



EUROPEAN
COURT
OF AUDITORS



EUROPEAN
PUBLIC
PROSECUTOR'S
OFFICE

**WORKING ARRANGEMENT
BETWEEN
THE EUROPEAN COURT OF AUDITORS ("ECA")
AND THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE ("EPPO")**

**Working Arrangement
between
the European Court of Auditors ("ECA")
and the European Public Prosecutor's Office ("EPPO")**

The European Court of Auditors (ECA) and the European Public Prosecutor's Office (EPPO), together referred to as "The Parties",

Having regard to Articles 86, 287, 325 and 339 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 to Articles, 99, 103, 110 thereof;

Considering that it is within the common interest of ECA and the EPPO to establish a close co-operation, in an effort to make the fight against fraud, corruption and any other criminal offence or illegal activity adversely affecting the European Union's financial interests as efficient as possible and to avoid duplication of effort wherever possible,

In a spirit of mutual trust where ECA fully respects the EPPO's independence in exercising the powers of investigation conferred on it, while EPPO recognizes the need for ECA to receive in a timely and appropriate manner the information that enables it to take action, where appropriate, to protect the interests of the Union.

Agree to the following Administrative Arrangement (hereinafter "Arrangement") in relation to EPPO cases.

A. GENERAL PROVISIONS

1. Purpose and scope of the Arrangement

1. This Arrangement aims to provide a structured framework for co-operation between ECA under Articles 285 et seq. TFEU and the EPPO under the EPPO Regulation.
2. This Arrangement, which only concerns the relations between ECA and the EPPO, is not intended to create any additional rights and obligations and is without prejudice to the provisions governing the mandate of the ECA or of the EPPO.
3. This Arrangement aims to establish and maintain a cooperative relationship between the Parties. It neither affects the provisions relating to the ECA's right to request any document or information, as specified, in particular, in Article 287(3) TFEU.

2. Contact persons

1. Without prejudice to the notification under Article 9.1, ECA and the EPPO hereby designate their respective permanent contact persons for the exchange of information in accordance with this Arrangement.
2. ECA's contact persons shall be:
 - a) for matters concerning the Members of ECA: the President of ECA¹
 - b) for all other matters: the Secretary-General of ECA.Once contacted by the EPPO in a specific and particular matter, the President (lit. a) or the Secretary-General (lit b.) may, subsequently and for that specific and particular matter, designate an ad-hoc contact person. Any subsequent change of the ad-hoc contact person shall be notified without delay in writing.
3. The EPPO's contact persons shall be:
 - a) for matters concerning the Members of ECA: the European Chief Prosecutor
 - b) for all other matters: the Head of Operations.
4. The information transmitted should be as complete as possible. The Parties may agree on templates for the purpose of reporting.

B. EPPO's INITIATIONS AND CONDUCT OF INVESTIGATIONS

3. Initial information

In line with Article 24 of the EPPO regulation, ECA shall transmit to the EPPO any information and evidence which come to its attention where it considers the existence of possible criminal conduct in respect of which the EPPO could exercise its competence in accordance with Article 22, Article 25(2) and (3) of the EPPO Regulation. This shall include any case of suspicion of criminal conduct in respect of which the EPPO could exercise its competence identified by the ECA during its audit work or received from third parties (denunciation).

4. Access to relevant information in ECA's databases

1. ECA shall facilitate the access of the EPPO to its databases in connection with an investigation. Such access shall be limited to the strict confines of an investigation.
2. Upon a reasoned request addressed to the contact person specifying the relevant information needed, ECA shall promptly provide the EPPO with an immediate access to the relevant information in ECA databases or secure such information for later collection.

¹ And for matters concerning the President of ECA: the Member occupying the second place in ECA's order of precedence.

3. If the EPPO encounters difficulties in accessing the relevant information in the ECA databases, it shall raise this issue with the relevant contact person.

5. Duty to cooperate and supply information to EPPO

1. Prior to its opening or during an investigation, the EPPO may submit a reasoned request in writing to the ECA to obtain information and relevant documentation.
2. The EPPO shall also keep the contact person informed of any subsequent exchange of information with the competent ECA staff.
3. ECA shall strive to provide the information within the time limit set in the EPPO's request or as soon as possible in cases where information is not readily available. Where information cannot be provided within the time limit set by the EPPO, the ECA shall inform the EPPO about the estimated time when the reply can be expected.

