

# OLAF – EPPO COOPERATION

## Overview and stocktaking

*Conference for the Protection of the Financial Interests of the  
European Union – Cyprus 27/28 March 2023*

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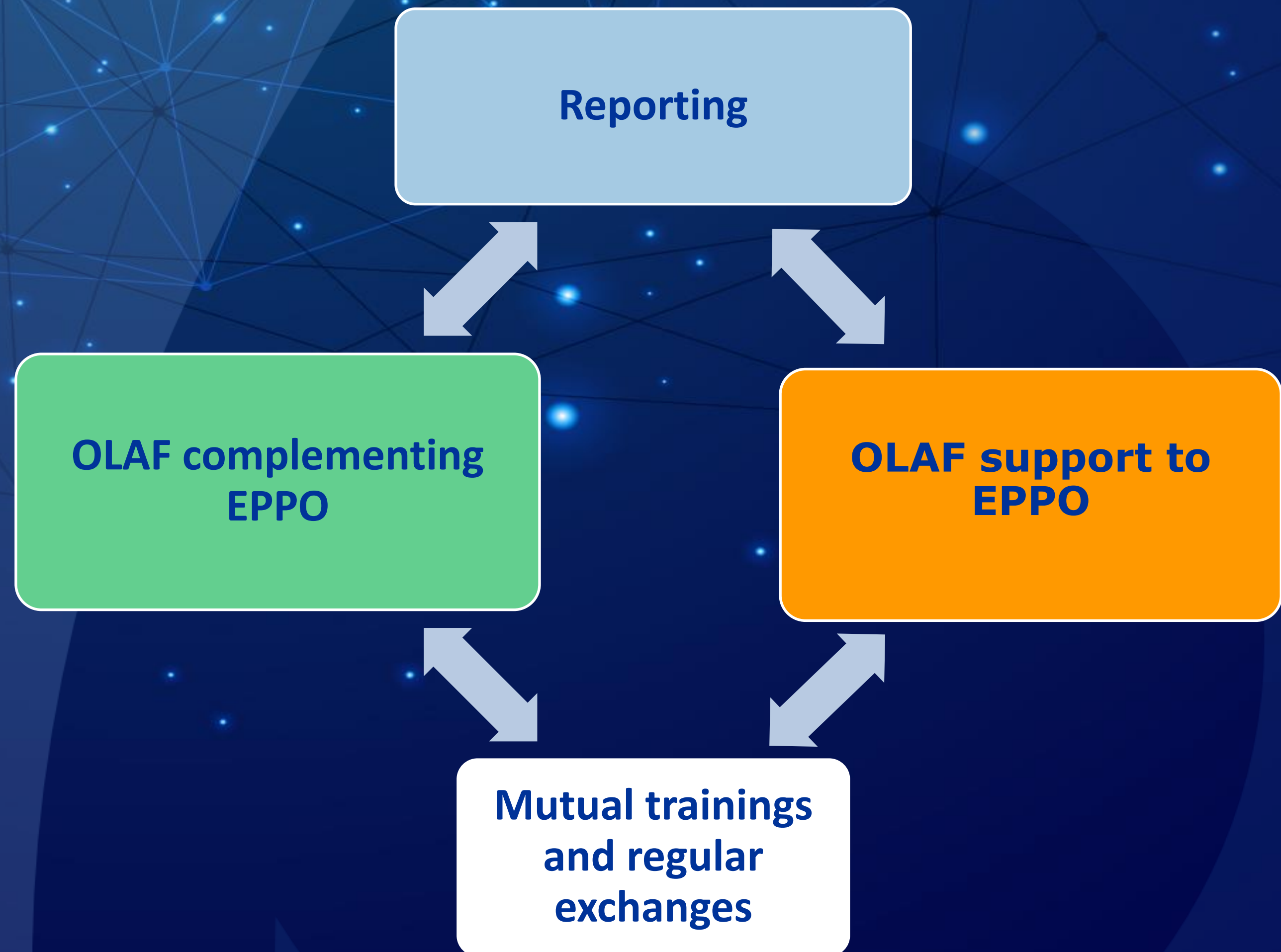


