

## **WORKING ARRANGEMENTS**

### **BETWEEN**

### **THE EUROPEAN ANTI-FRAUD OFFICE**

### **AND**

### **THE CONTROLLER OF PROCEDURAL GUARANTEES**

The European Anti-Fraud Office (hereinafter referred to as "OLAF") and the Controller of procedural guarantees (hereinafter referred to as the 'Controller'), together referred to as "the Parties",

Having regard to Regulation (EU, Euratom) No 883/2013,<sup>1</sup> as amended by Regulation (EU, Euratom) No 2020/2223,<sup>2</sup> and in particular Articles 9a and 9b thereof,

Having regard to the Decision of the Controller of procedural guarantees adopting implementing provisions for the handling of complaints (hereinafter referred to as the 'Implementing provisions')<sup>3</sup>,

Having regard to the Guidelines on investigation procedures for OLAF staff<sup>4</sup>,

Taking into account that the Parties are committed to fulfil their respective mandates while respecting each other's independence,

Considering that the Controller needs all information necessary for handling complaints pursuant to the complaints mechanism set out in Article 9b of Regulation (EU, Euratom) No 883/2013,

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<sup>1</sup> 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, p. 1-22.

<sup>2</sup> Regulation (EU, Euratom) No 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, OJ L 437, 28.12.2020, p. 49-73.

<sup>3</sup> Decision of the Controller of procedural guarantees adopting implementing provisions for the handling of complaints, 2022/C 494/07, OJ C 494, 28.12.2022, p. 17-23.

<sup>4</sup> The latest version of the Guidelines on investigative procedure for OLAF staff, dated 2021, is available here: [https://anti-fraud.ec.europa.eu/guidelines-investigations-olaf-staff\\_en](https://anti-fraud.ec.europa.eu/guidelines-investigations-olaf-staff_en)

without however interfering with the conduct of investigations under way and with due regard to the requirements of confidentiality and data protection,

Considering that these arrangements do not create any additional legal obligation and are compatible with the rules governing the relations between the Controller and OLAF,

Having regard to the fact that the Secretariat of the Supervisory Committee (hereinafter referred to as the 'Secretariat') provides the Controller with all necessary administrative and legal support for the purposes of the complaints mechanism set out in Article 9b of Regulation 883/2013,

The Director-General of OLAF (hereinafter referred to as 'the Director-General') and the Controller thereby agree to the following working arrangements (hereinafter referred to as the 'arrangements'):

## **Chapter I**

### **Purpose and scope**

#### ***Article 1***

##### *Purpose*

1. The purpose of these arrangements is to establish the modalities for cooperation between OLAF and the Controller in the exercise of their respective mandates.
2. These arrangements do not create any additional rights and obligations under European Union law. They are without prejudice to the provisions laid down in Regulation 883/2013 governing the mandates of OLAF and the Controller, to the Controller's Implementing provisions and to the Guidelines on investigation procedures for OLAF staff.

## **Chapter II**

### **Cooperation in the complaints' handling process**

#### ***Article 2***

##### *Receipt and initial processing of complaints*

1. Upon receipt of a complaint, the Controller will forward it to the Director-General without delay. Without prejudice to Article 7(2) of the Implementing provisions, the Controller

will forward at the same time any document, information or material submitted by the complainant together with the complaint.

2. Should a complaint intended for the Controller be sent to OLAF, the latter will inform the complainant about the complaint's mechanism procedure and the strict admissibility deadlines for lodging a complaint with the Controller.
3. When the Controller finds that a complaint is inadmissible, manifestly without merits, repetitive or abusive the Controller will send a copy of his/her decision without delay to the Director-General of OLAF.
4. If the complaint is admissible, the Controller sends a request for an Opinion to OLAF.

### **Article 3**

#### *Information gathering actions*

1. OLAF will ensure that the Controller has timely and adequate access to case-related documents necessary for the assessment of complaints, in accordance with the modalities established under Chapter III of these arrangements.
2. OLAF's replies to the Controller's requests should be in the original language of the complaint accompanied where necessary by an English working translation.
3. The Controller will forward to OLAF without delay the comments sent by the complainant to the Controller pursuant to Article 8(3) of the Implementing provisions when the complainant raises new issues. OLAF may submit comments thereupon.
4. The Controller will forward to OLAF any other additional information or documents provided by a complainant in the course of the Controller's examination of a complaint, if such information or documents are taken into consideration for assessing the complaint. OLAF may submit comments thereupon.
5. The transmission by the Controller of information or documents to OLAF under paragraphs 3 and 4 above shall be without prejudice to Article 7(2) of the Implementing provisions.

