTICLE 7

The EPPO will submit reasoned written requests to waive immunities via the European Chief Prosecutor to the Director-General of OLAF, the Secretary-General of the Commission (or the President's Cabinet in case of offences related to Members of the Commission or the Secretary-General) and the Director of IDOC.

8. REQUESTS FOR WAIVING THE INVIOABILITY OF PREMISES, BUILDINGS AND ARCHIVES UNDER ARTICLE 8

The EPPO will submit reasoned written requests to waive the inviolability of premises, buildings and archives via the European Chief Prosecutor to the Director-General of OLAF.

9. REQUESTS FOR INFORMATION STORED IN DATABASES AND REGISTERS UNDER ARTICLE 9

The EPPO will submit requests for information stored in databases and registers of the Commission as a rule via the Head of Operations in its Central Office directly to the

relevant Commission service managing the database, with copy to the Director-General of OLAF (or, in case of uncertainty about the service managing the database, to the Director-General of OLAF).

10. INFORMATION ON INDIVIDUAL OR SYSTEMIC ISSUES FALLING UNDER ARTICLE 14

The EPPO will send information falling under Article 14, regarding individual or systemic issues pursuant to 'general conditionality' Regulation (EU, Euratom) 2020/2092, to the Director-General for Budget in the Commission, with copy to the Director-General for Justice and Consumers and to the Director-General of OLAF.

Annex II

Conditions for informing the European Commission pursuant to Article 6(1) and (3) of this Agreement on cases involving a relevant Union body where the Commission's responsibility to implement the Union's budget may be affected or in cases involving a potentially serious reputational risk for the Union

I. Conditions for the reporting

The EPPO will inform the Commission of the opened, ongoing or completed investigations, or cases dismissed, concerning the Union bodies⁹ referred to in Article 6(1) and (3), taking into account the particular circumstances of each case and based on the following conditions:

1. Where the Commission's responsibility to implement the Union's budget may be affected:

- a. The Union body or joint undertaking deals with EU funds under indirect management co-managed by the European Commission,
- b. The Union body or joint undertaking has received or may receive an EU balancing contribution and/or EU grant(s) (co-)managed by the European Commission, or
- c. The Union body implements EU programmes (co-)managed by the European Commission.

2. In cases involving a potentially serious reputational risk for the Union

The EPPO will inform the Commission once the presence of a serious reputational risk is established based on an assessment of each individual case. The following – indicative and non-cumulative - criteria will be taken into account for the assessment:

- a. potential relevant financial impact, in particular when the damage or potential damage to the Union budget is higher than EUR 10 000 euro;
- b. investigations related to criminal offence(s), and specifically fraud and active or passive corruption;
- c. whether the suspected criminal offence involves multiple actors and/or organised crime;
- d. whether, if public, there could be reputational damage for the EU;
- e. whether the alleged criminal conduct has been reported by an institution, body, office or agency of the Union , in accordance with Article 24 (1) Regulation (EU) 2017/1939,
- f. whether the safety of the Union institutions' staff and/or the security of the premises of the Union institutions or information technology equipment or communications is at stake;
- g. the role and function of the suspected or accused person.

⁹ Decentralised agencies and other bodies referred to in Article 86 of the Framework Financial Regulation for Union bodies that receive contributions charged to the Union budget.

II. Timing of the reporting

If the Commission is the reporting institution within the meaning of Article 24 (1) Regulation (EU) 2017/1939, the EPPO shall inform the Commission:

- without undue delay, and in principle within fifteen days from the decision to initiate an investigation ;
- as soon as possible after its decision that there are no grounds to open an investigation following an assessment of allegations reported to it.

In other cases, the EPPO will inform the Commission, without prejudice to the proper conduct and confidentiality of its investigations:

- as soon as possible, and in principle within fifteen days from the date of its decision, if a case is transferred to the competent national authorities;
- as soon as possible where a case has been dismissed;
- without delay in order to allow the Commission to take appropriate precautionary measures.

Whenever possible, the EPPO will ensure that it does not communicate information about investigations falling within the scope of this annex to the media without the Commission having been informed.

The EPPO will communicate to the Commission, subject to the conditions in this annex, when there is a significant change in the scope of the investigation (i.e. additional persons concerned or additional projects/programs affected).