# THE NEW EU INSTITUTIONAL STRUCTURE



# OLAF & EPPO

- Close cooperation
- Information exchange
- Complementary tasks and non - duplication



# LEGAL FRAMEWORK



# ADJUSTMENTS IN OLAF REGULATION 883/2013

- 12c – reporting criminal conduct to EPPO
- 12d – non-duplication of investigations
- 12e – OLAF support to EPPO
- 12f – complementary investigations
- 12g – OLAF-EPPO Working Arrangements

# REPORTING

## What information?

- Any criminal conduct in respect of which EPPO could exercise its competence

## When?

- As soon as there is a reasonable suspicion
- At any stage of the investigation

EPPO

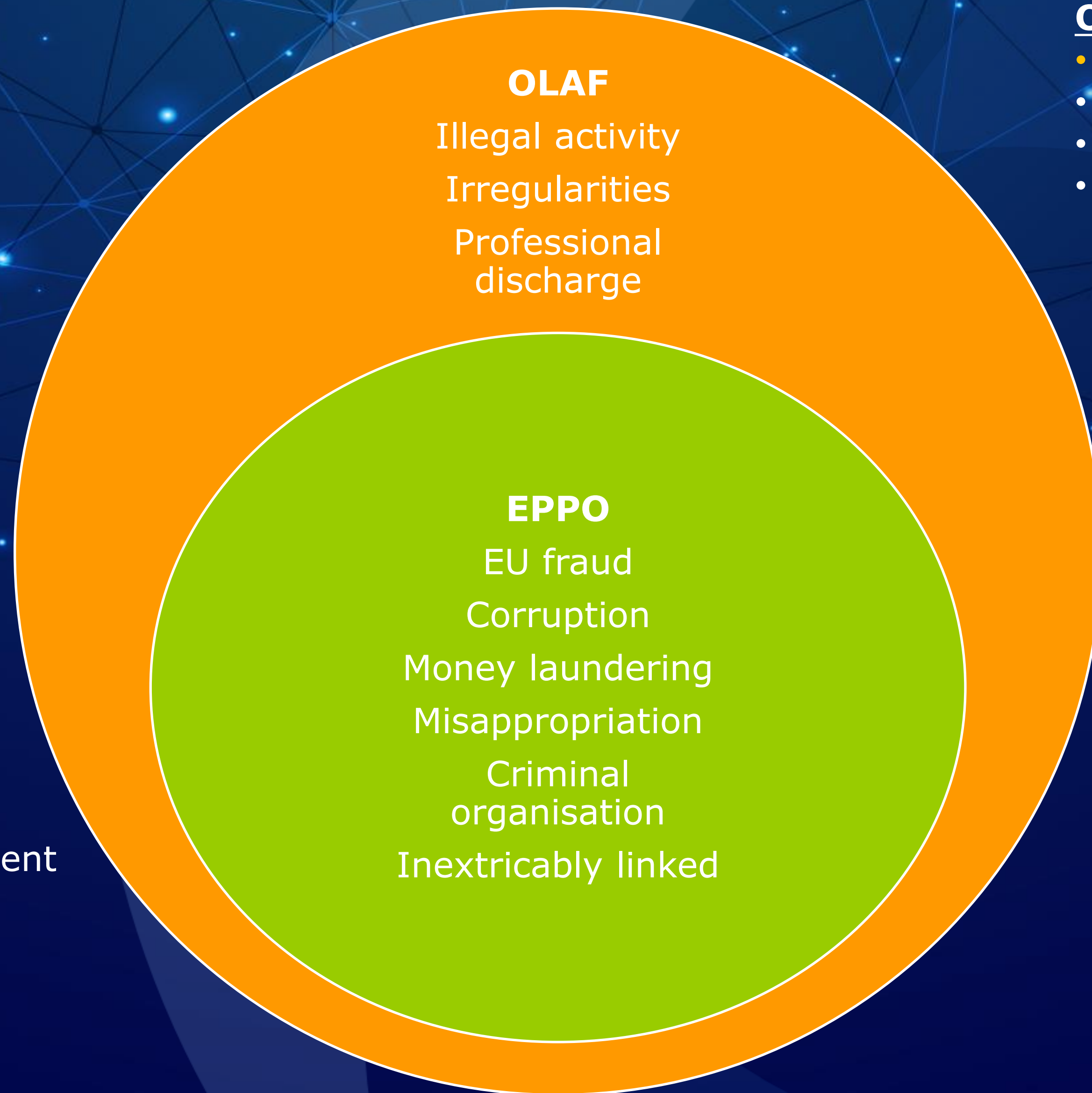
*But not manifestly unsubstantiated allegations*

