

**WORKING ARRANGEMENT BETWEEN THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE  
AND THE PUBLIC LAW CORPORATION OF LAND AND MERCANTILE REGISTRARS OF  
SPAIN AIMED AT OBTAINING FORMAL DISCLOSURE OF THE REGISTERS  
AND AT CONSULTING THE BENEFICIAL OWNERSHIP OF COMMERCIAL  
COMPANIES THROUGH THE BUSINESS REGISTER**

**Ms Laura Codruța Kövesi**, European Chief Prosecutor, on behalf of the European Public Prosecutor's Office (hereinafter 'EPPPO'), appointed by Decision (EU) 2019/1798 of the European Parliament and of the Council,

AND

**Ms M<sup>a</sup> Emilia Adán García**, on behalf of the **Public Law Corporation of Land and Mercantile Registrars of Spain** (hereinafter 'Colegio de Registradores'), with tax code Q-2863012-G and registered address at C/ Diego de León 21, 28006 Madrid, in her capacity as chair of that institution, a position she holds by virtue of her appointment on 22 December 2017. She is authorised to represent this institution as part of her duties as provided for in Article 23 of Spanish Royal Decree 483/1997 of 14 April 1997 approving the statutes of the Colegio de Registradores. She concludes this Working Arrangement as agreed by the Governing Board at its meeting on 8 June 2021.

Both Parties acknowledge that the other has the necessary legal and representative capacity to conclude this **WORKING ARRANGEMENT** and, to this end, they

**DECLARE**

- I. That the Colegio de Registradores is a public-law corporation with its own legal personality and full capacity, with competence over its members throughout the national territory, and that its purpose includes, *inter alia*: coordinating the exercise of the profession of registrars; ensuring, with all the means at its disposal, the continuous improvement of the professional activities of registrars, by proposing to the Administration any necessary measures for updating and modernising such activities; working with public administrations and institutions; providing services and performing duties in the interest of public administrations and promoting the process of modernisation of the registrars' offices.

- II. In the exercise of its duties, the Colegio de Registradores provides public administrations and bodies with an online services portal through which it facilitates easy access to registrars' services such as online consultation of registration information on immovable property, registered entities and movable property in the Land Registers (FLOTI), Business Registers (FLEI) and Movable Property Registers (FLOMI), respectively.
- III. In accordance with Article 30(3) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing: *"Member States shall ensure that the information (...) on beneficial ownership is held in a central register in each Member State, for example a business register, companies register (...) or a public register"*. To this end, the Ministry of Justice of the Spanish Government adopted Order JUS/319/2018 of 21 March approving the new forms for filing, in the Business Register, the annual accounts of subjects under obligation to publish such accounts, with as a principal new feature the document entitled 'Declaration of identification of beneficial owner' whereby commercial companies must identify the beneficial ownership of those accounts in the Business Register. Through the declaration of that information, the Colegio de Registradores was able to set up an online portal allowing consultation of the beneficial owners of the entities registered in the Business Register.
- IV. That the EPPO is an EU body with its own legal personality responsible for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the EU as laid down in Directive (EU) 2017/1371 and established in Council Regulation (EU) 2017/1939.
- V. That the European Public Prosecutor's Office is interested in accessing the abovementioned registrars' services online for use by its staff in the exercise of their duties.
- VI. That it is for the national authorities to provide the European Delegated Prosecutors with the resources and equipment they need to carry out their duties in accordance with Council Regulation (EU) 2017/1939.

In the light of the foregoing circumstances, the Parties hereby conclude this Working Arrangement in accordance with the following

## CLAUSES

### ONE: Purpose of the Working Arrangement

- A. First, the purpose of this Working Arrangement is to define the conditions of access and the technical features of the service through which EPPO staff may perform searches on the beneficial ownership of entities registered in Spanish business registers by means of two alternative systems offered by the Colegio de Registradores.
- ❖ **Web service:** searches and receipt of the resulting information through the EPPO's own management applications using automated web services.
  - ❖ **Beneficial ownership portal:** authorised EPPO staff may perform individual searches through an online portal subject to prior identification using a digital certificate recognised by the Colegio de Registradores, identifying them as staff working for the EPPO.
- B. Establishment of the conditions for communication between the EPPO and the web server of the Property and Business Registers for requesting registration information from registrars.