In addition, information is to be provided following the closure of an investigation.

III. Information to be reported

In the course of the EPPO's ongoing investigation, and without prejudice to the confidentiality and effectiveness of the investigation the information to be communicated to the Commission will include:

- the EPPO reference number of the investigation;
- the identity of the suspected or accused person(s), only if the information is important to assess the potential reputational risk for the EU (all other names should be withheld);
- a brief description of the case (including references of the contract, project and/or programme);
- whether the suspected or accused person and/or the reporting Union body has been informed of the investigation;
- any other information that may assist the Commission in deciding whether to take measures to protect its interests.

Following the closure of an investigation, the information will include the results of an investigation and, as attachments, a copy of the decision to dismiss a case, to apply a simplified prosecution procedure or to prosecute the case before a national court.

Annex III

Templates that the EPPO may use for the transmission , of information and consultations under Articles 6, 6a and 6b of this Agreement –

Annex III.A - Information on the initiation of an investigation

To be sent by the EPPO without undue delay, and in principle within 15 days from the date of the decision, via the contact point(s) indicated in Annex I

Subject: Information on the initiation of an investigation, pursuant to Article 6(1) of the Agreement between the European Commission and the European Public Prosecutor's Office

Case No «Case Number»

Pursuant to Article 6(1) of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office and the European Commission, this is to inform you that the European Public Prosecutor's Office (EPPO) is carrying out the above-referenced investigation which may affect the Commission's responsibility to implement the Union's budget and/or involves a potentially serious reputational risk for the Union.

The investigation concerns **«Commission entity/ies or Union body/ies»**.

[Please provide the brief description of case and any relevant information that might be appropriate].

The investigation relates to possible criminal conduct in respect of which the EPPO could exercise its competence by **«name and function of the suspected or accused person»**.

[In case of Union body/ies other than the Commission, the name and function are to be included only if that information is important to assess a potential reputational risk for the EU.

In addition, the following information is to be added:

The [Director and/or the Management Board] of the «Union Body/ies» [has/have] been informed about the investigation on «date of notification». A copy of the note is enclosed.

or

The [Director and/or the Management Board] of the «Union Body/ies» has/ve not been informed about the investigation.]

*[Where relevant: The investigation relates to the following **project** financed by the European Commission in the framework of the following **programme**: «name and number of the project»; «name and number of the programme»]*

*[Where relevant: The **estimated damage** to the EU budget is [EUR amount].]*

Please be informed that the [suspected / accused] person [was/were notified on «date »/ has/have not been notified] that [he/she/they] [is/was/are/were] a person concerned in the investigation.

In the interest of the confidentiality of the ongoing investigation, please instruct your services to share this information only if strictly necessary and on a **need-to-know** basis.

[If necessary, please add other relevant information]

In case of queries, please contact «Name, function», «email», «phone number».

Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

[Where relevant for cases concerning Union bodies other than the European Commission:
Encl.: Note(s) to «the Union body/ies»]

To be sent by the EPPO without delay to the contact point(s) specified in
Annex I

Subject: Information on [the absence of grounds to initiate an investigation, the dismissal of a case, the decision to bring a case to judgment, and/or to allow the Commission to take appropriate measures, pursuant to Article 6(1), 6(3), 6(4), 6a and/or 6b of the Agreement between the European Commission and the EPPO

Case No «Case Number»

Pursuant to Article [6(1), 6(3), 6(4), 6a and/or 6b] of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office and the European Commission, this is to inform you of [**the «preliminary» results of an investigation in/the absence of grounds to initiate an investigation in/ the dismissal of / the use of a simplified prosecution procedure in/ the prosecution before a court in**] the above-referenced case [concerning a staff member of the Commission / which may affect the Commission's responsibility to implement the Union's budget and/or involves a potentially serious reputational risk for the Union.]

The investigation concerns/ed **«Commission entity/ies and/or [in case of information on the results of an investigation] Union body/ies»**.

[Please provide the brief description of case and any relevant information that might be appropriate].

The investigation relates/ed to possible criminal conduct in respect of which the EPPO could exercise its competence by **«name and function of the suspected or accused person»**.

