



**European Committee
of the Regions**



ADMINISTRATIVE ARRANGEMENTS between the European Committee of the Regions and the European Anti-Fraud Office

The European Committee of the Regions (hereinafter "CoR") and the European Anti-Fraud Office (hereinafter "OLAF") hereby agree to the following Administrative Arrangements (hereinafter "Arrangements").

Article 1 | Purpose, scope and nature of the Arrangements

These Arrangements aim to provide a structured framework for co-operation and facilitate the timely exchange of information between the CoR and OLAF under Regulation (EU, Euratom) No 883/2013¹ (hereinafter "the OLAF Regulation"), in particular Article 1(5) thereof, and CoR Decisions 26/2004 and 508/2015², in order to ensure the effectiveness of investigations led by OLAF and to streamline and improve best practices between the CoR and OLAF.

The CoR shares Joint Services with the European Economic and Social Committee (Directorates for Logistics and Translation) as set forth by the Cooperation Agreement between the two Committees signed in July 2015. These Arrangements apply to persons listed in Article 2.1.

These Arrangements do not create any additional legal obligations and are compatible with the rules governing the relations between the CoR and OLAF³.

¹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p.1).

² Decision No 26/2004 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests and Decision No 508/2015 on the rules on whistleblowing of 18 December 2015.

³ In particular, the OLAF Regulation, Article 325 of the Treaty on the Functioning of the EU; Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF) (OJ L 136, 31.5.1999, p.20) as amended by Commission Decision 2013/478/EU of 27 September 2013 (OJ L 257, 28.9.2013, p.19); Council Regulation (EC, Euratom) No 2988/1995 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p.1); Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1); the Staff Regulations of Officials and the

They take account of the OLAF Guidelines on Investigation Procedures for OLAF staff (hereinafter "GIP") used in OLAF since 1 October 2013, the CoR Rules of Procedure, including its interpretative rules, the relevant CoR decisions in the area of statutory obligations, administrative enquiries and disciplinary procedures as well as the Code of Good Conduct⁴. They are also to be implemented in full respect of the Charter of Fundamental Rights of the European Union⁵.

Article 2 | **General provisions**

Articles 4(6) and (8) of the OLAF Regulation

2.1 Unless provided for otherwise in these Arrangements,

a) OLAF will communicate information to or request information from the President of the CoR (hereinafter "the President") and, in turn, the President will transmit information and evidence to OLAF where such information concerns:

- Members of the CoR or their alternates, Members of Joint Consultative Committees or experts (hereinafter all referred to as "Members and experts") or
- the Secretary-General of the CoR (hereinafter "the Secretary-General").

b) OLAF will communicate information to or request information from the Secretary-General and, in turn, the Secretary-General will transmit information and evidence to OLAF where such information concerns:

- staff of the CoR subject to the Staff Regulations of Officials and the Conditions of employment of other servants of the European Union (hereinafter "CoR staff and other servants"),
- seconded national experts working in the CoR (hereinafter "SNEs"),
- trainees engaged by the CoR (hereinafter "trainees"),
- persons working for external service providers deployed at the CoR premises (hereinafter 'service providers'), and
- any other person in any kind of working relation to the CoR not covered by the above points, irrespective of their status or work contract.

All categories above include all persons previously employed by the CoR as far as the information concerns the exercise of their duties within the CoR.

Unless provided for otherwise in these Arrangements, whenever the CoR is mentioned henceforth as the sender or recipient of information and/or evidence, the President or the Secretary-General respectively are implied, according to the rules laid down above.

Conditions of employment of other servants of the EU (hereinafter "Staff Regulations"), and in particular Articles 22a and 22b thereof concerning whistleblowing obligations.

⁴ CoR Code of Good Conduct of 18 November 2003.

⁵ OJ C 83, 30.3.2010, p.389.