### TWO: Undertakings made by the Colegio de Registradores

- A) Without prejudice to other searches that may be planned in the future, the beneficial ownership search service will allow the EPPO to carry out three types of search, using three different services:
- a. Information request service. Beneficial owners of a company

By entering the tax number of a trading company and stating the year to which the search relates, the service will return information on the beneficial owners that are recorded in the relevant Business Register for the year in question. The user can configure the search so that, if a beneficial owner holding a stake of over 25% has an indirect holding, information on the companies involved in the chain of control is returned, if this has been requested.

In the event that no information on beneficial owners has been filed for the financial year consulted, the service will return the most recent information recorded in previous financial years.

b. Information request service. Companies with a natural person as beneficial owner:

When a tax number is entered, the service will display the companies whose beneficial owner is the natural person with that tax number, whether as a beneficial owner with a holding of over 25% or as an equivalent beneficial owner.

c. Information request service. Companies in which a company is part of the chain of control of a beneficial owner:

When a tax number of a company is entered, the service will display the companies in which it features as a company involved in the chain of control of a beneficial owner.

The information displayed by each of the three services will be the consistent information recorded in the Business Register at the time of the search, based on the data declared by the company when filing its most recent annual accounts or, where appropriate, updated at a later time by filing a new return.

Notwithstanding the foregoing, the Business Register may include, along with the information from the filing of accounts, other information held in the same Business Register, provided that the different sources are clearly distinguished in the information displayed.

- B) El Colegio de Registradores undertakes to allow communication with the web server of the Property and Business Registers for requests for registration information from Registrars by authorised users belonging to the EPPO in the manner determined by both Parties.

**THREE: Undertakings made by the EPPO**

- A) The EPPO shall be responsible for the use of the information by the persons and for the purposes for which it was obtained within the scope of this Working Arrangement.
- B) The EPPO shall be responsible for making any necessary adaptations and developments, in its systems and equipment, to connect to the service under the conditions defined by the Colegio de Registradores in order to guarantee the proper functioning of the service and the security of communications.
- C) The EPPO shall be responsible for ensuring that its equipment has the appropriate technical features so that the requested information is received under optimum conditions.

**D) Conditions for use of the information:**

- i. Once the information has been obtained by its staff, the EPPO undertakes to use the registration data obtained exclusively for its own purposes.

Likewise, and in compliance with current legislation, the EPPO undertakes not to incorporate that data into databases or computerised files that may be consulted individually by natural or legal persons, even if the origin of the information is stated.

The EPPO shall only submit requests for registration information, within the scope of this Working Arrangement, when its interest in obtaining such information is to enable it to fulfil its public duty, it being understood that this interest is implicit in every request made.

A digital or written copy of the information obtained may be incorporated into the corresponding files of the EPPO.

- ii. Availability of the service: Information requests may be submitted 24 hours a day, on any day of the week. This is notwithstanding the right to suspend the service as required for system maintenance or any other reason, the information server not being responsible for any interruption in service due to unforeseen causes.

**FOUR: Consequences of non-compliance**

The Parties' failure to comply with their obligations may lead to termination of this Working Arrangement as established in the corresponding clause.

Failure to comply with the obligations and undertakings assumed under this Working Arrangement shall not generate entitlement to compensation between the Parties as it is an arrangement that does not entail any financial obligation.