[In case of Union body/ies other than the Commission, the name and function are to be included only if that information is important to assess a potential reputational risk for the EU.]

*[Where relevant: The investigation relates to the following **project** financed by the European Commission in the framework of the following **programme**: «name and number of the project»; «name and number of the programme»]*

*[Where relevant: The **estimated damage** to the EU budget is [EUR amount].*

Scenario 1: investigation giving rise to recommendations or information to allow the Commission to allow appropriate measures

Based on the findings of the investigation, the EPPO [is making a **non-binding recommendation(s)** to the Commission / and/or **transmits information enabling the Commission**] to

- a) consider initiating judicial proceedings and/or
- b) consider undertaking appropriate measures to ensure the recovery of EUR «amount to be recovered »[.; and/or]
- c) consider initiating appropriate disciplinary proceedings[.; and/or];
- d) consider initiating appropriate administrative measures, including to address systemic issues.

[In case of recommendations or information falling under points b) and d), please

provide, in the most specific and complete manner possible:

- **sufficient factual, legal and financial information** as is necessary for the Commission's responsible authorising officer(s) to assess the **need for, and the scope and magnitude of, precautionary measures or other measures of an administrative, financial or contractual nature** to protect the financial interests of the Union, and in particular to prevent damage or further damage to the Union's budget; including
- **an estimate of the possible damage to the EU budget and a specification of the legal provisions infringed.**

In case of information falling under point c), please:

- *provide, without prejudice to the proper conduct and confidentiality of the investigation, with all the **factual and legal information** that is necessary to allow the latter to assess the **need to:***
 - o **open disciplinary proceedings** in accordance with Article 86 and Annex IX to the Staff Regulations; and
 - o **take precautionary measures**, including suspension pursuant to 23 and 24 of Annex IX to the Staff Regulations.
- *provide also **information on any conduct of Commission staff which was not subject to the investigation**, but which could be relevant for disciplinary purposes.*

Please add: We will keep you informed of any development that may be relevant for the purpose of the disciplinary action or precautionary measures.

Please indicate also which information or evidence should be kept confidential with respect to the person concerned; and which information may be disclosed by the Commission to the person concerned with a view to adopting measures to protect the financial interests of the Union and without affecting the proper conduct of the investigation.]

[Where relevant for cases concerning Union bodies other than the European Commission: Please find enclosed the «recommendation / information» sent to «the Director and/or the Management Board» of «the Union Body».]

Scenario 2: investigation not giving rise to any recommendations

Based on the findings of this investigation, the EPPO is not making any recommendation for specific precautionary measures to be taken.

Scenario 3: dismissal of a case, application of a simplified prosecution procedure, prosecution of a case before a court relating to a Commission staff member

Based on its assessment, the EPPO has decided to:

- a) dismiss the case;
- b) apply a simplified prosecution procedure
- c) prosecute the case before the «*please specify* » court;

[In case of a decision under point c):

We will inform you of judicial decisions rendered in that case, and of the lodging of any appeal by the EPPO or by the prosecuted person.]

To ensure confidentiality, please instruct your services to share this information only if strictly necessary and on a need-to-know basis.

[If necessary, please add other relevant information.]

In case of queries, please contact «Name, function», «email», «phone number».

Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

*[Where relevant for cases concerning Union bodies other than the European Commission:
Encl.: Note(s) to «the Union body/ies»]*

Annex III.C –

Information on a judicial decision rendered and/or an appeal lodged -

To be sent by the EPPO without delay to the contact point(s) specified in

Annex I

Subject: Information under Article 6(b)(3) of the Agreement between the European Commission and the EPPO on a decision to dismiss a case, to apply a simplified prosecution procedure or to prosecute the case before a court, and on judicial decisions

Case No «Case Number»

Pursuant to Article 6(b)(3) of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office (EPPO) and the European Commission, this is to inform you of the [judicial decision rendered /an appeal lodged] by [«name of the court» / the EPPO / the prosecuted person] in the above-referenced investigation which concerns a staff member of the Commission.

[Please provide the brief description of case and any relevant information that might be appropriate].

The underlying EPPO investigation that gave rise to the [judgment / judgment under appeal] related to possible criminal conduct in respect of which the EPPO can exercise its competence by «name and function of the suspected or accused person».