When information not conclusive, **possibility of OLAF for a preliminary evaluation**

**Other IBOAs** may make use of **OLAF for preliminary verification** of allegations before sending to EPPO

**CAFS – COM** services obliged to make use of OLAF

# OLAF / EPPO MATERIAL COMPETENCE



## OLAF Recommendations

- **Financial**
- Administrative
- Disciplinary
- Judicial

## EPPO

- Successful indictment
- Asset recovery

# TERRITORIAL/PERSONAL COMPETENCE

**EPPO** (*Art. 23 EPPO Reg.*)

## **Territorial**

Offences committed in whole or in part in one or several participating Member States

## **Personal**

Offences committed by a national of a participating Member State, provided that a Member State has jurisdiction for such offences when committed outside its territory

## **Staff**

Offences committed outside a participating Member State by a member of staff of an EU institution, provided that a Member State has jurisdiction for such offences when committed outside its territory

**OLAF**

Administrative investigations, wherever, EU funds **inside or outside the EU**, are

- unduly spent or
- EU revenue is unduly evaded



# EPPO REPORTING TO OLAF?

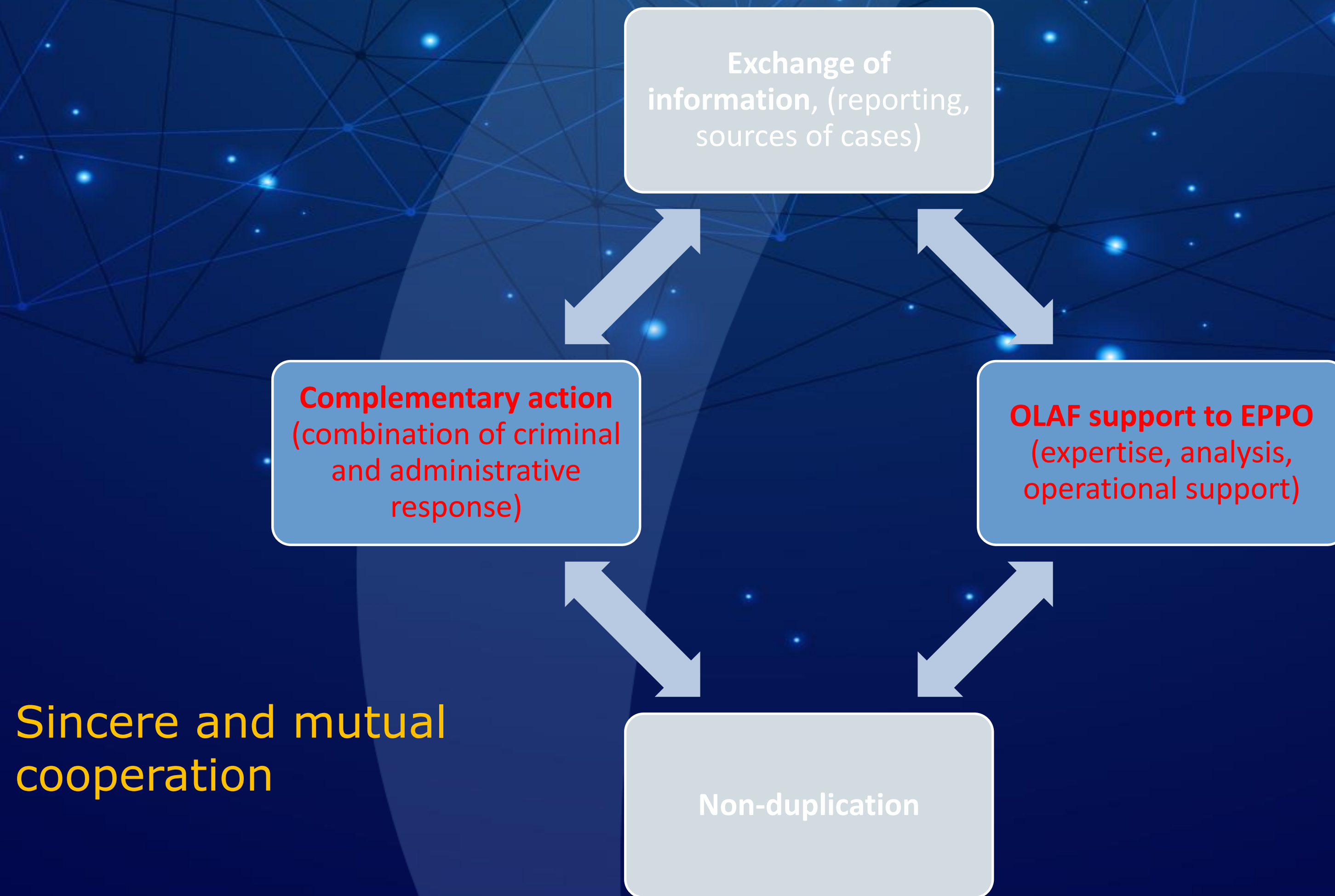
**EPPO may inform OLAF when a case is dismissed or referred to national authorities, 39 (4), 34 (8) EPPO Reg. or prosecuted, 36 (6) EPPO Reg. when action of recovery, other administrative follow-up necessary, 39 (4), 101 (3c) EPPO Reg.**