6. Precautionary measures

1. Where the ECA has reported information to the EPPO pursuant to Article 24 EPPO Regulation but the latter has not yet taken a decision on whether or not to open an investigation, the ECA shall avoid undertaking any activities which may compromise potential evidence and shall consult the EPPO before taking any precautionary measures, unless immediate action is required.
2. At any time during an investigation, the ECA may take appropriate precautionary measures in close cooperation with the EPPO. The EPPO shall provide any information that could assist the ECA in deciding whether it is appropriate to take such precautionary measures. Upon ECA's request, the EPPO shall provide additional information without delay, unless the provision of such information could be detrimental to the proper conduct and confidentiality of its investigations.

**C. SPECIFIC PROVISIONS ON EPPO'S INVESTIGATIONS INVOLVING ECA MEMBERS
OR STAFF**

7. Notifications

1. Where the ECA is a victim concerned in the sense of Art. 103(2) of the EPPO Regulation and without prejudice to the proper conduct and confidentiality of its investigations, the EPPO shall provide the ECA with sufficient information allowing it to take appropriate measures. The nature and scope of any information provided by the EPPO is based on a case-by-case assessment of the EPPO and will in principle include the following elements:
 - a) the EPPO case reference of the investigation;
 - b) the identity of the ECA Member or staff member concerned;
 - c) a brief description of the case;
 - d) whether the ECA Member or staff member concerned has been informed of the investigation;
 - e) the legal basis to conduct the investigation;
 - f) any other information that may assist ECA in deciding whether to take measures to protect its interests.
2. Where the ECA Member or staff member concerned has not yet been informed of the investigation, ECA shall abstain from providing any information to the person concerned; it shall only share such information with other persons where necessary on a need-to-know basis.

8. Access to ECA premises to conduct an EPPO investigation

1. Without prejudice to the authorization provided for in Article 1 of Protocol No 7 on the privileges and immunities of the European Union, the EPPO shall inform the Secretary-General of ECA in writing of its intention to access the ECA premises to conduct an EPPO investigative measure sufficiently in advance, at the latest at the time of EPPO's visit. When an investigation is to be carried out on the premises of the ECA occupied by a Member of ECA or by its Secretary-General, the EPPO shall inform the President.²
2. The relevant contact person shall ensure that the EPPO's requests to gain access to the ECA premises in order to conduct an EPPO investigative measure are complied with. The contact person shall also ensure that competent ECA staff shall provide technical assistance as requested by the EPPO, including assistance necessary to take a copy of or obtain extracts from the contents of any data medium held by ECA.

² When an investigation is to be carried out on the premises of the ECA occupied by the President, EPPO shall inform the Member occupying the second place in ECA's order of precedence.

D. INFORMATION PROVIDED BY THE EPPO

9. Dismissals and transfers

1. In accordance with Articles 24(7) and 26(2) of the EPPO Regulation, where upon verification the EPPO decides to initiate an investigation or, to the contrary, that there are no grounds to initiate an investigation, it shall without undue delay inform the ECA in case the latter reported the criminal conduct.
2. In accordance with Article 34(8) of the EPPO Regulation, the EPPO shall inform the ECA without undue delay if a file is transferred to the competent national authorities in accordance with paragraph (1), (2) or (3) of that Article and Article 25(3) in case the latter reported the criminal conduct.
3. Pursuant to Article 39(4) of the EPPO Regulation, where a case has been dismissed and the ECA is the relevant institution, the EPPO shall inform the ECA without undue delay of such dismissal.
4. When an EPPO investigation has ultimately led to a definitive judgment, the EPPO shall inform the ECA accordingly, in case the latter reported the criminal conduct. In doing so, EPPO shall specify, whether the suspect was found guilty or whether s/he was acquitted.

