

MEMORANDUM OF UNDERSTANDING

Between

The European Public Prosecutor's Office (hereinafter: "the EPPO")

And

The Financial Intelligence Unit of Luxembourg (*Cellule de renseignement financier*, hereinafter: "CRF"),

Together referred to as "the Parties",

Having regard to Articles 86 and 325 of the Treaty on the Functioning of the European Union (TFEU),

Having regard to Council Regulation (EU) 2017/1939 of 12 October 2017, implementing enhanced cooperation on the establishment of the EPPO (hereinafter referred to as 'the EPPO Regulation'), and in particular Articles 5, 13, 22, 24, 28, 43 and 99 thereof,

Having regard to the law of 7 March 1980 as amended on the judicial organisation (hereinafter referred to as 'the Law of 7 March 1980'), and in particular Articles 74-2 and 74-4 thereof,

Having regard to the law of 12 November 2004 as amended on the fight against money laundering and terrorist financing (hereinafter referred to as 'the AML-CFT Law'), and in particular Article 5 thereof,

Considering that the CRF is the national authority *inter alia* responsible (i) for receiving and analysing the suspicious transactions reports and other information regarding suspicious facts that might amount to money laundering, associated predicate offenses or terrorism financing, and (ii) for disseminating, spontaneously or upon request, to the judicial authorities the result of its analyses as well as any other relevant information,

Considering that the CRF has the obligation to report to the EPPO any criminal conduct in respect of which the latter could exercise its competence, in accordance with Article 24(1) of the EPPO Regulation,

Considering that the EPPO is competent to investigate, prosecute and bring to judgement the perpetrators of the criminal offence of money laundering, as described in Article 1(3) of

Directive (EU) 2015/849, involving property derived from criminal offences covered by the EPPO Regulation and by Directive (EU) 2107/1371 on the fight against fraud to the Union's financial interests by means of criminal law.

Considering that it is in the common interest of the Parties to facilitate their cooperation, in an effort to make the fight against money laundering and associated predicate offences adversely affecting the European Union's financial interests as efficient as possible,

THE PARTIES HAVE AGREED AS FOLLOWS:

Article 1

Purpose and scope

1. The purpose of this Memorandum of Understanding is to provide a structured framework for cooperation between the Parties.
2. This Memorandum of Understanding aims to facilitate the exchange of information between the Parties concerning suspicious transactions or activities reports and other information (including results of analysis) regarding suspicious facts that might fall within the competence of the EPPO, and to streamline the analytical support that the CRF can provide the EPPO with.
3. In order to facilitate the implementation of this Memorandum of Understanding, and in particular the exchange of information, the contact persons identified under Article 7 may carry out mutual consultations at any time.

Article 2

Exchange of information and analytical support

1. Without prejudice to the obligations of the Parties pursuant to Articles 24(1), 24(7), 25(5) and 34(8) of the EPPO Regulation as well as Articles 74-2 and 74-4 of the Law of 7 March 1980, the Parties will exchange information in the following cases:
 - a. The EPPO may request the CRF to provide relevant information/documents related to suspicious transactions or activities, or any other additional information, as well as the result of specific financial analysis relevant to the EPPO's operational activity.
 - b. The EPPO may ask for the cooperation of the CRF to collect such information from FIUs of other countries.
 - c. The CRF will provide timely response to the above-mentioned requests.

- d. The EPPO will inform the CRF of the outcome of criminal investigations where the Parties cooperated and, upon request, may transfer to the CRF copy of judicial decisions, unless disclosure is prohibited by the applicable law.
2. The safeguards set out in Article 74-4 (2) *in fine* of the Law of 7 March 1980 apply to the use of information and documents received from the CRF. The information obtained from FIUs of other Member States or third countries can be forwarded by the CRF to the EPPO on the basis of the prior consent of the providing FIUs and can be used in accordance with the conditions and limitations specified by those FIUs.
3. When the EPPO sends a request on a case both to the CRF and to other FIUs, the EPPO will inform the CRF of such circumstances, indicating the relevant FIUs.
4. Any request for information from the EPPO will contain a brief statement of the underlying facts and will be motivated. The requests will also include, to the largest extent possible, a description of the criminal offence and the applicable legal qualification(s), relevant data of the subject(s) involved and possible links with other Member States or third countries.
5. After the request, the CRF may ask the EPPO to confirm the interest to receive further information and documents on the case.
6. When the CRF receives a request for information from the EPPO, and the CRF is aware that that information is connected to an investigation carried out by a national judicial or investigative authority, the CRF will inform the EPPO and the relevant national authority of this circumstance, unless the EPPO informs the CRF that its request cannot be disclosed to any other parties.
7. When the CRF receives a request for information from a national judicial or investigative authority, and the CRF is aware that that information is connected to an investigation carried out by the EPPO, the CRF will inform the relevant national authority and the EPPO of this circumstance, unless the national authority informs the CRF that its request cannot be disclosed to any other parties.

Article 3

Requests related to the suspension of suspicious financial operations

1. The Luxembourgish European Prosecutor or any Luxembourgish European Delegated Prosecutor may request the CRF to issue an instruction not to carry out operations relating to a transaction or a customer in accordance with Article 5. (3) of the AML-CFT Law.
2. In case the CRF believes that a suspicious transaction or activity is related to possible offences within the competence of the EPPO and may envisage issuing an instruction not

to carry out operations, the CRF will, before issuing such an instruction, inform the EPPO thereof in order to avoid interference with any investigations carried out by the EPPO.

