

WORKING ARRANGMENT BETWEEN THE SPANISH GENERAL COUNCIL OF NOTARIES AND THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE

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

AND

Mr. José Ángel Martínez Sanchiz, on behalf of the Spanish General Council of Notaries, in his capacity as Chair, in accordance with Article 345 of the Notarial Regulation.

Both Parties acknowledging that the other has the necessary legal capacity to enter into this Working Arrangement, they

DECLARE

I

That the EPPO is an EU body with its own legal personality under Article 3 of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the EPPO. It is 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 Regulation (EU) 2017/1939.

The structure of the EPPO comprises a central level and a decentralised level, the latter consisting of European Delegated Prosecutors located in the Member States who are responsible for investigations and prosecutions as laid down in Regulation (EU) 2017/1939.

In accordance with Article 336 of the Regulation establishing the Notarial System and its Organisation, the Spanish General Council of Notaries is a corporation under public law with its own legal personality and with full capacity, its purpose essentially being to work with the Administration, maintain the collegial organisation, coordinate the

functions of the Colleges of Notaries, taking on such duties in legally established cases, and ensure a unified representation of Spanish notaries.

II

Notaries are specifically subject to comply with Spanish law No 10/2010 of 28 April on the prevention of money laundering and terrorist financing, in accordance with Article 2(1)(n) of that law. One of the measures to be applied by the obligated Parties is to cooperate with the competent authorities, providing the information required by them, as laid down in Article 21 and Article 27(2) of Law 10/2010, Article 44(2)(e) of its Regulation and Article 5 of Order EHA/2963/2005 of 20 September. In order to comply with this provision, this Ministerial Order in particular establishes and regulates the Centralised Body for the Prevention of Money Laundering (the 'OCP') within the Spanish General Council of Notaries, which is tasked with strengthening, intensifying and channelling notaries' cooperation with the police and judicial and administrative authorities responsible for combating money laundering, as laid down in Article 1 of the aforesaid Order.

III

In order to provide the information sought in the requests submitted by the authorities and, specifically, by prosecutors specialising in financial crime and in the desire to help combat money laundering, a type of crime that is increasingly complex in quantitative and qualitative terms, since 2007 notaries have been dramatically increasing the quantity and quality of information they record and disclose to the authorities in response to the requests of the latter. On the other hand, notaries have also established internal mechanisms to compile and centralise the information available to them through the Single Computerised Index, to which all notary offices contribute information, in order to provide the EPPO, under the terms laid down in the above-mentioned Order, with global, centralised information in each request it submits in the exercise of its duties. All of this stems from the belief of the notary profession that, despite the high cost of these data compilation and centralisation mechanisms, borne in full by the Spanish General Council of Notaries with no cost to the General Budget of the State, transparency, information and speed are essential factors in the provision of information by notaries to the EPPO and that this will make a key contribution to the fight against these crimes or to adding value to the investigations and prosecutions carried out.



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IV

Since 1 January 2004, notaries have been under the obligation to create computerised indexes of the public documents that they authorise or where they intervene, parametrising the content of those public documents. These indexes are aggregated to form the single computerised index, a file which is held by and comes under the responsibility of the Spanish General Council of Notaries. The purpose of this Working Arrangement is to establish the means for obtaining information from that index, and for requesting through such systems, where necessary, a copy of the public documents authorised or seized, since in relation to this possible request, only notaries, as custodians of the protocol, can issue the copy requested by the competent official.

In fulfilment of the above purpose, the Parties agree on the following

CLAUSES

ONE – Scope of application

The submission of requests for information by European Delegated Prosecutors appointed by the European Prosecutor, to the Centralised Body for the Prevention of Money Laundering (the 'OCP') under Article 5 of Order EHA/2963/2005 of 20 September, Article 21 of Law 10/2010 of 28 April and Article 44 of Royal Decree 304/2014 of 6 May, may be made by them in an automated manner as set out in the following clauses.

