

EPPO Concluded Working Arrangement with European Commission

News

Thomas Wahl

The European Public Prosecutor's Office (EPPO) and the European Commission signed a working agreement. The agreement implements Art. 103(1) of Council Regulation (EU) 2017/1939, which provides that the EPPO shall establish and maintain a cooperative relationship with the European Commission for the purpose of protecting the financial interests of the Union. This arrangement shall set out the modalities for their cooperation. The agreement applies to the European Commission services except for OLAF (if it exercises its investigative functions) and the European External Action Service (EEAS). The main features of the [Working Agreement](#) between the EPPO and the Commission are:

- The Commission will report to the EPPO without undue delay any criminal conduct in respect of which the EPPO could exercise its competence;
- The Commission will transfer to the EPPO any information and evidence relating to the criminal conduct;
- Reporting by the Commission will be made via templates and contact points (the latter are specified in Annex I of the Working Arrangement);
- The EPPO is entitled to request further relevant information available to the Commission in specific cases, including information on infringements that caused damage below the threshold indicated in Art. 25(2) of Regulation 2017/1939;
- Such information requests will be addressed via the contact points;
- The Commission will encourage its Members and staff members to contribute to the investigations carried out by the EPPO and will facilitate such contribution, subject to the provisions of the Staff Regulations regarding disclosure of information and the analogous requirements for Member of the Commission;
- The EPPO will be obliged to send a reasoned request to the Commission in order to receive permission for disclosure of information by Commission staff officials, in particular the authorization of staff to appear as witness or expert witness in the different stages of the criminal proceedings; the Commission is obliged in this context to cooperate closely with the EPPO throughout the process;
- The EPPO has several information obligations towards the Commission – it will, for instance, inform the Commission “without undue delay” of the initiation of an investigation if the Commission had reported criminal conduct and “as soon as possible” if the EPPO has no ground to initiate investigations, decided not to be competent or did not exercise its competence;
- The EPPO will also provide the Commission with sufficient information (in particular information on the decision to bring a case to judgment) in order to allow the Commission to take appropriate

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measures in view of its responsibility for the implementation of the budget as well as its responsibility as Appointing Authority for its staff;

- The mutual obligations as regards such appropriate measures are further detailed in the Working Agreement – measures include precautionary administrative measures for the protection of the EU's financial interests, disciplinary actions, and intervention of the Commission as civil party in criminal proceedings;
- The EPPO will have access to the databases and registers of the Commission, whereby an annex to the Working Agreement lists the relevant databases to which the EPPO can have direct access or only indirect reading access;
- In case of indirect access EPPO's requests for information stored must be made via the contact points; the Commission must extract the information from the databases and submit it to the EPPO "without undue delay";
- The EPPO and the Commission will cooperate closely and in a timely manner as regards the application of the "general conditionality mechanism" for the protection of the EU's financial interests set out in Regulation (EU, Euratom) 2020/2092 (→ [eucrim 3/2020, 174-176](#)). In particular, the EPPO may send to the Commission, via the contact points, information on individual or systemic issues that may be relevant for the purpose of that Regulation.

Other provisions in the Working Agreement deal with the following:

- Waiver of immunities;
- Waiver of inviolability of premises, buildings and archives;
- Protection of personal data;
- Institutionalised cooperation (e.g. regular consultations);
- Revision of the Agreement and supplements.

The Agreement entered into force on 19 June 2021. It is another important arrangement which the EPPO concluded with EU institutions after it had assumed its investigative and prosecutorial activities on 1 June 2021. On 5 July 2021, the EPPO signed a working arrangement with OLAF (→ [eucrim 2/2021, 80](#)).

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