3. When the EPPO requests the CRF to issue an instruction not to carry out operations relating to a transaction or a customer, and the CRF is aware that the transaction is connected to another investigation carried out by a national judicial authority, the CRF will put on hold the request and inform immediately the EPPO of this circumstance. The same applies when the CRF intends to issue an instruction spontaneously or based on a request of a national judicial authority and the instruction is connected to an investigation carried out by the EPPO.
4. In urgent cases, by derogation to the provisions of Article 5. (3), communications can be made via e-mails or other suitable means capable of producing a written record between the European Prosecutor or the European Delegated Prosecutor and the person in charge of the case at the CRF. A reasoned request in writing will follow without undue delay.
5. In the case, the CRF denies a request for issuing an instruction not to carry out operations relating to a transaction or a customer, the CRF will inform the EPPO thereof.

Article 4

Confidentiality, use of information by the Parties and in relation to third parties

1. Unless otherwise stated, the information disseminated by the CRF can be used by the EPPO during its investigations and prosecutions in accordance with relevant applicable national legislation.
2. Without prejudice to the precedent paragraph, an onward transfer of information or documents obtained from the respective Parties to a third party, for any other purpose than for which those information or documents were originally provided, requires the prior consent of the disclosing party.
3. Information communicated or acquired under this Memorandum of Understanding is protected by professional secrecy in accordance with Article 108 of the EPPO Regulation and in accordance with Luxembourgish national law, and is treated in accordance with the relevant rules on confidentiality.

Article 5

Modalities of exchange of information

1. The EPPO may request information from the CRF via:
 - a. the Luxembourgish European Prosecutor and European Delegated Prosecutors, or
 - b. the Luxembourgish Judicial Police directed and/or coordinated by the EPPO,

- c. its central office in Luxembourg, acting on behalf of an European Prosecutor or European Delegated Prosecutor.
2. The supervising European Prosecutor for Luxembourg shall be consulted before any request for information is transmitted by the central office to the CRF.
3. The parties will jointly arrange, consistent with the applicable legislation, for procedures of electronic and secure communication, through goAML and the EPPO-Box, and will consult each other with the purpose of implementing this Memorandum of Understanding.

Article 6

Exchange of strategic and other information

1. The Parties may exchange any strategic and other non-operational information, such as typologies and challenges, in areas within their competence.
2. The information referred to in paragraph 1 shall not contain personal data.

Article 7

Contact Persons

1. For operational cooperation, the contact persons on behalf of the EPPO shall be the European Prosecutor respectively the European Delegated Prosecutor in charge of the specific case; the contact person on behalf of the CRF shall be the magistrate responsible for the cooperation with the EPPO.
2. In case of communications related to strategic or policy matters, or in any other case of necessity of contacts with the central office of the EPPO, the contact person is the supervising European Prosecutor for Luxembourg.
3. Any subsequent change of the designated contact persons will be notified without undue delay in writing.

Article 8

Meetings, training and workshops

1. The Parties will cooperate on training in areas of common interest, as appropriate.
2. The Parties may invite each other to participate on a peer-to-peer basis to coordinating meetings or other coordinating initiatives. The parties may identify specific thematic

issues to be further discussed, through periodic meetings, which can be held also virtually and are aimed at jointly analysing selected relevant cases.

3. Training programs of the EPPO and of the CRF may be open to participation of the staff of the other Party. The Parties may exchange trainers and organise joint training activities.

Article 9

Data Protection

1. Personal data may only be processed by the Parties in full compliance with the respectively applicable data protection framework. Both parties shall ensure that all receipts of personal data, as well as any transfers thereof, are duly logged and traceable, including, where required in line with these or other implementing rules, the grounds for their transfer. No personal data shall be kept longer than necessary for the purpose for which it has been processed, or than required due to other legal obligations.
2. Personal data shall be transmitted with a purpose and shall not be processed in a manner incompatible with the purpose for which it was transmitted.
3. At the moment that the parties exchange personal data, and the relevant data subject has already been notified of the processing of their data by the transmitting party, this shall be notified to the receiving party while respecting applicable rules on confidentiality of investigations.
4. To the extent applicable and without prejudice to any processor-controller agreement between the parties, the parties shall cooperate and inform each other appropriately in the implementation of their respective obligations. This specifically includes informing each other in case of any personal data breach occurring in relation to personal data exchanged under this arrangement, in case there are reasons to believe that personal data received or provided under this arrangement were or are inaccurate or incomplete, or should not have been transmitted, in which case the receiving Party shall take the appropriate action.
5. Any restriction on the use of information exchanged, or instructions relating to deletion or destruction, including possible access restrictions in general or specific terms, shall be respected by the Parties.

Article 10

Expenses

The Parties shall bear their own expenses which arise in the course of implementation of the present Memorandum of Understanding, unless otherwise stipulated.

Article 11
Amendments and supplements

This Memorandum of Understanding may be amended in writing at any time by mutual consent between the parties.

Article 12
Entry into force

1. This Memorandum of Understanding shall enter into force on the date of its signature.
2. A copy of this Memorandum of Understanding shall be sent to the General State Prosecutor, for information.

Done in Luxembourg City, 18 August 2022, in two originals.

For the EPPO

For the CRF

[signed by]

[signed by]

Gabriel SEIXAS
Supervising European Prosecutor for
Luxembourg

Max BRAUN
Director of the CRF