- 2.2 Within 15 working days of receipt of the information referred to in Article 2.1, or of a request for information from OLAF, the President or the Secretary-General will provide the Director-General of OLAF (hereinafter "the Director-General") with the contact details of the person in the CoR whom they have designated as contact person for the case to which the information relates, or indicate that, in the given case, they should be contacted personally.
- 2.3 The President or the Secretary-General or, if applicable, the designated contact person will, within one month from receipt of the request, reply to OLAF or inform it of the reasons requiring an extension of this deadline.
- 2.4 Whenever in contact with any of the persons listed in Article 2.1, OLAF agents will identify themselves and provide the OLAF case identification number and the subject matter of the case in question and state whether they are being contacted for the purposes of selection, investigation, or assistance to national authorities in the framework of a coordination case or during the monitoring phase of a concluded OLAF investigation.
- 2.5 The CoR and OLAF will ensure that the marking and handling requirements⁶ are respected.

Article 3 | **Initial information from the CoR**

Articles 5(5) and 8(1) of the OLAF Regulation


- 3.1 Without prejudice to the provisions of the Staff Regulations, and in particular Articles 22a and 22b, and Article 3.4 of these Arrangements, the President or the Secretary-General of the CoR will transmit to OLAF, without delay, any information and evidence relating to possible cases of fraud, corruption and any other illegal activity detrimental to the interests of the European Union which come to its attention. The details of the OLAF contact person appointed by the Director-General are attached to these Arrangements; OLAF will notify the CoR of any changes to the contact person.
- 3.2 For the purpose of transmitting information as set forth in Article 3.1, the CoR will preferably use the template provided by OLAF.

When communicating the information or evidence, they will inform OLAF of the precautionary measures they may have taken, according to Article 8.1, as well as whether or not they have informed the relevant person about the allegations.

They will also indicate which elements contained in the information or evidence may reveal the identity of persons protected under Article 22a(3) of the Staff Regulations and/or under the applicable internal rules of the CoR, namely Article 2(3) of decision No 26/2004 and Articles 9 and 13(5) of decision No 508/2015.

OLAF will acknowledge receipt of the initial information accordingly.

⁶ As described in Annex 1A of the Security Notice 01 – The use and application of markings of the European Commission (DG HR and Security), entitled "OLAF Investigations, Handling Instructions".



OLAF will inform the CoR where the Director-General decides not to open an internal investigation case following the assessment of the initial information provided by the CoR, or information provided by another source when this information is relevant to the CoR.

3.3 Cases of low priority for OLAF

The following categories of cases cover activities of CoR staff and other servants which usually would not result in serious situations requiring OLAF investigations (hereinafter "cases of low priority"):

- Unauthorised absence (Articles 59 and 60 of the Staff Regulations), including violation of rules on working conditions (including, for example, flexitime, sick leave or part time work);
- Harassment (Article 12a of the Staff Regulations);
- Breaches of data protection rules (Regulation 45/2001);
- Inappropriate behaviour of any kind falling within the scope of Article 12 of the Staff Regulations (including misplaced or insulting remarks);
- Failure to assist superiors or to perform duties (Article 21 of the Staff Regulations);
- Abuse of information and communication tools (ICT), internal mail and diplomatic bag;
- Failure to inform the Appointing Authority of the intention to stand for public office or be appointed to public office (Article 15 of the Staff Regulations);
- Failure to declare gainful employment of the spouse where there is no financial impact (Article 13 of the Staff Regulations) or a possible conflict of interest;
- Unauthorised external activity or assignment where there is no financial impact (Article 12b of the Staff Regulations) or a possible conflict of interest;
- Failure in the duty of discretion (Articles 17, 17a and 19 of the Staff Regulations);
- Acceptance of gifts, favours or payments of any kind (Article 11 of the Staff Regulations) for cases involving sums below € 1000;
- Matters which have already been the subject of a completed OLAF investigation and which have led to a final report with a disciplinary recommendation.

