



ADMINISTRATIVE COOPERATION ARRANGEMENT

BETWEEN

THE EUROPEAN ANTI-FRAUD OFFICE

AND

THE KOSOVO POLICE

The European Anti-Fraud Office (OLAF),

and

the Kosovo Police,

(hereinafter referred to as the “Partners”, each a “Partner”)

- taking into account the Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part;
- taking into account the Framework Agreement between Kosovo and the European Commission on the Arrangements for Implementation of Union Financial Assistance to Kosovo under the Instrument for Pre-Accession Assistance (IPA II), and in particular Articles 50 and 51 thereof;
- having regard to 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)¹, and in particular Article 14(1) thereof;
- in view of OLAF’s missions in connection with countering fraud, corruption and other illegal activities affecting the financial interests of the European Union under Article 325 of the Treaty on the Functioning of the European Union, as well as in connection with serious misconduct of members and staff of the European Union’s institutions, bodies, offices and agencies;
- in view of Kosovo Police’s mission to provide security and services for all persons in Kosovo based on the law, best practices and standards of democratic policing;

intend to cooperate as set out in the sections below.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

¹ OJ L 248, 18.9.2013, p.1.

1. Purpose of the arrangement

This Administrative Co-operation Arrangement (hereinafter the "Arrangement") aims at enhancing, within the respective legal frameworks governing their activities,² the timely transmission of information and co-operation in cases relating to alleged fraud, corruption or other illegal activities affecting the financial interests of the European Union, as well as to serious misconduct of members and staff of the European Union's institutions, bodies, offices and agencies.

2. Nature of the arrangement

- 2.1. This Arrangement sets out the framework for the working relationship between the Partners, subject to the availability of resources.
- 2.2. This Arrangement is not intended to create any obligations under international law or European Union law, to modify any existing legal rules, including the immunities and privileges of the EU and its staff, or to interfere with the legal frameworks governing the Partners. This Arrangement does not cover mutual legal assistance.

3. Provision of information

- 3.1. Where Kosovo Police informs OLAF of the existence of credible allegations in cases referred to in section 1, the Partners will explore ways to cooperate and ensure appropriate follow-up.
- 3.2. When cooperating on a specific case, the Partners will provide each other with any relevant information, including personal data, in order to achieve the purpose of this Arrangement. This information exchange should contain sufficient elements to identify:
 - the persons, economic operators or entities suspected of being involved;
 - the nature of fraud, corruption or other illegal activities; or the nature of serious misconduct; and
 - any other relevant circumstances.
- 3.3. Exchange of information which could eventually lead to the identification of persons covered by the privileges and immunities of the EU is without prejudice to those privileges and immunities.
- 3.4. Upon a duly substantiated request from OLAF, Kosovo Police will inform OLAF, at the earliest possible opportunity, if it is aware of any on-going criminal investigations or judicial proceedings which may be relevant for an OLAF investigation.

² For OLAF, in particular: Regulation (EU, Euratom) No 883/2013 and Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.05.1999, p. 20); for the Kosovo Police: Kosovo Penal and Procedural Code, Law on Police, Law on Money Laundering and Financing Terrorism, Law on protection of Personal Data



4. Cooperation on specific cases

- 4.1. Whenever appropriate, Kosovo Police will support OLAF in its investigations, in particular by assisting OLAF in the preparation and performance of on-the-spot checks and inspections or other investigative activities on the territory of Kosovo. Where applicable, Kosovo Police will support OLAF in identifying the authorities which are competent to assist OLAF in the performance of on-the-spot checks and inspections in Kosovo.
- 4.2. Whenever appropriate, the Partners may, subject to applicable law, carry out joint on-the-spot checks. In such cases, OLAF and Kosovo Police will act within their respective applicable legal frameworks³.

5. Technical assistance

In conformity with the relevant rules and subject to the availability of resources, the Partners may provide each other with technical assistance, including exchange of best practices and exchange of any necessary technical information.