[In its judgment rendered on «date», the «name of the court» concludes to «please reflect the court decision» / the appeal relates to «please reflect the content of the appeal».]

Please find a copy of the [judgment / appeal] annexed.

To ensure confidentiality, please instruct your services to share this information only if strictly necessary and on a need-to-know basis.

[If necessary, please add other relevant information.]

In case of queries, please contact «Name, function», «email», «phone number».

Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

Annex: Copy of the [judgment / appeal]

Information on the transfer of a case to the competent national authorities in a Member State

To be sent by the EPPO without undue delay, and in principle within 15 days from the date of its decision, to the contact point(s) indicated in Annex I

Subject: Information under Article 6(2) of the Agreement between the European Commission and the EPPO on the transfer of a case to the national competent authorities

Case No «Case Number»

Pursuant to Article 6(2) of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office (EPPO) and the European Commission, this is to inform you of the **transfer of the above-mentioned case** concerning [a Commission **staff member** and/or **outside individual/entity** to [«name of the national authorities»] of [«name of the Member State»].

[Please provide the brief description of case and any relevant information that might be appropriate].

The underlying facts relate to «name and function of the suspected or accused Commission staff member or outside individual/entity».

The case was transferred on «date» to the above-mentioned authorities.

To ensure confidentiality, please instruct your services to share this information only if strictly necessary and on a need-to-know basis.

[If necessary, please add other relevant information.]

In case of queries, please contact «Name, function», «email», «phone number».
Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

Annex: Copy of the transmission letter

Template for consultations by the EPPO on its intention to send information related to a staff member or a Member of the Commission to the authorities of a third state or an international organisation

To be sent without delay to the contact point(s) indicated in Annex I

Subject: Consultation, pursuant to Article 6(6) of the Agreement between the Commission and the EPPO, on the intention of the EPPO to send information related to a staff member or a Member of the Commission to the authorities of a third state or an international organisation

Case No «Case Number»

Pursuant to Article 6(6) of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office (EPPO) and the European Commission, the EPPO herewith [consults / informs] the Commission on its intention to send information concerning a named or identifiable [staff member or Member] of the Commission to [the authorities of a third country / an international organisation].

The Commission is herewith invited to provide any information as regards notably the existence of a possible serious reputational risk for the Union in accordance with Article 6(1) and the wider implications of the above-mentioned case].

[Please provide the brief description of case and any relevant information that might be appropriate].

Please find a copy of the intended transmission letter annexed.

In the interest of the EPPO investigation, a reply within the shortest possible deadline is appreciated.

To ensure confidentiality, please instruct your services to share this information only if strictly necessary and on a need-to-know basis.

[If necessary, please add other relevant information.]

In case of queries, please contact «Name, function», «email», «phone number».
Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

Annex: Copy of the intended transmission letter

Annex IV

Template for reports, by the Commission under Article 5, paragraph 4 of this Agreement, on criminal conduct in respect of which the EPPO could exercise its competence

Reporting will follow the format of the **EPPO crime report**

Annex V -
Template for requests by the EPPO
for the waiver of immunity of a person protected by privileges or immunities under
Union law

Subject: Request under Article 7, paragraph 4 of the Agreement between the European Commission and the EPPO for the waiver of immunity of a person protected by privileges or immunities under Union law

Article 7 of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office (EPPO) and the European Commission provides that, 'for the purposes of Article 29(2) of Regulation (EU) 2017/1939, where the immunity of a person protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, presents an obstacle to a specific investigation being conducted, to the ensuing prosecution or to the possibility of presenting evidence gathered during the investigation, the European Chief Prosecutor shall send a reasoned written request for its waiving in accordance with the procedures laid down by Union law. [...]

In case the EPPO considers that the person whose immunity is requested to be waived cannot, in line with applicable case-law¹⁰, be informed and heard on the request to waive the immunity, the reasoned written request will contain the detailed grounds for not hearing the person concerned.

The Commission will provide a written reply within the shortest possible timeframe and according to the principle of mutual sincere cooperation, in principle after having heard the person whose immunity is requested to be waived.