In the categories of cases listed above, OLAF is presumed not to intend to open an investigation. For that reason, OLAF agrees that the CoR does not transmit the information on such cases to OLAF before it decides to initiate its own enquiry, unless the CoR is aware of a related OLAF investigation or it considers that due to the seriousness of the facts it can be transmitted to OLAF or where, on its own initiative, OLAF explicitly states that it intends to submit the case for a standard selection procedure.



The information on cases falling under any of the categories listed above and investigated by the CoR should be provided in the form of a list of anonymised cases in the framework of the regular consultations held under Article 13 of these Arrangements.

3.4 Cases of potentially low priority for OLAF

3.4.1 The following categories of cases cover activities of CoR staff and other servants which probably would not result in serious situations requiring OLAF investigations and in which, for that reason, there is a high probability that OLAF would not open an investigation (hereinafter "cases of potentially low priority"):

- Undeclared gainful employment of the spouse (Article 13 of the Staff Regulations), where it may adversely affect the European Union's financial interests;
- Unauthorised engagement in an outside activity or carrying out of any assignment outside the institutional framework of the European Union (Article 12b of the Staff Regulations), where it may adversely affect the European Union's financial interests;
- Undeclared occupational activity after leaving the service (Article 16 of the Staff Regulations);
- Alleged fraud in relation to remuneration and/or reimbursement of expenses, or any other illegal activity detrimental to the interests of the European Union, such as theft or misappropriation of CoR material, where the unauthorised payment or, in general, the financial damage to the European Union's interests does not exceed € 1000 and where no forgery of official documents is involved.
- Conflict of interest situations which do not prejudice the financial interests of the European Union.

3.4.2. With regard to the persons listed in Article 2.1 and not subject to the Staff Regulations of Officials and the Conditions of employment of other servants of the EU, cases of potentially low priority would involve small-scale fraud in relation to reimbursement of expenses or any other payment or any other small-scale illegal activity detrimental to the interests of the European Union, such as theft or misappropriation of CoR material, i.e. where the unauthorised payment or, in general, the financial damage to the European Union's interests does not exceed € 1000 and where no forgery of official documents is involved.

3.4.3. The CoR should promptly inform OLAF of such cases prior to opening their enquiries using the template referred to in Article 3.2.

OLAF will assess such information promptly.

Where no decision is taken within two months of receipt of the information, the CoR will assume that OLAF has decided to dismiss the case.



Article 4 | **Exchange of information during selection**

Articles 4(8) and 6 of the OLAF Regulation

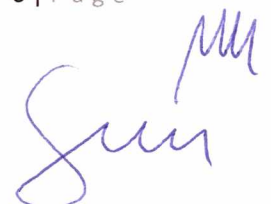
- 4.1 During the selection process, OLAF verifies whether the information it has received concerning any person referred to in Article 2.1 is sufficient to open an investigation or coordination case. Where OLAF needs to seek information from the CoR for that purpose, including in the framework of a meeting, it will address the contact person appointed for that purpose by the President or the Secretary-General.
- 4.2 The contact person will inform OLAF without delay about the availability of the relevant person within the CoR. When entering the CoR premises for a meeting, OLAF agents will identify themselves as such at the CoR reception. Upon OLAF's request, OLAF agents will be accompanied by a person designated by the President or the Secretary-General.
- 4.3 In so far as it is available, the CoR will provide the requested information to OLAF as soon as possible.
- 4.4 Upon a request addressed to the CoR, the latter will swiftly provide access to the relevant information in CoR databases and other IT systems, in accordance with Article 6(1) of the OLAF Regulation. The CoR may inform its Data Protection Officer (DPO) thereof in advance.
- 4.5 The CoR may at any stage request information on the state of a selection process regarding persons referred to in Article 2.1.