#### **Article 4**

##### *Invitation to resolve a complaint and recommendations*

1. OLAF will reply to the Controller's invitation to resolve a complaint or a recommendation within the time limit set out by the Controller. If necessary, OLAF will request an extension of this time limit, pursuant the modalities defined in Article 5 of these arrangements.
2. The Controller will forward without delay to OLAF the comments sent by a complainant to the Controller pursuant to Articles 11(3) and 13(2) of the Implementing provisions, either for information or for requesting OLAF's views on them, if the complainant raised new issues. OLAF will forward without delay to the Controller the comments sent by a complainant pursuant to Article 13(2) of the Implementing provisions, if such comments are sent to OLAF or its Director-General only and not to the Controller.
3. The Controller will forward without delay to OLAF any other additional information or documents provided by a complainant in the course of the Controller's examination of OLAF's reply to an invitation to resolve a complaint or to a recommendation, if they are taken into consideration for assessing that reply. OLAF may submit comments thereupon.
4. The transmission by the Controller of information or documents to OLAF under paragraphs 2 and 3 above shall be without prejudice to Article 7(2) of the Implementing provisions.
5. When sending a recommendation, the Controller will also forward to the Director-General of OLAF, for information, the opinion provided to the Controller by the Supervisory Committee pursuant to Article 9b(5) of Regulation 883/2013.

#### **Article 5**

##### *Deadlines*

1. Periods, dates and time limits are set out and calculated in accordance with the provisions of Regulation 1182/71<sup>5</sup>.

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<sup>5</sup> Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits, OJ L 124, 8.6.1971, p. 1-2.

2. OLAF will reply to the Controller's requests made pursuant to Article 8(2) of the Implementing provisions within the time limit set out by the Controller. If necessary, OLAF will request an extension of this time limit, pursuant to the modalities defined below.
3. Whenever OLAF cannot meet a deadline to reply to the Controller or to take action(s) to implement a recommendation, it will inform the Controller at the latest on the day of the expiring of that deadline and will request an extension in writing, indicating, as far as possible, when the deadline could be met.
4. When the Controller extends a time limit upon OLAF's request made pursuant to paragraph 3 above, the Controller will endeavor to take into account the time needed for OLAF to reply or to take action. The Controller will take into account in particular the complexity of the issues raised in the complaint, the need for OLAF to provide a translation of its reply into the language of the complaint and the time frame set out by the Commission's services to provide such translation, the need for OLAF to carry out internal or external consultations, the complexity of the actions that OLAF would need to take to implement a recommendation or other circumstances, such as the holidays or peak activity periods.
5. Paragraphs 1 to 4 above shall apply by analogy to the Controller's invitation to resolve a complaint or a recommendation pursuant to Article 4 of these arrangements.
6. When the Director-General of OLAF requests the opinion of the Controller pursuant to Article 9b(9) of Regulation 883/2013 and Article 15 of the Implementing provisions, the Controller will reply within the time limit indicated in the request. The Controller may request an extension of the time limit.

## **Article 6**

### *Legal proceedings*

#### *and inquiries by the European Ombudsman and the European Data Protection Supervisor*

Whenever either of the Parties becomes aware that the facts, which have been put forward in a complaint, are or have been subject to legal proceedings or to inquiries by the European Ombudsman or the European Data Protection Supervisor, it will inform the other Party without delay.

## **Chapter III**

### **Access to case-related information**

#### **Article 7**

##### *Information transmitted by OLAF*

1. OLAF will ensure that the Controller has all information and documents necessary for the latter to assess whether a complaint is justified, as well as information for the purpose of resolving the complaint and enabling the Controller to issue a recommendation.
2. OLAF will transmit to the Controller the information and documents requested by the latter, without prejudice to the provision of Article 8.5 of these arrangements.
3. Should new information become known to OLAF at any stage of the complaint handling process, which might be relevant for the assessment of the complaint, OLAF will inform the Controller without delay.

#### **Article 8**

##### *Electronic access to case-related information*

1. When the Controller informs the Director-General of a new complaint, OLAF will take the necessary measures to grant without delay to the Controller and to the designated staff members of the Secretariat dealing with the complaint read-only electronic access to the full file of the investigation subject to the complaint in the OLAF's case management system (OCM), as Observers<sup>6</sup>.
2. To this end, the Head of the Secretariat will indicate, for each investigation, which is subject to a complaint, the names of the staff members of the Secretariat to whom such access should be granted.
3. OLAF will grant electronic access to the relevant investigation file for a period of six months starting from the day when access is effective.
4. If necessary, the Head of the Secretariat may request OLAF to prolong the access granted to an investigation file. Such request should be made at the latest on the last day of the six-month period referred to in paragraph 3 above. OLAF will record any such request in the relevant investigation file.