The reply should in principle be provided within 30 working days after reception of the request in cases where the person concerned is heard, and within 20 working days in cases where the person is not heard. The Commission will inform the EPPO as soon as it appears

¹⁰ Judgment of 18 June 2020, *Commission v RQ*, C-831/18P, EU:C:2020:481.

that it will not be able to respect the deadline, with an indication of the expected time within which it will be able to reply.’

Pursuant to the above-mentioned provision, **the European Public Prosecutor’s Office herewith submits the following waiver request:**

- 1. Name of the person concerned and all other identification details available (for example, nationality, personnel number, place of employment)**
- 2. Detailed reasons for the request and expected timing of the procedure to which the request relates**
- 3. Proposed legal basis for the waiver**
- 4. In case the person concerned cannot be informed of and heard on the request to waive the immunity, the detailed grounds for not hearing the person concerned, so as to enable the Commission to make the necessary balance¹¹**

To ensure confidentiality, please instruct your services to share this information only if strictly necessary and on a need-to-know basis.

[If necessary, please add other relevant information.]

In case of queries, please contact «Name, function», «email», «phone number».
Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

¹¹ Please see Judgment of 18 June 2020, *Commission v RQ*, C-831/18P, EU:C:2020:481.

Annex VI -
Template for the transmission of information under requests by the EPPO under Article
8 of this Agreement for the waiver of inviolability of premises, buildings and
archives

Article 8, paragraph 2 of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office (EPPO) and the European Commission provides that, '[w]here the investigations of the EPPO require **access to premises, buildings or archives** of the Commission, its Directorates-General and equivalent departments, protected by the Protocol on the privileges and immunities of the European Union, the EPPO will address a reasoned written request for their waiving to the Director-General of OLAF.

The EPPO will preferably submit requests in application of this Article by using the template in Annex VI.

The Commission will provide a written reply within the shortest possible deadlines and based on the principle of mutual sincere cooperation. The reply should in principle be provided within 15 working days after reception of the request. The Commission will inform the EPPO as soon as it appears that it will not be able to respect the deadline, with an indication of the expected time within which it will be able to reply.'

Pursuant to the above-mentioned provision, **the European Public Prosecutor's Office herewith submits the following waiver request:**

1. Precise identification of the premises, buildings and archives concerned

2. Detailed reasons for the request and expected timing of the next steps in the procedure

To ensure confidentiality, please instruct your services to share this information only if strictly necessary and on a need-to-know basis.

[If necessary, please add other relevant information.]

In case of queries, please contact «Name, function», «email», «phone number».
Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

Annex VII

Template for requests under Article 9, paragraph 3 of this Agreement for indirect reading access to information stored in databases and registers of the Commission

In application of Article 43(2) of Regulation (EU) No 2017/1939¹², the EPPO shall be able to obtain any relevant information falling within its competence that is stored in databases and registers of the Commission.

Annex VIII of the Agreement establishing the modalities of cooperation between the European Public Prosecutor's Office and the European Commission lists the relevant databases to which the EPPO can have, respectively, direct or indirect access.

Article 9 of the Agreement provides that, in case of indirect access, the EPPO will submit requests for information stored in databases and registers of the Commission directly to the responsible service in the European Commission, and that the Commission will extract the information from the databases and registers in question and transmit it to the EPPO without delay. It will provide the information within 15 working days from reception of the request, and earlier in case of urgent requests.

Pursuant to the above-mentioned provision, **the European Public Prosecutor's Office** herewith submits the following **request for indirect reading access to the following information in a database managed by the Commission:**

1. Name of the database:

2. Precise information requested (with specification of the type and the date(s) where relevant)

¹² Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), Official Journal L 283, 31.10.2017, p. 1–71.

3. Degree of urgency and reasons for the urgency

To ensure confidentiality, please instruct your services to share this information only if strictly necessary and on a need-to-know basis.

[If necessary, please add other relevant information.]

In case of queries, please contact «Name, function», «email», «phone number».
Your attention is drawn to the notice concerning the transfer of personal data below.

[Name, Surname]

Annex VIII

List of databases or registers to which the EPPO can have direct or indirect reading access

This annex details the databases to which the EPPO can have, respectively, direct full reading access, or indirect reading access via case-by-case requests to the Commission service holding the information in the database.