Article 5 | **Notification on investigation**

Article 4(6) of the OLAF Regulation

- 5.1 Where an internal investigation reveals that any person referred to in Article 2.1 may be a person concerned⁷, the Director-General will inform the CoR of the following:
 - (a) The OLAF case identification number of the internal investigation;
 - (b) The nature of the source of information;
 - (c) The identity of the person concerned;
 - (d) A brief description of the case;
 - (e) Whether the person concerned has been informed of the investigation;
 - (f) Suggested precautionary measures according to Article 8 of these Arrangements;

⁷ According to point 5 of Article 2 of the OLAF Regulation, "person concerned" shall mean any person or economic operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office.



- (g) Any other information that may assist the CoR in deciding whether to take measures to protect its interests.

Where the provision of such information is deferred under Article 4(6) of the OLAF Regulation, on the basis of a reasoned decision by the Director-General, the latter will provide the information to the CoR as soon as the specific reasons for the deferral no longer exist.

- 5.2 The CoR will abstain from providing any information to the person concerned or any other person indicated by OLAF before that person is contacted by OLAF. In such cases, OLAF will inform the CoR without delay as soon as it has contacted the person concerned.

Article 6 | **Access to CoR premises for conducting an OLAF investigation**

Articles 4(2) a) and 4(4) of the OLAF Regulation

- 6.1 Where OLAF agents intend to conduct inspections on the CoR premises, OLAF will, in principle, inform the CoR of its intention at least 48 hours in advance by transmitting a copy of the written authorisations. Where OLAF considers that prior notification would be detrimental to the investigation, this information will be provided at the latest the moment OLAF agents wish to enter the CoR premises.
- 6.2 The President or the Secretary-General will, after obtaining a copy of the authorisations in accordance with Article 6.1, indicate a person, whose contact details he provides to the Director-General, who will be in charge of assisting OLAF agents in this particular investigation. Where OLAF does not inform the CoR of its visit 48 hours in advance, in accordance with Article 6.1, OLAF agents will, when entering the CoR premises, contact the President or the Secretary-General, identify themselves and provide a copy of the written authorisations indicating the OLAF case identification number. Upon OLAF's request, the President or the Secretary-General will, without delay, designate a CoR staff member to assist OLAF agents during their visit by facilitating their access to the requested premises, as well as in the execution of the planned investigative activities (inspection, forensic acquisition).
- 6.3 Upon a request addressed to the CoR, the latter will swiftly provide immediate access to the relevant information in CoR databases and other IT systems, in accordance with Article 4(2)(a) of the OLAF Regulation. Where necessary, it will also designate CoR staff who will facilitate the extraction of that information. The CoR may inform its DPO thereof in advance.
- 6.4 The CoR and OLAF will ensure that confidentiality is respected when OLAF agents access the CoR premises.

Article 7 | **Interview of persons concerned and witnesses**

Articles 9(2) and 9(5) of the OLAF Regulation

OLAF will conduct the interviews with any of the persons listed in Article 2.1 in accordance with the procedural guarantees referred to in Article 9 of the OLAF Regulation.

Article 8 | **Precautionary measures**

Articles 4(8), 7(6) and 8(1) of the OLAF Regulation

- 8.1 Where the CoR is aware of possible cases of fraud, corruption and any other illegal activity of any of the persons listed in Article 2.1 detrimental to the interests of the European Union and OLAF has not yet taken a decision on whether or not to open an investigation, the CoR will avoid undertaking any activities which may compromise potential evidence and will consult OLAF before taking any precautionary measures, unless immediate action is required.
- 8.2 Where, during an investigation, it appears that appropriate precautionary measures may be necessary in order to protect the financial interests of the European Union, in particular to prevent any continuous wrongdoing, OLAF will inform the CoR without delay, in accordance with Article 7(6) of the OLAF Regulation.
- 8.3 During an investigation, the CoR may at any time decide to take any appropriate precautionary measures to protect the financial interests of the European Union and will inform OLAF without delay before taking such a decision, unless immediate action is required.
- 8.4 Depending on the progress of the investigation, OLAF will inform the CoR immediately when the conditions requiring the precautionary measures cease to apply.