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<sup>6</sup> "Observer" is a technical OCM Case specific role, providing the user with Read-Only access on the case metadata and content. The use of OCM creates automatically an audit trail.



5. The Controller and the Secretariat will ensure that they consult only those documents, which are necessary for the Controller to assess whether a complaint is justified, as well as for the purpose of resolving the complaint or enabling the Controller to issue a recommendation. They will not consult the following categories of documents:
  - a. documents related to court proceedings, in particular proceedings before the Court of Justice of the European Union;
  - b. documents containing internal and external legal advice to OLAF, in particular legal advice in relation to a complaint submitted to the Controller;
  - c. documents concerning persons other than those who made a complaint to the Controller (i.e. other persons concerned in the same investigation but who did not make a complaint to the Controller; whistle-blowers/informants; witnesses; other persons whose name is in the case file);
  - d. documents that OLAF has transmitted to or received from the European Public Prosecutor's Office.
6. Once that the Controller closes a complaint case and no longer needs access to the file of an investigation subject to a complaint, OLAF will revoke the electronic access provided pursuant to this article, without prior notice to the Controller or to the Head of the Secretariat. The same will apply at the expiry of the six-month period referred to in paragraph 3 above, unless a request to prolong the electronic access is made, pursuant to paragraph 4 above.
7. As for any OCM user, when necessary the OCM audit trail can be consulted to see the recorded access logs.

## **Article 9**

### *Alternative modalities for access to case-related information*

1. Where the specific circumstances of an investigation so require (for instance, investigations with special handling elements or investigations that may contain particularly sensitive documents or other elements, including EU classified information<sup>7</sup>),

<sup>7</sup> The definitions of and the rules on how to handle 'Sensitive non-classified information' and 'European Union Classified Information' are set out mainly in the Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information, OJ L 72, 17.3.2015, p. 53–88 and Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission, OJ L 72, 17.3.2015, p. 41–52. In addition, according to the Commission Security Notice on *Marking and handling of sensitive non-classified information*, C(2019) 1904 final, 5.03.2019, sensitive non-classified information must be marked with one of the two following possible security markings: either the marking 'SENSITIVE' (documents marked as such are handled in accordance with standard handling instructions) or the marking 'SPECIAL HANDLING' (which indicates that specific, stricter handling instructions apply).

the Director-General of OLAF may ask the Controller to agree limiting the number of staff members of the Secretariat authorised to have access to the investigation file. In such circumstances, the Director-General may also derogate from Article 8 of these arrangements. In case of a derogation, the Director-General will inform the Controller accordingly, without delay.

2. In such a case, OLAF will provide access according to one of the following alternative procedures:
  - (a) access to the paper version of an investigation file which is subject to a complaint (or to parts of it)
  - (b) in exceptional and duly justified cases on a read-only electronic access, only on OLAF's premises.
3. The specific modalities for such access will be agreed beforehand in writing between the Controller and the Director-General of OLAF. This agreement shall be recorded by OLAF in the investigation file.
4. Access based on the alternative procedures provided for in paragraph 2 above is without prejudice to:
  - (a) the relevant rules and procedures implementing Articles 22a and 22b of the EU Staff Regulations, in particular those concerning the protection of the confidentiality of the identity of EU staff members disclosing information to OLAF and Article 10(3a) of Regulation 883/2013 and of persons reporting breaches of EU law under the EU Whistleblowing Directive (EU) 2019/1937;
  - (b) the Commission's and OLAF's rules on protecting different categories of information referred to in Article 10(2) of these arrangements.

## **Chapter IV**

### **Confidentiality and data protection**

#### ***Article 10***

##### *Confidentiality and use of information*

1. Information or documents communicated or acquired under these arrangements are protected by the confidentiality and professional secrecy requirements in accordance with Article 10 of Regulation 883/2013.
2. The Controller and the Secretariat will ensure that the information and documents provided by OLAF are treated confidentially. Such information or documents may be



communicated to the complainant in line with Article 7 of the Controller's Implementing provisions, but shall not be communicated to any other third party, unless OLAF has given its explicit and written agreement in that regard. They will ensure that case-related information and documents are handled in accordance with the Commission and OLAF's rules on protecting different categories of information<sup>8</sup>.

