

RENFORCE Researchers Conclude a Comprehensive Comparative Report on the OLAF Legal Framework on the Exchange of Information



Report

Koen Bovend'Eerd, Michiel Luchtman

Under the auspices of the Utrecht Centre for Regulation and Enforcement in Europe (RENFORCE), an international team of researchers has recently concluded a [report](#) entitled 'Exchange of information with EU and national enforcement authorities: improving the OLAF legislative framework through a comparison with other EU authorities'. The project was co-funded under the Hercule III Programme of the European Commission/OLAF. Headed by Dr. Michele Simonato, Prof. Dr. Michiel Luchtman and Prof. Dr. John Vervaele, the report analyses OLAF's legislative framework for the exchange of information in the pre-investigative and investigative phase, identifies legal obstacles which prevent OLAF from realising its mandate, and elaborates possible solutions to these obstacles.

The project uses a comparative approach and analyses the transfer of information to OLAF, DG Competition, the European Central Bank and the European Securities and Market Authority by their respective national partners in six legal orders (Germany, Hungary, Italy, Luxembourg, the Netherlands and the United Kingdom). The report takes stock of the current legal framework of the four authorities at EU level, offers overviews of the state of the art in the six national legal orders, provides an integrative comparative analysis and gives policy recommendations. The results are of great interest and importance to EU policy makers, legislators, the European academic community, the authorities themselves, as well as their national partners.

The comparative analysis reveals significant differences between the OLAF legal framework and the other four EU authorities. Although all of the authorities have been entrusted with powers of law enforcement, the comparison between them highlights a series of problems with regard to OLAF's current legal framework on the exchange of information. These problems relate to the unclear and diverging legal frameworks of OLAF's partners at the national level, causing OLAF to have to work with partners with very different mandates; to the fragmentation of rules across different sectors of OLAF's competences (income and expenditure); to a lack of a clear and binding legal EU rules and corresponding national rules to provide information to OLAF; as well as to unclarity in the EU provisions on how OLAF is to deal with that information.

Contributors to the project included RENFORCE researchers Dr. Mira Scholten, Dr. András Csúri, Argyro Karagianni LLM and Koen Bovend'Eerd LLM and external researchers: Prof. Dr. Martin Böse and Dr. Anne

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This report is a part of three 'Hercule'-funded projects and is related to a RENFORCE project led by Prof. Michiel Luchtman entitled 'The rise of EU law enforcement authorities – Protecting fundamental rights and liberties in a transnational law enforcement area', funded by the Netherlands Organization for Scientific Research under the Innovational Research Incentives Scheme (VIDI scheme 2015). The first 'Hercule' report focused on OLAF's investigative powers (executed in 2016-2017) and the third (and final) 'Hercule' project on the use of evidence acquired by OLAF and the other authorities in national court proceedings is currently executed at the University of Luxembourg under the lead of Prof. Katalin Ligeti and Dr. Angelo Marletta.

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