6. Strategic analysis

- 6.1. The Partners may exchange relevant strategic information either spontaneously or upon request. Examples of strategic information may include:
- Possible weaknesses in management of EU funds in Kosovo;
 - Operational structures of the organisations involved in the fraudulent activities, as well as the links between these organisations operating inside or outside the European Union and Kosovo; and
 - Strategies, modi operandi, techniques and the financing of these organisations.
- 6.2. The Partners may cooperate in the field of threat assessment and risk analysis. For that purpose, and in conformity with the relevant rules, the Partners may share their specific technical tools and materials.

7. Confidentiality, use of information by the Partners and in relation to third parties

- 7.1. Information communicated or acquired under this Arrangement is protected by professional secrecy as provided for in the legal rules applicable to the Kosovo Police and as regards OLAF in terms of Article 10 of Regulation (EU, Euratom) 883/2013.
- 7.2. Exchange of information under this Arrangement is without prejudice to limitations related to confidentiality of criminal investigations or national judicial proceedings as well as to the restrictions imposed by third parties on information provided by them.
- 7.3. The Partners will only use the information transmitted in accordance with this Arrangement for the purposes referred to in Section 1. They may disclose such

³ For OLAF, the applicable requirements are laid down in Article 3 of Regulation 883/2013.



information to third parties for other purposes only in agreement with the Partner which has provided the information.

8. Data protection

- 8.1. All transfers of personal data held by OLAF to the Kosovo Police and the processing of personal data received from the Kosovo Police are subject to the requirements of Regulation (EC) 45/2001 pertaining to the protection of individuals.⁴
- 8.2. All transfers of personal data held by the Kosovo Police to OLAF and the processing of personal data received from OLAF by the Kosovo Police are made in accordance with the applicable law in conformity with the principles set out in the data protection clauses annexed to this Arrangement.

9. Contact persons and modalities for transmission of information

- 9.1. Each Partner will designate contact persons within their own organisation for the implementation of this Arrangement, including for the exchange of information and any other communication related to the cooperation activities under this Arrangement.
- 9.2. The designated contact persons are specified in Annex 2. Any change of the designated contact persons will be notified promptly in writing.
- 9.3. In case of an information request, the requested Partner will provide an initial reply as soon as possible and no later than 15 days from the reception of the request.

10. Evaluation of cooperation

The Partners may evaluate the application of this Arrangement when necessary.

11. Miscellaneous

The present Arrangement is applicable as from the date of its signature by each Partner. It can be modified by mutual consent through exchange of letters or terminated by either Partner by giving a written two month notice.

Signed in Brussels on 2 February 2017,



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Shpend Maxhuni
General Director
Kosovo Police



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Giovanni Kessler
Director-General
European Anti-Fraud Office (OLAF)

⁴ Regulation (EC) No 45/2001 of the European Parliament and of the Council, OJ L 8, 12.1.2001, p. 1.

ANNEX 1

DATA PROTECTION CLAUSES RELATED TO THE ADMINISTRATIVE COOPERATION ARRANGEMENT BETWEEN OLAF AND KOSOVO POLICE

OLAF and Kosovo Police, acting in good faith, warrant and undertake that they will follow the practical arrangement specified in the clauses that follow, and that they have the legal authority to do so.

1. DEFINITIONS

1.1. "personal data", "special categories of data", "processing of personal data", "controller", "processor", "data subject", and "adequate protection" have the same meaning as in Regulation (EC) 45/2001⁵.

1.2. "OLAF personal data" means personal data which are transferred by OLAF to Kosovo Police in the context of this administrative cooperation arrangement.

1.3. "Kosovo Police personal data" means personal data which are transferred by Kosovo Police to OLAF in the context of this administrative cooperation arrangement.

1.4. "importing Partner" will mean the Partner to the Administrative Cooperation Arrangement importing personal data from the other Partner.

1.5. "exporting Partner" will mean the Partner to the Administrative Cooperation Arrangement exporting personal data to the other Partner.

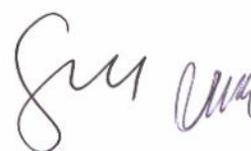
2. JOINT COMMITMENTS

2.1. The importing Partner will process personal data of the exporting Partner only for purposes described in Section 1 of the Administrative Cooperation Arrangement.