E. ECA's AUDITS

10. Information relevant to ECA's audits

1. Prior to launching an audit mission concerning the EPPO, the ECA shall contact the EPPO to obtain information and relevant documentation. As contact person, the EPPO Internal Audit Capability shall liaise with the ECA auditors.
2. The ECA shall submit a written request to the EPPO to provide all information necessary for the ECA to carry out its audit. When requesting such information, the ECA shall state the purpose of the request, the kind of information that is required, and the time limit within which the information is to be provided and when the audit mission is going to take place.
3. Pursuant to Article 287 TFEU, the EPPO shall grant access to all the documents and information requested by the ECA. The ECA shall have unrestricted access to all functions, information systems, records, property and personnel within the EPPO, as considered necessary for the fulfilment of its duties and obtain the necessary assistance of the EPPO's staff.

4. In line with Article 110 of the EPPO Regulation³, the EPPO shall provide all the requested documents to the ECA and facilitate cooperation with the contractors.

F. NON-OPERATIONAL COOPERATION

11. Training and workshops

1. The ECA and the EPPO shall cooperate on training in areas of common interest, as appropriate:
 - a) Training programmes of the ECA and the EPPO may be open to participation of the staff of the other party;
 - b) The ECA and the EPPO may exchange trainers and organize joint training activities.
2. The ECA and the EPPO may organize an annual workshop to exchange best practice, to explore matters of common interest and to enhance practical cooperation.

12. Exchange of staff

The ECA and the EPPO may exchange staff as appropriate in accordance with the relevant provisions of Staff Regulations (e.g. on secondments or missions).

G. FINAL PROVISIONS

13. Meetings

Meetings between the ECA and the EPPO shall take place on a regular basis, as appropriate.

14. Confidentiality, use of information by the partners and in relation to third parties

1. Information communicated or acquired under this working arrangement is protected by professional secrecy in accordance with Article 108 of the EPPO Regulation.
2. When the Parties provide information to each other from their respective case files this information shall be limited to what is strictly necessary.
3. The ECA and the EPPO shall not exchange information, if disclosure to the other Party is prohibited by the law governing the Party possessing the information.

³ "The Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all contractors and subcontractors who have received Union funds from the EPPO."

15. Secure communication line

The establishment, implementation and operation of a secure communication line for the purpose of exchange of information between the ECA and the EPPO may be agreed upon between the Parties in a separate arrangement.

16. Data Protection

1. Personal data may only be processed by the ECA or by the EPPO in full compliance with Regulation (EU) 2018/1725 and of Council Regulation (EU) 2017/1939. 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 e.g. the internal implementing rules for the DPO⁴ and internal decisions on restrictions⁵, 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. Where a data subject exercises its rights pursuant to Articles 17-23 of Regulation (EU) 2018/1725 or Articles 59, 61 and 62 of the EPPO Regulation in relation to personal data transmitted by the Parties on the basis of the present arrangement, the transmitting Party should be consulted before a decision on the data subject's request is taken. The final decision shall be subsequently notified to the other party.
3. As soon as one of the Parties becomes aware of a data breach concerning personal data transmitted on the basis of the present arrangement, it should inform the other Party accordingly within 48 hours after the identification of the data breach. The communication should describe the nature of the personal data breach as well as any remedial action taken, as appropriate.
4. 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.
5. Unless otherwise indicated, and other than reports provided by ECA in line with the legal obligations under Art. 24 of the EPPO Regulation, personal data exchanged under this arrangement may not be transferred onwards without the express agreement of the other party.

⁴ EPPO College Decision 005/2020 and ECA Decision 40/2021.

⁵ Article 25 restrictions as specified in Regulation (EU) 2018/1725: ECA Decision 42/2021.

17. Review of the Arrangement

1. This Working Arrangement may be amended in writing at any time by mutual consent between the Parties. Any amendment must receive the approval in line with the Parties' respective legal frameworks.
2. Such amendment shall enter into force on the day following the date upon which the Parties notify each other of the completion of their internal requirements.
3. Either the ECA or the EPPO may also terminate the Arrangement by notifying the other in a timely manner.
4. In case of termination, the Parties shall reach agreement on the continued use and storage of the information that has already been communicated between them.

18. Entry into force

This Arrangement takes effect on the date of the last signature.

Done at Luxembourg, 3 September 2021, in two originals in the English language.

For EPPO

Laura Codruța KÖVESI

European Chief Prosecutor

For ECA

Zacharias KOLIAS

Secretary-General