3. The Parties will exchange case-related information via secure communication channels, in accordance with the relevant rules on protecting different categories of information referred to in paragraph 2 above. In particular, sensitive non-classified operational investigative information which bear the security marking "**SENSITIVE: OLAF Investigations**" or documents containing information relating to OLAF cases falling within this category will be exchanged, in principle, via ARES. Where necessary, they can be exchanged via encrypted e-mails or any of the modalities set out in the relevant instructions<sup>9</sup>. Sensitive non-classified operational investigative information which bear the security marking "**SPECIAL HANDLING: OLAF Investigations**" or documents containing information relating to OLAF cases falling within this category will be exchanged via encrypted e-mails or any of the modalities set out in the relevant instructions<sup>10</sup>.
4. The Controller and the Secretariat will refrain from any unauthorised disclosure of information received in the exercise of their functions, unless that information has already been lawfully made public. Any information security incident within the meaning of OLAF Information Security Policy of 14 February 2020<sup>11</sup>, in particular any breach of confidentiality rules by users who handle case-related information, shall be reported to OLAF without undue delay. The procedure applicable to OLAF staff, namely the Instructions on reporting security incidents and personal data breaches of 30 September 2019 shall apply by analogy.
5. When OLAF provides case-related information or documents to the Controller, it will clearly identify any information or document it considers to be confidential. The Controller

<sup>8</sup> In particular: Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information, OJ L 72, 17.3.2015, p. 53–88 and Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission, OJ L 72, 17.3.2015, p. 41–52, as well as any relevant Security notice or other documents laying down provisions for implementing the said decisions, such as the Commission's implementing rules for EU classified information; Security Notice on Marking and handling of sensitive non-classified information, C(2019) 1904 final, 5.03.2019; General provisions on handling Sensitive Non-Classified Information marked as "Sensitive: OLAF investigations" and "Special handling: OLAF investigations", ref. Ares(2020)3796351 – 17/07/2020.

<sup>9</sup> For transmission of documents via ARES, the relevant rules are set out in *OLAF Instructions on handling in ARES documents marked as SENSITIVE: OLAF INVESTIGATIONS (SOI), for exchanges with Ares users* – ref. Ares(2024)2238401 – 25/03/2024. For other modalities of distribution, the applicable rules are those set out in the *Handling instructions for documents marked as "SENSITIVE: OLAF Investigations"*, ref. Ares(2020)3796351 – 17/07/2020.

<sup>10</sup> The applicable rules are those set out in the *Handling instructions for documents marked as "SPECIAL HANDLING: OLAF Investigations"*, ref. Ares(2020)3796351 – 17/07/2020.

<sup>11</sup> Available [here](#).

and the Secretariat will not disclose any such confidential information or document, either to the complainant or to a third party, unless OLAF has given its explicit and written agreement in that regard. To that effect, OLAF will provide to the Controller a non-confidential version of the document(s) to be transmitted to the complainant. In cases where OLAF does not identify any confidential information it will inform the Controller accordingly.

6. OLAF will inform the Controller of requests it receives from EU or national authorities to provide them with copies of documents transmitted by the Controller, in particular the Controller's decisions closing a complaint, or invitations to solve a complaint or recommendations, unless providing such information is detrimental to any proceedings conducted by these authorities.

### **Article 11**

#### *Data protection*

1. OLAF and the Controller will process personal data in full compliance with the relevant data protection rules applicable to such processing by each of the Parties, in particular Regulation (EU) 2018/1725<sup>12</sup> and the Commission Decision 2018/1962<sup>13</sup>.
2. Where a data subject exercises its rights pursuant to Articles 17-20 of Regulation (EU) 2018/1725 in relation to personal data transmitted by the Parties based on these arrangements, the transmitting Party will be consulted before a decision on the data subject's request is taken. The final decision will be subsequently notified to the other Party.
3. As soon as one of the Parties becomes aware of a (potential) security information incident or a (potential) data breach concerning personal data transmitted based on these arrangements, it will inform the other Party accordingly. The communication should describe the nature of the (potential) security information incident or personal data breach as well as any remedial action taken, as appropriate.

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<sup>12</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

<sup>13</sup> Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council, OJ L 315, 12.12.2018, p. 41–46.

## **Chapter V**

### **Consultations**

#### **Article 12**

##### *Requests for access to the file of the complaint*

1. The Controller will inform OLAF promptly of any request from a complainant to have access to his or her complaint file, or to parts of it, when the scope of such request covers investigation-related documents, unless it is clear that the request covers case-related documents that were already provided to the complainant by OLAF.
2. The Controller will consult OLAF before considering giving access to OLAF investigation-related documents.