Name of the database or register	Brief description / content	DG managing the access	Type of access (direct or indirect)
ABAC Workflow (to be replaced by SUMMA)	Payments database	DG BUDG	Indirect
ABAC Accounting (to be replaced by SUMMA)	Payments execution/treasury	DG BUDG	Indirect
ARACHNE	Data mining and enrichment to support administrative controls in the area of the European structural and investment funds	DG EMPL	Indirect with a specific EPPO interface
AssMal	Reimbursement of medical costs	PMO	Indirect
AGM	Reimbursement of travel costs for experts participating in meetings organised by Commission services	PMO	Indirect
CATS (Clearance of Accounts Audit Trail	Agriculture payments by Member States -	DG AGRI	Indirect

System)	Clearance of accounts database for agricultural funds		
CIS (Customs Information System)	Information on operations that are in breach of customs or agricultural legislation	OLAF	Indirect
COMEXT	International trade in goods statistics	EUROSTAT	Direct
CRIS (Cross-Regional Information System)	Development aid projects	DG INTPA	Direct (Indirect in case of linked documents in Ares to which the EPPO does not have access)
CSM (Container Status Messages) directory	Reporting of container status messages	OLAF	Indirect
EDES (Early Detection and Exclusion System)	List of operators excluded from EU funding or forming the subject of a financial sanction	DG BUDG	Direct for opened cases; Indirect for closed cases
eBTI-3 (Binding Tariff Information System)	Data of applications and issued Binding Tariff Information decisions	DG TAXUD	Indirect
eGrant suite		DG CNECT	Direct reading access
ECCNet2 (European Consumer Centres Network)	Network of offices offering advice and assistance to consumers in relation to cross-border purchases	DG JUST	Indirect

e-SIRE (Système Informatique des Ressources Externes)	Management of external resources	DG.HR	Indirect
FTS (Financial Transparency System)	Beneficiaries of funding from the EU budget and the European Development Fund	DG BUDG	Direct
HOPE (Humanitarian Office Programme Environment)	DG ECHO's financial management database	DG ECHO	Indirect
IET (Import, Export and Transit) directory, including ATIS (Anti-Fraud Transit Information System)	IT-application and filing system on customs fraud, falling under the Anti-Fraud Information System (AFIS)	OLAF	Indirect
iRasff (Rapid Alert For Food and Feed System)	Information system supporting the Alert and Cooperation Network, comprising the Administrative Assistance and Cooperation network, Rapid Alert System for Food and Feed and the Agri-food Fraud Network	DG SANTE	Indirect
MIPS	Mission expenses	PMO	Indirect
OLAF-IMS (Irregularity Management System)	Reporting of irregularities related to EU expenditure by EU countries and candidate countries	OLAF	Indirect

	to the Commission		
OPSYS	The new system for the management and monitoring of the EU external relations portfolio of interventions.	DG INTPA	Direct (Indirect in case of linked documents in Ares to which the EPPO does not have access)
OWNRES	Irregularity notifications in the area of Customs, reported by Member States	DG BUDG	Indirect
SFC (System for Fund Management in the European Union)	Electronic exchange of information concerning shared fund management between Member States and the Commission	DG REGIO	Indirect
SIS (Schengen Information System)	Information sharing system for security and border management in Europe	DG HOME	Only for the European Delegated Prosecutors: Direct (if the respective European Delegated Prosecutor has direct access as a national prosecutor); Indirect (via the competent national authorities) if that is the access granted under national law.
SUMMA (to replace ABAC)	Payments/payments execution/treasury database	DG BUDG	Indirect

SURVEILLANCE	Anonymised Customs import data	DG TAXUD	Indirect, to aggregated data Direct access to the future data visualisation tool
SYSPER	Management of human resources / financial benefits	DG HR / PMO	Indirect
TRACES	Digital certification platform used by competent authorities and economic operators of both EU and non-EU countries for the issuance of sanitary and phytosanitary official certificates and official documents. Further to the DG SANTE scope, TRACES accommodates certification schemes of DGs AGRI, ENV and MARE.	DG SANTE, DG AGRI, DG MARE and DG ENV	Indirect
WOMIS	Own Resources debt write-off notification and approval system	DG BUDG	Indirect