**FIVE: Financing**

Given the purpose of the use by the EPPO of the registry information, no fees or equivalent expenses for the registry information requested shall be charged. Likewise, access to information on beneficial ownership held in the Business Register shall be free of charge for the EPPO. If, in the future, the EPPO wished to gain access through online services and such IT developments entailed a cost, such costs would need be formalised in an addendum with the participation of the Ministry of Justice in which the amounts and payments were quantified.

**SIX: Monitoring Committee**

The Working Arrangement shall have a Monitoring Committee as the mechanism for monitoring, overseeing and checking the undertakings made.

Without prejudice to others that may have the same task, the Monitoring Committee shall have the following functions:

Act as a communication channel between the two entities, facilitating dialogue and resolving any issues that may arise. The members of the committee shall act on behalf of the Parties for the purpose of adopting decisions on the implementation of the Working Arrangement that do not involve any amendment thereto.

Monitor routine performance of the undertakings provided for in this Working Arrangement, determining the criteria and measures necessary for due fulfilment thereof.

Find a solution to any problems in terms of interpretation and execution arising from the Working Arrangement.

Put forward proposals for the signature of specific supplementary agreements to this Working Arrangement.

The Committee shall be made up of:

- For the EPPO: the European Prosecutor.
- For the Colegio de Registradores: the Director of the Information Systems Service or the person delegated by the latter.

The Committee shall meet whenever required to ensure smooth progress of the actions included in the Working Arrangement.

#### **SEVEN: Procedure for amending the Working Arrangement**

Amendments to the Working Arrangement shall require the unanimous agreement of the signatories in the form of signature of the corresponding addendum.

#### **EIGHT: Data protection**

The personal data contained in this Working Arrangement shall be processed in accordance with the legislation applicable to each of the Parties.

Regarding the personal data necessary for the fulfilment of the purpose of this Working Arrangement, the Business Registers are responsible for the data relating to beneficial ownership on the basis of compliance with a legal obligation and the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, under the provisions of Article 6(1)(c) and (e), respectively, of the General Data Protection Regulation, of Directive (EU) 2016/680 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, and the national transposing legislation or any other applicable legislation.

The signatories of this Working Arrangement shall be liable in accordance with the provisions of the legislation applicable to each of the Parties.

#### Privacy policy

The officials and staff in the service of the EPPPO who use the services of the Colegio de Registradores in this Working Arrangement must observe the conditions of use of the portal and must be informed by the EPPPO of the Colegio de Registradores' Privacy Policy on the processing of their data. This information shall be available upon access to the services.

#### **NINE: Confidentiality**

The Parties undertake to maintain the confidentiality of all data and information provided by the other party concerning the fulfilment of the purpose of this Working Arrangement; the Parties must keep such information confidential and secret and not disclose it in any way, wholly or partially, to any natural person or legal entity who is not a party thereto, except in the cases and in the manner provided for by law.

#### **TEN: Consultation**

The Parties shall consult one another on any matter that may give rise to different interpretations of this Working Arrangement.

#### **ELEVEN: Validity**

This Working Arrangement shall become into force upon the granting of consent by the Parties and shall have a term of 4 years. It may be extended for a further period of up to 4 years, subject to the prior written agreement of the Parties.

## **TWELVE: Grounds for termination of the Working Arrangement**

This Working Arrangement may be terminated if any of the following grounds for termination arise:

- a) Expiry of term without an extension being agreed.
- b) Unanimous agreement of the Parties.
- c) Breach of the obligations and undertakings assumed by any of the signatories.
- d) Judicial decision declaring the agreement invalid.
- e) Withdrawal by any of the Parties with at least 2 months' notice.

As proof of the above, they sign this Working Arrangement in two originals, each in the Spanish and English languages, both versions being equally authentic.

For the EPPO

For the 'Colegio de Registradores'

Ms Laura Codruța Kövesi  
European Chief Prosecutor

Ms M<sup>a</sup> Emilia Adán García  
Chair

Done at Luxembourg  
on September 1st 2021

Done at Madrid  
on September 1st 2021