**EPPO being one of the EU Institutions, Bodies and Agencies, has to report to OLAF any information relating to illegal activity in the area of the PIF offences unless EPPO could exercise its competence, Art. 8 Reg. 883**



**OLAF**

# OPERATIONAL COOPERATION OLAF - EPPO



# OPERATIONAL COOPERATION

- **OLAF is a partner of EPPO**

Non-duplication & complementarity

- Can OLAF open an investigation into the same facts investigated by EPPO?

- **No , unless**

- **OLAF "proposes" to EPPO to conduct a complementary investigation where the case requires administrative action with the aim of:**

- Precautionary measures
  - Financial, disciplinary or administrative action (recommendations)
- and EPPO does not object

**or**

- **When EPPO requests OLAF to conduct a complementary investigation**

# COMPLEMENTARY INVESTIGATIONS

(Article 101 EPPO Reg. – Art. 12f OLAF Reg. & Art. 6 WA)

## ► **Rules applicable to complementary investigations of OLAF:**

- All the provisions of OLAF Regulation (883/2013). No additional rules.
- No special conditions required.
- EPPO can ask to discontinue at any time.

## ► **In practice:**

- The proposal contains the scope of the proposed investigation and the investigative measures.
- OLAF investigative units and EPPO EDPs discuss beforehand the investigative strategy.
- Periodic reporting and exchange of information takes place.

# OLAF SUPPORTING EPPO

(Art. 101 (3) EPPO Reg. – Art. 12e OLAF Reg. & Art. 6 WA)

EPPO **may** request that OLAF supports or complements its activity by:

a) Information, analyses, expertise and operational support

b) Coordination of specific actions or of administrative authorities

c) Administrative investigations

# SUPPORT CASES/INVESTIGATIONS IN SUPPORT

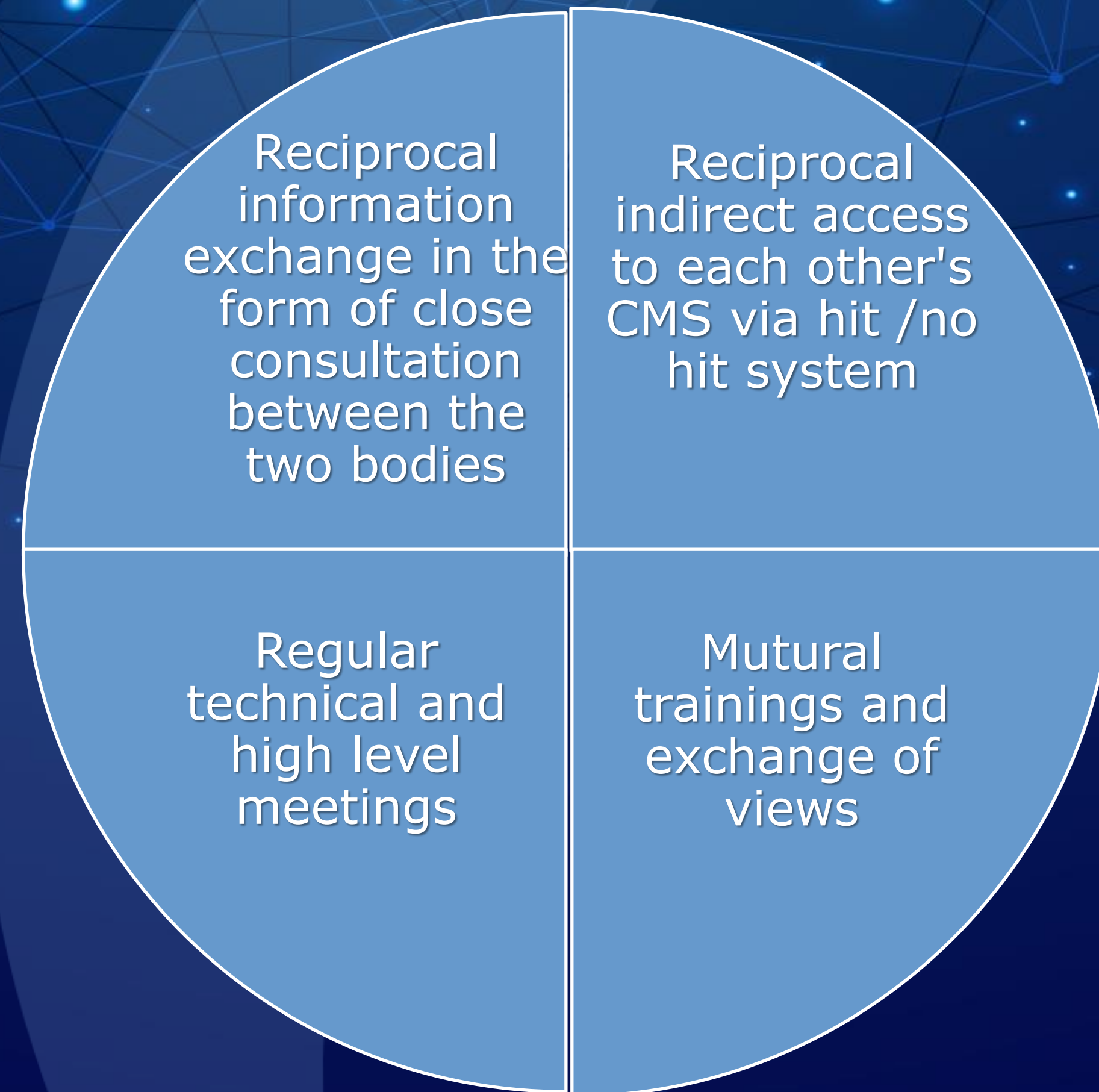
## ► **Rules applicable :**

- All the provisions of OLAF Regulation (883/2013).
- EPPO can ask for the application of additional procedural guarantees in accordance with the applicable criminal procedure

## ► **In practice:**

- Only at the request of the EPPO.
- The requested activity should be in accordance with OLAF mandate.
- OLAF assesses the request for its legality and for resource purposes via a selection procedure.
- Periodic reporting and exchange of information, if necessary, takes place.