Article 9 | **Information of the person concerned**

Article 9(3) of the OLAF Regulation

As soon as an investigation reveals that any of the persons listed in Article 2.1 may be a person concerned, OLAF will inform the person to that effect, provided that this does not prejudice the conduct of the investigation or of any investigative proceedings falling within the remit of a national judicial authority.

Article 10 ; **Transmission to judicial authorities of the Member States**

Articles 11(5) and 12(2) of the OLAF Regulation

Where OLAF transmits to a judicial authority of a Member State information on an investigation relevant to the CoR which falls within the jurisdiction of that authority, it will inform the CoR, in accordance with Article 12(2) of the OLAF Regulation.

Article 11 ; **Assistance to national authorities**

Article 1(2) of the OLAF Regulation

- 11.1 Articles 11.2 to 11.6 deal with the assistance provided by OLAF to the competent national authorities in the framework of a coordination case as well as assistance provided by OLAF to the national judicial authorities upon their request during the monitoring phase under Chapter IV of the GIP.
- 11.2 Where OLAF is informed that the national authorities have opened criminal proceedings which may involve any of the persons listed in Article 2.1, OLAF will inform the CoR thereof without delay, except where the national authorities ask for this to be deferred on the grounds of confidentiality.
- 11.3 Where OLAF agents enter the premises of the CoR to assist the national authorities, OLAF continues to act solely on the grounds and within the limits of the applicable European Union law.
- 11.4 Where OLAF agents assist national authorities during their visit to CoR premises, the procedure described in Article 6.1 applies.
- 11.5 Where the national authorities request OLAF's assistance for a visit to the CoR, OLAF will inform those authorities that they may only enter the CoR premises with the prior written authorisation of its President or Secretary-General. OLAF will also recommend that the requesting national authorities contact the competent national authorities of Belgium, according to the applicable rules under international law, and inform them that the CoR will only grant the authorisation if the authorities of Belgium have been informed of the visit.
- 11.6 OLAF will ensure that any measures it takes to provide assistance to national authorities do not circumvent the provisions of European Union law on the immunity of CoR Members or staff or the inviolability of the CoR premises and archives and will inform the national authorities respectively.

Article 12 ; **Closure of investigations and follow-up given to recommendations**

Articles 11(4) and 11(7) of the OLAF Regulation

- 12.1 Following the closure of an investigation personally involving any of the persons listed in Article 2.1, OLAF will transmit the Final Report and the

recommendations for action to be taken as well as any relevant documents to the CoR.

- 12.2 Whenever an internal investigation is closed without recommendation for action to be taken, OLAF will transmit the Final Report to the CoR.
- 12.3 If, on completion of an internal investigation, no evidence has been found against a person referred to in Article 2.1 about whom allegations have been made, the investigation in question is closed, with no further action taken, by decision of the Director-General who will inform the interested party and the institution in writing within 10 working days.
- 12.4 Whenever a recommendation has been transmitted by OLAF to the judicial authorities of a Member State on a case relevant to the CoR, OLAF will inform the CoR when it receives information on action taken by the national judicial authorities.
- 12.5 The CoR will inform OLAF of the follow-up given to the recommendations accompanying OLAF Final Reports within the reporting period set out in the recommendation. Subsequently, OLAF will request information annually from the CoR on the progress of action taken following the recommendation or the final outcome of such actions.

Article 13 | **Consultations**

Consultations between the CoR and OLAF at an appropriate level will be held in principle once a year.

Article 14 | **Review of the Arrangements**

These Arrangements may be reviewed at the request of the CoR or OLAF at any time.

Article 15 | **Modifications of internal documents**

OLAF will inform the CoR of any changes to the GIP or the instructions concerning the handling of OLAF documents, which may have an impact on these Arrangements. The CoR will inform OLAF of any changes to its Rules of Procedure or other internal documents and its organisational structure, which may have an impact on these Arrangements. Such a change can justify a review of these Arrangements, as stipulated in the previous Article.



