



EUROPEAN  
PUBLIC  
PROSECUTOR'S  
OFFICE



## WORKING ARRANGEMENT

### BETWEEN

THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE

### AND

THE FRENCH FINANCIAL INTELLIGENCE UNIT "TRACFIN"

The European Public Prosecutor's Office (hereinafter: "the EPPO") and the French Financial Intelligence Unit (*Le Service à compétence nationale de traitement du renseignement et action contre les circuits financiers clandestins* "TRACFIN"), together referred to as "the Parties",

Having regard to the law n°90-614 of 12 July 1990 *relative à la participation des organismes financiers à la lutte contre le blanchiment des capitaux provenant du trafic des stupéfiants* and the decree of 9 May 1990, establishing TRACFIN as the French Financial Intelligence Unit (hereinafter "FIU") embedded within the Ministry of Economy, Finance and Recovery,

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 Directive (EU) 2017/1371 of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal Law, and in particular Articles 3, 4, 5 and 6 thereof,

Having regard to the Directive (EU) 2015/849, on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing as amended by Directive (EU) 2018/843, and in particular Articles 1(3), 2, 32 to 38, 52 to 54 thereof,

Having regard to the Directive (EU) 2015/2402 of 20 June 2015 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council decision 2000/642/JHA, and in particular Articles 1, 3, 7 and 8 thereof,

Having regard to the French monetary and financial code, and in particular Articles L561-2, L561-15, L561-24, L561-27, L561-28, L561-29, L561-30, L561-30-1, L561-31 and L561-19 thereof,

Having regard to the French criminal procedure code, and in particular Articles 40, 60-1, 77-1-1, 99-3, 696-108, 696-109, 696-111, 696-113 and 696-114 thereof,

Having regard to the cooperation and the exchange of information between TRACFIN and the Judicial Authority in order to prevent the use of the financial and economic system(s) for money laundering and associated predicate offences within the context of criminal investigations as well as in case of possible illegal activities involving obliged entities in the meaning of Article 2 Directive (EU) 1153/2019 of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council decision 2000/642/JHA,

Considering the functions and the role of TRACFIN, the French Financial Intelligence Unit aiming to support the development of a sound economy by fighting clandestine financial channels, money laundering and terrorism financing,

Considering that TRACFIN is required 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 perpetrator of, and accomplices to, criminal offences affecting the financial interests of the Union, including money laundering of such predicate offences, 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 and the exchange of information in a secure, smooth and timely manner, in an effort to make the fight against money laundering and associated predicate offences affecting the European Union's financial interests in the meaning of Directive (EU) 2017/1371 and the EPPO Regulation as efficient as possible,

Agree as follows:

## **Article 1**

### **Purpose and scope**

1. The purpose of this Working Arrangement is to provide a structured and an operational framework facilitating for cooperation between the Parties.
2. This Working Arrangement aims to facilitate the exchange of information related to offences within the competence of the EPPO concerning the financial transactions suspected of being related to money laundering of such predicate offences, and to streamline the analytical support that TRACFIN can provide the EPPO with.

3. In order to facilitate the implementation of this Working Arrangement, and in particular the exchange of information, the contact persons identified under Article 9 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) and 34(8) of the EPPO Regulation as well as Articles L561-30-1, L561-31, L561-19 of the French monetary and financial code and 40, 60-1, 77-1-1, 99-3, 696-108, 696-109, 696-111, 696-113, 696-114 of the French criminal procedure code, the Parties will exchange information in the following cases:
  - a. The EPPO may request TRACFIN information and documents related to suspicious transactions or activities, or any other additional information, as well as the result of specific analysis relevant to the EPPO's operational activity.
  - b. TRACFIN will provide timely response to the requests.
  - c. In the cases where there are objective reasons to believe that disclosure of the information requested would have a negative impact on ongoing investigations or analyses or, in exceptional circumstances, where disclosure would be manifestly disproportionate in relation to the legitimate interests of a natural or legal person or would not be relevant to the purposes for which it was requested, TRACFIN may refuse to comply with the requests referred to in a. Such refusal shall be duly justified.
  - d. In compliance with the EPPO regulation, the EPPO will inform TRACFIN of the outcome of criminal investigations where TRACFIN reported a criminal conduct and, upon request, may transfer to TRACFIN copy of judicial decisions, unless disclosure is prohibited by the applicable law.
2. The safeguards set out in Articles L561-18, L561-29, L561-30 and L561-31-1 of the French monetary and financial code applies to the use of information and documents received from TRACFIN. The information obtained from a public authority of a foreign partner can be forwarded by TRACFIN to the EPPO on the basis of prior consent of the providing third authority. When the information is obtained from FIUs of other Member States or third countries, it can be used in accordance with the conditions and limitations specified by those FIUs, in the meaning of Article 54 of the Directive (EU) 2015/849, as amended by Directive (EU) 2018/843.
3. When EPPO sends a request on a case both to the TRACFIN and to other FIUs, the EPPO will inform TRACFIN 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 include, to the largest extent possible, a description of the criminal offence and its legal qualification, the relevant data concerning the subject(s) involved and possible links with other Member States or third countries.

5. After the request, TRACFIN may ask the EPPO to confirm the interest to receive further information and documents on the case.
6. When TRACFIN receives a request for information from the EPPO, and TRACFIN is aware that that information is connected to an investigation carried out by a national judicial or investigative authority, TRACFIN will inform the national authority of this circumstance, unless the EPPO informs TRACFIN that its request cannot be disclosed to any other parties.
7. When TRACFIN receives a request for information from a national judicial or investigative authority, and TRACFIN is aware that that information is connected to an investigation carried out by the EPPO, TRACFIN will inform the EPPO of this circumstance, unless the national authority informs TRACFIN that its request cannot be disclosed to any other parties.