# MODALITIES OF OLAF/EPPPO COOPERATION



# OLAF'S ROLE TODAY

## **Investigative mission**

- ▶ OLAF continues its tasks in the non-participating MS.
- ▶ OLAF continues investigations of serious misconduct of EU staff and members of EU institutions and bodies.
- ▶ OLAF continues investigations of irregularities of non-criminal nature or investigations not taken up by the EPPO

## **Policy mission**

- ▶ OLAF continues to develop strong EU policies to counter fraud
- ▶ OLAF continues its monitoring role



# OLAF'S ROLE TODAY

## Investigative mission (administrative investigations)

- ▶ **All EU Institutions, Bodies and Agencies (IBOAs)** continue to have the **obligation to report to OLAF** any information relating to illegal activity in the area of the PIF offences, **independently of whether EPPO is competent to act, in accordance with Art. 8 of Reg. 883/2013.**
- ▶ **All IBOAs and MS** (unless prevented by national law) continue to have **the obligation to transmit to OLAF** at its request or on their own initiative, any document or information they hold which relates to an ongoing investigation, as well as any **other** information relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union, **independently of whether EPPO is competent to act.**
- ▶ **Each MS**, through the Anti-fraud coordination services (AFCOS), is under the **obligation provided** for in Regulation 883/2013 to provide all the necessary assistance to OLAF in its investigative activities, **independently of whether OLAF's investigation is a complementary investigation, a support case or investigation to the EPPO.**

# CASE EXAMPLE: COMPLEMENTARY INVESTIGATION

## How did it start?

### OLAF Reports

- **OLAF reported** a case to the EPPO regarding fraud and irregularities in the construction of a project in a participating MS.
- In particular, the case concerned the creation of artificial conditions through falsified documents to render the project eligible for EU financing. Potential financial damage: appr. 20 million Euros.

### EPPO Initiates

- Following the verification of the case, **EPPO** informed OLAF that it **initiated a criminal investigation**.

### Financial recovery?

- OLAF considered it necessary to conduct a complementary investigation **with the aim of financial recovery (financial recommendation)**.

# CASE EXAMPLE: COMPLEMENTARY INVESTIGATION

## Applicable rules

The complementary investigation is a **fully fledged OLAF administrative investigation** in application of all provisions of the OLAF Regulation 883/2013.

OLAF has the **obligation not to jeopardize the criminal** ongoing investigation. EPPO can at any time ask that it is discontinued.

OLAF and EPPO hold **regular operational meetings** where the case file and the investigative strategy are discussed. Interest for both parties.

# CASE EXAMPLE: COMPLEMENTARY INVESTIGATION

## Results

- ❑ **Final report** with extensive analysis of the evidence and of the EU legal framework.
- ❑ **Financial recommendation** towards the relevant DG/IBOA for the recovery of the amount unduly spent.
- ❑ The final report will be **transmitted to the EPPO** to be incorporated into his case file.  
**This final report has the same evidentiary value as any other report of national administrative bodies (Art. 11(2b) Reg. 883/2003).**

# CASE EXAMPLE: COMPLEMENTARY INVESTIGATION

## Procedure followed



OLAF drafted a **proposal for a complementary** investigation including the scope of the case and the envisaged investigative activities.



The handling European Delegated Prosecutor (EDP) had **20 working days to object.**



The **EDP accepted the proposal.** OLAF proceeded to the reclassification of the case from investigation to a 'complementary investigation'.

# CASE EXAMPLE: COMPLEMENTARY INVESTIGATION

## Investigative activities

**Request for Information** to the National relevant authorities

**Assesment** of the information gathered and **next steps decided**, informing the handling EDP

EDP transmitted to OLAF data from **banking transactions** and a report from an expert

**On-the-spot checks** at the premises of the beneficiary and at the site of the project by OLAF

**Interviews** of two witnesses by the EDP

# CASE EXAMPLE: COMPLEMENTARY INVESTIGATION

## Synergies achieved

**EU financial interests are protected** from all possible aspects (financial and criminal)

**Two investigative bodies instead of one**, each with different powers and expertise

Where possible, **activities conducted to serve both investigations**

# OLAF – EPPO COOPERATION IN FIGURES



The figures apply to the latest statistical update carried out on 19 January 2023



# THANK YOU!

## Any Questions?

**For more about OLAF:**

- **Go to our website: [olaf.europa.eu](https://olaf.europa.eu)**
- **Follow us on Twitter: @EUAntiFraud**
- **Follow us on LinkedIn: European Anti-Fraud Office (OLAF)**



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