Article 16 | **Training**

Subject to the availability of resources, OLAF and the CoR will cooperate in the area of training and awareness-raising.

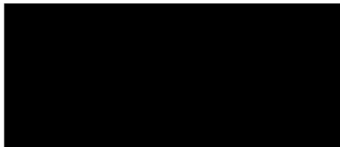
Article 17 | **Effective date**

These Arrangements will take effect on the date on which they are signed by the CoR and OLAF.

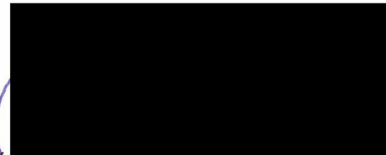
Done at Brussels, **10 MAI 2017**

For the European Committee of Regions,

For the European Anti-Fraud Office,



for the Bureau, the President



the Director General

ANNEX

OLAF CONTACT PERSON

In accordance with Article 3.1 of the Arrangements, the Director-General of OLAF appointed the following contact person:

- for initial contacts, the Head of Unit 0.1 "Investigation Selection and Review" (contact details: Ms Corinna Ullrich, Email: OLAF-FMB-SPE@ec.europa.eu; Tel: +32 2 2994856)
- for case-related follow-up, OLAF will provide CoR with the details of the relevant contact person

[THE TEMPLATE IS MEANT TO HELP THE COMMITTEE OF THE REGIONS TO STRUCTURE INFORMATION TRANSMITTED TO OLAF. IT DOES NOT MEAN THAT THE COMMITTEE OF THE REGIONS NEEDS TO BE ABLE TO RESPOND TO ALL ISSUES RAISED WHEN TRANSMITTING INFORMATION TO OLAF BUT IT WOULD FACILITATE OLAF'S WORK. YOU MAY ADD WHATEVER INFORMATION YOU CONSIDER RELEVANT.]

COMMITTEE OF THE REGIONS

**NOTE FOR THE ATTENTION OF
MR GIOVANNI KESSLER, DIRECTOR-GENERAL OF OLAF**

or

MR CORINNA ULLRICH, HEAD OF UNIT OLAF.0.1

Subject: Transmission of information related to a possible fraud or corruption or any other illegal activity detrimental to the EU financial interests

I hereby inform you about suspicions of

fraud/corruption or any other irregularity committed by an external party *[specify: grant beneficiary, contractor, tenderer, importer, exporter, authority implementing EU funds, ...]*

serious professional misconduct of an EU staff member.

The facts came to our attention

in the framework of an audit carried out by ... *[DG auditor / audit company [name]]* on ... *[date]*.

through an EU staff member who delivered the initial information under art. 22a of the Staff Regulations or similar provisions on ... *[date]*.

through a complaint/letter sent by ... *[name of entity, person, ...]* on ... *[date]*.

other: *[explain and indicate date]*.

The suspicion concerns ... *[e.g. tender..., conflict of interest, embezzlement, reimbursement of removal costs]*

Description of the suspected irregularity and its context:

[This section should contain the following information if possible/relevant:

- *all relevant circumstances of the case and description of facts, including:*
 - o *identification of the contract/programme/action;*
 - o *references and dates of call for proposals/call for tender/etc;*
 - o *name and contact information of the suspected entities/persons;*
 - o *amounts involved;*
 - o *relations between the informant and the suspected entities/persons;*
 - o *risk that further projects/actions/operations are concerned (e.g. because entity received further funds).*
- *reasons for suspicions of fraud or irregularity;*
- *precautionary measures taken;*
- *information on possible urgency situations (payments to be done, potential time-barring)]*

I would be grateful if you could assess this information and inform me on OLAF's decision to open an investigation or to dismiss the case.

Please find enclosed documents relevant for the allegations.

Should you have any questions concerning this matter, please contact Ms/Mr ... (tel.: ...).

[Signature]

List of enclosures *[please indicate, where relevant, how documents have been obtained (e.g. received from ... during an audit, by letter)]*

- 1)
- 2)
- 3)