#### **Article 13**

##### *Requests for public access to documents*

1. Requests for public access to documents held by the Controller will be dealt with in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001 and Commission Decision 2001/937 of 5 December 2001 amending its rules of procedure.
2. The Controller will inform OLAF promptly of any request for public access to documents held by the Controller, which were provided by OLAF or to documents drawn up by the Controller containing information provided by OLAF.
3. OLAF will inform the Controller promptly of any request for public access to documents which were provided to OLAF by the Controller.

#### **Article 14**

##### *Annual reports*

1. The Controller will transmit the draft annual activity report to OLAF at least 15 working days before its adoption.
2. OLAF will have 10 working days, non-extensible, to submit its comments to the Controller. OLAF's comments will not interfere with the analysis, or the assessment carried out by the Controller.
3. OLAF will transmit to the Controller the relevant chapter of its draft annual report, on complaints dealt with by the Controller, at least 15 working days before its adoption. The Controller will have 10 working days, non-extensible, to submit its comments to OLAF.

## **Chapter VI**

### **Support**

#### **Article 15**

##### *IT or technical support*

Upon request from the Controller or the Secretariat, OLAF will provide them with the necessary IT or technical support concerning the use of OCM.

## **Chapter VII**

### **Final provisions**

#### **Article 16**

##### *Workflows and contact points*

1. The Controller's requests and information letters sent to OLAF pursuant to Articles 8 to 12 and to Article 17 of the Controller's Implementing provisions will be addressed to the Director-General of OLAF. Unless agreed otherwise, they should be also sent in copy to the Head of the OLAF Legal Advice Unit, the OLAF Director in charge of legal matters and the operational assistant to the Director-General of OLAF.
2. OLAF's replies and requests to the Controller pursuant to Articles 8 to 12 and to Article 15 of the Controller's Implementing provisions will be addressed to the Controller. Unless agreed otherwise, they should be also sent in copy to the Head and to the relevant staff members of the Secretariat.
3. Other communications between the Parties may come from or be sent to the contact points defined in paragraph 4 below.
4. For the purpose of streamlining the communication between the Controller and OLAF, the following channels of communication will be used:

Relevant provision in the WA	Subject matter	Controller contact point	OLAF contact point
	Requests for access to OCM, including requests to prolong the access or consultations on maintaining such access	Head of the SC Secretariat	HoU D.2 Cc: Deputy HoU D2, DG operational assistant
	Hearings	Controller Cc: Head of the SC Secretariat	DG OLAF Cc: DG operational assistant, Director D, HoU D.2 and Deputy HoU D2
	Requests to extend deadlines	Head of the SC Secretariat	HoU D.2 Cc: DG operational assistant and Deputy HoU D2
	Alternative modalities for access to case-related information	Controller Cc: Head of the SC Secretariat	DG OLAF Cc: DG operational assistant, Director D, HoU D.2 and Deputy HoU D2
	Confidentiality, use of information and data protection issues	Controller Cc: Head of the SC Secretariat	DG OLAF Cc: DG operational assistant, Director D, HoU D.2 and Deputy HoU D2 For Data protection matters - cc: OLAF DPO
	OCM matters (questions, technical help etc.)	Head and staff of the SC Secretariat	HoU C.3 Cc: HoU D.2, Deputy HoU D2 and Deputy HoU C3

### **Article 17**

#### *Amendment, interpretation and termination*

1. These arrangements may be amended at any time in writing by mutual agreement, by exchange of letters between the Director-General of OLAF and the Controller.



2. Any issue arising from the interpretation or the application of these arrangements are to be settled amicably between OLAF and the Controller in good faith.
3. These arrangements may be terminated in writing by OLAF or the Controller at any time with prior notice of at least 30 days.
4. In case of termination, OLAF and the Controller will endeavour to reach an agreement on the continued use and storage by the Controller of the information that has already been communicated by OLAF to it.

**Article 18**

*Entry into force*

These arrangements, which is signed in two originals in the English language, will apply from the day of the last signature.

Ville ITÄLÄ,

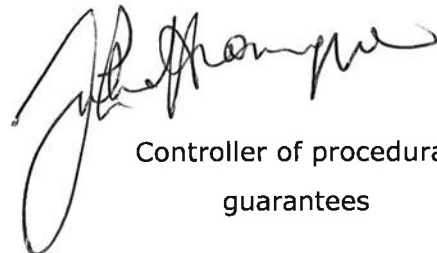


Director-General of OLAF

Place and date of signature:

Brussels 14/07/2025

Dr. Julia LAFFRANQUE,



Controller of procedural  
guarantees

Place and date of signature:

Luxembourg 17/07/2025