2.2. The importing Partner has in place appropriate technical and organisational measures to protect the exporting Partner's personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected. The importing Partner will process all data received from the exporting Partner on its own premises, and will not process the data by means of services provided by external service providers.

2.3. The importing Partner has in place procedures to ensure that any third party which it has authorised to have access to the exporting Partner's personal data, including processors, will respect and maintain the confidentiality and security of such data. Any person acting under the authority of the importing Partner, including a data processor, will be required to process

⁵ Regulation (EC) No 45/2001 of the European Parliament and of the Council, OJ L 8, 12.1.2001, p. 1.



the personal data only on instructions from the importing Partner and only on the premises of the importing Partner.

2.4. The importing Partner will disclose personal data provided by the exporting Partner to government authorities, including non-EU government authorities, only with the express agreement of the exporting Partner. Such agreement must be obtained from the exporting Partner on each occasion of a proposed disclosure, before the disclosure is made.

(i) The express terms of disclosure will oblige such government authorities to:

- (1) use the personal data only for the purpose of protection of financial interests,
- (2) ensure the orderly disposal of any personal data received, consistent with such authority's record retention procedures, and
- (3) obtain the exporting Partner's express permission for any further dissemination.

(ii) Failure to respect the conditions for transfer may be investigated and reported to the exporting Partner and make such government authority ineligible to receive subsequent transfers from the importing Partner of the exporting Partner's personal data.

2.5. Upon request, each of the Partners will provide either the other Partner, or an independent/impartial inspection agent or auditor, which the inspecting Partner selects and which is not reasonably objected to by the inspected Partner, or the competent court, as the case may be, with sufficient evidence of compliance, and will demonstrate the effectiveness of measures taken.

3. COMMITMENTS BY OLAF

3.1. Kosovo Police personal data will be processed and further transferred by OLAF in accordance with the law applicable to OLAF, in particular Articles 7 and 8 EU Charter of Fundamental Rights and Regulation (EC) No. 45/2001.

3.2. OLAF personal data have been collected, processed and transferred in accordance with the law applicable to OLAF, and in particular in accordance with Article 9 of Regulation 45/2001.

3.3. OLAF has used reasonable efforts to determine that Kosovo Police is able to satisfy its commitments under these clauses.

3.4. OLAF has provided Kosovo Police with a copy of Regulation (EC) 45/2001 and will provide it, when so requested, with copies of any other relevant data protection laws or references to them of the EU, and will keep it informed of any changes to such laws relevant to OLAF's commitments concerning this Administrative Cooperation Arrangement.

3.5 OLAF will implement appropriate and effective measures to ensure that the principles and obligations set out in Regulation 45/2001 are satisfied, and will demonstrate compliance to the European Data Protection Supervisor (EDPS) on its request.



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3.6. OLAF will respond to enquiries from data subjects and the EDPS concerning processing of OLAF personal data by Kosovo Police, unless the Partners have agreed in a particular case that Kosovo Police will so respond. In that event, OLAF will respond to the extent reasonably possible and with the information reasonably available to it if Kosovo Police is unwilling or unable to respond. Responses will be made within three months.

3.7. OLAF will make available to data subjects, upon request, a copy of this Administrative Cooperation Arrangement and its Annex.

3.8. OLAF will record each transfer or series of transfers of OLAF personal data, and each of OLAF's onward transfers of Kosovo Police personal data to a third party. It will also record each request from Kosovo Police for an onward transfer of OLAF personal data, and OLAF's reply. The records will specify the data subjects and categories of data subjects, purpose of the transfer, categories of data transferred, recipient, whether special categories of data are concerned, and any other relevant and necessary information.

4. COMMITMENTS BY KOSOVO POLICE

4.1. To enable OLAF to meet its obligation to adduce adequate safeguards for the protection of the personal data which it exports to a recipient not subject to the EU data protection regime, Kosovo Police warrants and undertakes that it will process OLAF personal data in accordance with the Data Protection Principles set forth in the Appendix to these clauses.