TWO – Data from the Single Index to be incorporated into the requests

Requests may relate to any data included in the Single Computerised Index, regulated by Article 17 of the Law of 28 May 1862 on the Notarial Profession, that may be concerned by the actions performed by the EPPO in the exercise of its powers, in particular as regards the investigation of crimes involving money laundering and terrorist financing.

The responses to requests shall include all the data contained in the Single Index regarding transactions that are subject to money laundering legislation under the terms thereof.

THREE – Online processing

The Spanish General Council of Notaries shall provide an online platform from which the requests for information submitted by the EPPO will be routed.

The submission of requests for information through this channel requires the identification of the EPPO staff that carry out such requests. This is facilitated through a system of corporate electronic signatures issued by the Spanish General Council of Notaries' own certification company, AnCert SRL, under the terms laid down in the clause that follows.

The OCP's shall respond to the request immediately, unless there are technical reasons that prevent it from doing so, and shall include information on the deeds or transactions recorded in the Single Index referred to in the above clause.

If no information is held in the Single Index, this shall be stated in the response to the request.

FOUR – Security in the flow of information

To guarantee maximum security of the system, a corporate electronic signature certificate shall be issued in the name of the designated officials in order to identify correctly the EPPO staff who have submitted the request.

Both the EPPO and the Spanish General Council of Notaries undertake to adopt, within the scope of their powers, the technical and organisational measures necessary to guarantee the security of the data requested and sent, in order to prevent any alteration or loss of that data or it being processed for other purposes.

The European Prosecutor shall decide who needs to be provided with an electronic signature and shall submit the application to the OCP.



FIVE – Content of the request

A) Requests relating to notarial transactions involving a person:

The request must duly specify the identity of the person or entity about whom information is requested, indicating their first name, surnames or business name or their corresponding identification code.

B) Request for additional data on a specific transaction.

C) Requests for information regarding beneficial ownership in respect of specific natural persons or legal entities.

D) Requests for documentation on specific transactions.

E) Requests for information regarding the status of a politically exposed person, in accordance with Spanish legislation.

F) Requests for monitoring specific natural persons or legal entities.

G) Any other request that is approved by the Monitoring Committee of this Working Arrangement.

SIX – Content of the response

The response to the request for information on transactions recorded in the Single Index shall be sent as a computer file in Excel format, including the information contained in the Single Index on deeds or transactions, and their participants, in which the person or entity on which information is requested was involved.

The response to the request for additional data on specific public instruments shall be transmitted as a file in PDF format, including every single piece of data recorded in the Single Index on that instrument.

SEVEN – Set up costs

The EPPO shall not incur any cost in respect of the set up, implementation of the channel or issuing of electronic signature certificates for automated responses to requests.

In any event, the Spanish General Council of Notaries may prepare a financial statement establishing the cost of the investment required to set up such a system and the resources needed to pay for it.

EIGHT – Monitoring and control measures

For the purposes of monitoring and evaluation of the application of this Working Arrangement, a Joint Monitoring Committee shall be set up, comprising two members representing the EPPO and two members representing the Spanish General Council of Notaries. The Committee shall meet at the request of either of the Parties.

This Committee shall have the following tasks:

- a) Checking and monitoring compliance with this Working Arrangement, being able to propose to the Parties the measures it deems appropriate to enhance cooperation or remedy any deficiencies identified.
- b) Resolving any problems regarding interpretation and compliance that may arise during the execution of this Working Arrangement.

The Spanish General Council of Notaries shall provide the EPPO, regularly and in the format established by the Monitoring Committee, with the information necessary to verify that the requests submitted relate to persons or entities involved in the cases assigned to authorised officials.

NINE – Validity

This Working Arrangement shall enter into force from the date of signature, and shall be valid until 31 December 2021, being extended automatically, by periods of 1 year, unless expressly cancelled by any of the signatories; any such cancellation must be notified by reliable means at least 2 months before the expiry of the Working Arrangement or any of its extensions.



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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 General Council of Notaries,



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Laura Codruța Kövesi
European Chief Prosecutor

José Ángel Martínez Sánchez
Chair

Done at Luxembourg
on 13 September 2021

Done at Madrid
on 13 September 2021