### **Article 3**

#### **Modalities of exchange of information**

1. The EPPO may request information from TRACFIN:
  - a. via the European Delegated Prosecutors acting in France, or
  - b. indirectly, through the French Law Enforcement Authorities instructed by the European Delegated Prosecutor concerned acting in France
  - c. via its central office in Luxembourg at the request of the European Delegated Prosecutor concerned acting in France.
2. The dedicated channel of electronic and secure exchange of information between the European Delegated Prosecutors in France and TRACFIN is the platform *TRAJET*, the integrated electronic system for exchanging information with the French judicial authorities.

### **Article 4**

#### **Transmission of information to TRACFIN by the EPPO**

1. In compliance with Article L561-27 of the French monetary and financial code, the European Delegated Prosecutors in France can transmit directly to TRACFIN any information, collected during an investigation led by the EPPO, necessary for the accomplishment of the TRACFIN's mission.
2. The information note about suspicious transactions will include, to the largest extent possible, a description of the facts and the transactions, the relevant data concerning the subject(s) involved and possible links with other Member States or third countries.

**Article 5**  
**Transmission of information to the EPPO by TRACFIN**

1. In compliance with Article L561-30-1 and L561-31 of the French monetary and financial code and with Article 24(1) of the EPPO Regulation, TRACFIN can transmit directly to the European Delegated Prosecutors in France any information, collected during an investigation led by TRACFIN, necessary for the accomplishment of the EPPO's mission.
2. The information note about suspicious transactions will include, to the largest extent possible, a description of the facts and the transactions, the relevant data concerning the subject(s) involved and possible links with other Member States or third countries. These transmissions do not include any indication of the origin of the information.
3. The EPPO informs TRACFIN about the use it makes of these transmissions and the result of the actions undertaken on this basis.

**Article 6**  
**Requests related to the suspension of suspicious transactions**

1. The European Prosecutor or any European Delegated Prosecutor acting in France may inform TRACFIN of suspicious transactions or any other operation related to such transaction, for which its investigations demonstrate why they should be suspended according to the EPPO and in accordance with Article L561-24 of the French monetary and financial code.
2. When the EPPO informs TRACFIN of a suspicious transaction, and TRACFIN is aware that the transaction is connected to another investigation carried out by a national judicial authority, TRACFIN will inform immediately the EPPO of this circumstance, unless the national competent authority informs TRACFIN that its request cannot be disclosed to any other parties. The same applies when TRACFIN intends to suspend the suspicious transaction based on a request of a national authority and such instruction is connected to an investigating carried out by the EPPO.
3. By derogation to the provisions of Article 3 (2), in urgent cases, communications can be made via e-mail or any other suitable means between the European Prosecutor or the European Delegated Prosecutor and the person in charge of the case at TRACFIN. A motivated communication in writing will follow.
4. In the case that TRACFIN denies a request for monitoring or suspending suspicious transactions, TRACFIN will inform the EPPO.

## **Article 7**

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

1. Unless otherwise stated, the information or documents disseminated by TRACFIN can be used by the EPPO during its investigations and prosecutions in accordance with relevant applicable national legal framework.
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 Working agreement is protected by professional secrecy in accordance with Article 108 of the EPPO Regulation and in accordance with French national Law, and is treated in accordance with the relevant rules on confidentiality.

## **Article 8**

### **Exchange of strategic information**

1. The parties may exchange any strategic and no-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 9**

### **Contact Persons**

1. For operational cooperation, the contact persons on behalf of the EPPO shall be the European Delegated Prosecutors in France in charge of the investigative cases; the contact persons on behalf of TRACFIN shall be the magistrates 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 France.
3. Any subsequent change of the designated contact persons will be notified without delay in writing.

**Article 10**  
**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 TRACFIN may be open to participation of the staff of the other Party. The Parties may exchange trainers and organise joint training activities.

**Article 11**  
**Data Protection**

1. Concerning personal data protection, the Parties shall apply their respectively applicable legal framework.
2. 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 :
  - a. Informing each other in case of any personal data breach occurring in relation to personal data exchanged under this arrangement.
  - b. At the moment that the parties exchange personal data, and the relevant 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. Consulting each other in case of data subject requests related to personal data exchanged under this arrangement, and specifically not to grant access prior to having consulted the other party.
  - c. Informing each other 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.
3. Personal data shall be transmitted with a purpose and shall not be processed in a manner incompatible with, or stored longer than necessary for, the purpose for which it was transmitted or than required due to other legal obligation. 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.
4. Other than where provision of personal data was mandatory based on existing legislative reporting obligations, 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 12**

### **Expenses**

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

## **Article 13**

### **Amendments and supplements**

This Working Arrangement may be amended in writing at any time by mutual consent between the parties.

## **Article 14**

### **Entry into force**

This Working Arrangement shall enter into force on the date of signature mentioned at the end of this document.

## **Article 15**

### **Suspension**

In the event that either party deviates significantly from the provisions of this Working Arrangement, it may be unilaterally suspended by the other party upon written notification until the problems are resolved.

## **Article 16**

### **Termination**

1. The Working Arrangement may be terminated by either party upon three months written notice.
2. Without prejudice to paragraph 1., the legal effects of this Working Arrangement shall remain in force.

Done at Luxembourg, on 26 October 2023, in two originals, in English and French, all texts being equally authentic.

**For the European Public Prosecutor's Office,**

Laura Codruța KÖVESI,  
European Chief Prosecutor



**For TRACFIN,**

Guillaume VALETTE-VALLA,  
Director