4.2. Kosovo Police warrants and undertakes that it has no reason to believe, at the time of entering into these clauses, in the existence of any laws to which it is subject that would have a substantial adverse effect on the guarantees provided for under these clauses, and it will inform OLAF if it becomes aware of any such laws.

5. INTERPRETATION OF THE CLAUSES

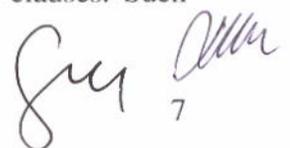
This Annex will be construed in accordance with OLAF's obligations under applicable EU law, as interpreted by the courts of the EU.

6. RESOLUTION OF DISPUTES WITH DATA SUBJECTS OR THE EDPS

6.1. In the event of a dispute or claim brought by a data subject or the EDPS concerning the processing of the personal data against either or both of the Partners, the Partners will inform each other, and will cooperate with a view to an amicable settlement in a timely fashion.

6.2. The Partners agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the EDPS. If they participate in the proceedings, the Partners may elect to do so remotely (such as by telephone or other electronic means). The Partners also agree to consider participating in any other non-binding arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

6.3. In the event that all efforts on dispute resolution as set out under points 6.1 and 6.2 fail, OLAF must bear responsibility in accordance with Article 32 of Regulation (EC) 45/2001 for any damage suffered by the data subject as a result of a violation of these clauses. Such


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responsibility covers damages resulting from violations committed by Kosovo Police in cases where the data subject was not able reasonably to obtain redress from Kosovo Police.

7. SUSPENSION AND TERMINATION

7.1. In the event that either Partner fails to respect its undertakings under these clauses, the other Partner may temporarily suspend the transfer of its personal data until the breach is repaired or the Administrative Cooperation Arrangement is terminated.

7.2. In the event that the transfer of personal data is suspended by either Partner, or that the Administrative Cooperation Arrangement is terminated pursuant to Point 6 therein, the EDPS will be so informed. Such suspension or termination does not exempt the Partners from the commitments and/or conditions under the clauses as regards the processing of the personal data already transferred.

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APPENDIX DATA PROTECTION PRINCIPLES

1. Purpose limitation: Personal data may be processed and subsequently used or further communicated only for purposes described in Section 1 of the Administrative Cooperation Arrangement or subsequently authorised by the data subject.

2. Data quality and proportionality: Personal data must be accurate and, where necessary, kept up to date. The personal data must be adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed. The data should be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or further processed.

3. Transparency: The controller must provide data subjects with specified information in accordance with Articles 11 and 12 of Regulation 45/2001. The provision of such information may be deferred in accordance with Article 20.

4. Security and confidentiality: Technical and organisational security measures must be taken by the data controller that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, presented by the processing. Any person acting under the authority of the data controller, including a processor, must not process the data except on instructions from the data controller.

5. Rights of access, rectification, deletion and objection: Data subjects must have access to their personal data and must be able to have the personal data about them rectified, blocked or erased in accordance with Articles 13-16 of the Regulation. Notification of any rectification, blocking or erasure to third parties to whom the data have been disclosed need not be made when this involves a disproportionate effort. A data subject must also be able to object to the processing of the personal data relating to him if there are compelling legitimate grounds relating to his particular situation. The burden of proof for any refusal rests on the data importer, and the data subject may always challenge a refusal before the EDPS.

6. Special categories of data: The controller will take such additional measures (e.g. relating to security) as are necessary to protect such special categories of data as defined in Regulation (EC) 45/2001.

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ANNEX 2

Contact persons

In accordance with Section 9. of the Arrangement, the Partners designate the following contact persons:

Within the European Anti-Fraud Office (OLAF):

- 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: +32 229 94856)
- for case-related follow-up, OLAF will provide the Kosovo Police with the details of the relevant contact person

Within the Kosovo Police:

- Directorate for International Cooperation in the Rule of Law (email: ilecu@kosovopolice.com; Tel. +3813850801047)

