

COLLEGE OF EUROPE  
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DEPARTMENT OF EUROPEAN POLITICAL AND GOVERNANCE STUDIES

# **OLAF & EPPO: Cooperation or clash?**

## **Understanding the dynamics between OLAF and the EPPO in combating fraud**

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## Abstract

This research paper examines the actual modalities of cooperation between the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO), two key actors in the European Union's anti-fraud framework. Despite the provisions established in the legal foundations suggesting close cooperation between these institutions, there are signs of partial, strategic, and unbalanced cooperation. This study aims to go beyond a strictly legal analysis to examine the political, strategic, and symbolic dynamics that guide OLAF's and EPPO's cooperation decisions. Despite the legal framework, various indicators point to a complex situation characterized by a lack of cooperation. To move beyond a purely legal perspective, this research adopts the theory of rational choice institutionalism and draws on three approaches: the multi-agent approach derived from the principal-agent theory (Zhong), which examines the impact of legal constraints on delegation relationships; the cost-benefit logic of *homo oeconomicus* (de Maillard), emphasizing interest-based considerations; and finally, the theory of organizational reputation and turf protection (Busuioc), which sheds light on image and status preservation tactics in an evolving institutional context. These approaches are discussed through three hypotheses supporting the conclusion that a legal framework between OLAF and the EPPO exists. However, the lack of cooperation is explained in OLAF's interest-driven logic as it fights for its survival as a body. With the white paper on anti-fraud architecture expected in summer 2025, this thesis encourages a redefinition of interactions between OLAF and the EPPO towards more unified governance, based on transparency, mutual respect, and functional complementarity. This study presents a negative assessment of this cooperation; OLAF's future remains to be defined.

## **Keywords**

Anti-fraud architecture

Benefit-cost analysis

Complementary investigations

European Anti-Fraud Office or OLAF

European Public Prosecutor's Office or EPPO

European Union

Institutional reputation

Inter-agency cooperation

Organizational strategy

Principal-agent

Strategic interest

EU financial interests protection

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## List of Abbreviations

AFSJ	Area of Freedom, Security and Justice
AMLA	Anti-money-laundering authority
COM	European Commission
EPPO	European Public Prosecutor's Office
EU	European Union
OLAF	European Anti-Fraud Office (Office de Lutte Antifraude)
PIF	Protection of EU financial's interest (Protection des intérêts financiers de l'UE)

# 1 Introduction

*“Complementarity, consistency and a good articulation between the different EU<sup>1</sup> agencies and bodies are crucial if the purpose is to establish an AFSJ<sup>2</sup> that has a multidisciplinary approach to crime.”<sup>3</sup>*

As the EU has progressively developed a network of specialized agencies to address the growing complexity of its policies, their cooperation remains a significant challenge. The increasing number of actors by no means guarantees flawless coherence and efficiency; instead, it makes cooperation essential yet fragile, particularly in sensitive areas such as criminal matters. Due to the diversity of national legal systems and the transnational nature of offenses committed within the AFSJ, the EU is confronted with normative diversity that requires ongoing coordination among the competent actors.<sup>4</sup>

## 1.1 General framework of OLAF and the EPPO

In a context of fragmented competences in criminal matters, cooperation among European agencies in this field has proven to be essential.<sup>5</sup> Europol, Eurojust, the European Anti-Fraud Office (OLAF), the European Public Prosecutor’s Office (EPPO), and more recently, the Anti-Money Laundering Authority (AMLA) reflect the growing number of specialized entities. Each has a distinct but complementary mandate, and they are expected to cooperate to deliver a coordinated response. However, cooperation can sometimes present challenges due to overlapping competencies and differing approaches to shared objectives. In this institutional landscape, OLAF was established in 1999,<sup>6</sup> following several scandals that tarnished the reputation of the Santer European Commission, which was accused of favouritism, mismanagement, and a lack of transparency in its information policy<sup>7</sup> to protect

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<sup>1</sup> European Union.

<sup>2</sup> Area of Freedom, Security and Justice.

<sup>3</sup> Anne Weyembergh et al., *The Inter-Agency Cooperation and Future Architecture of the EU Criminal Justice and Law Enforcement Area*, PE 510.000 (European Parliament, 2014), P.6–10.

<sup>4</sup> Jörg Monar, ‘The Dynamics of Justice and Home Affairs: Laboratories, Driving Factors and Costs’, *JCMS: Journal of Common Market Studies* 39, no. 4 (2001): 747–64, <https://doi.org/10.1111/1468-5965.00329>. P.755

<sup>5</sup> Dr Madalina Busuioc, *EU Justice and Home Affairs Agencies: Securing Good Governance*, PE 596.812 (Policy department for citizen’ rights and constitutional affairs of the European Parliament, 2017).

<sup>6</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 Regulation (Euratom) No 1074/1999 of the Council.

<sup>7</sup> Angelina Topan, ‘The Resignation of the Santer-Commission: The Impact of “Trust” and “Reputation”’, *SSRN Electronic Journal*, ahead of print, 2002, <https://doi.org/10.2139/ssrn.335040>.

EU financial interests. The OLAF succeeded the Coordination Unit for Fraud Prevention (UCLAF), a political body whose effectiveness was limited due to its connection with the European Commission, as UCLAF operated under the authority of the European Commissioner for the Budget. OLAF was therefore established as a Directorate-General within the European Commission, maintaining its formal position within the Commission while enjoying a degree of operational independence. It operates independently in the performance of its mandate and is thus, able to conduct administrative investigations aimed at detecting fraud, corruption, and, more broadly, protecting the financial interests of the EU.<sup>8</sup> The agency conducts external investigations, meaning inspections within the Member States, and internal investigations within the institutions, bodies, and offices of the EU.<sup>9</sup> However, OLAF has no judicial powers. Following each investigation, it is limited to issuing recommendations, significantly reducing its impact within the enforcement chain, as it lacks absolute coercive authority.

In contrast, the EPPO, established in 2021,<sup>10</sup> represents a true innovation: it became the world's first supranational judicial authority with the power to bring public prosecutions<sup>11</sup> to protect the EU's financial interests. It is a *sui generis*<sup>12</sup> body with a special legal status. Its uniqueness lies in the fact that it is the first judicial authority empowered to prosecute and bring to trial perpetrators of offences committed in “*two or more Member States and involving a total damage of at least EUR 10 million €.*”<sup>13</sup> However, its mandate is limited, as it operates under the enhanced cooperation mechanism established by Article 20 of the Treaty on European Union (TEU), which aims to “*further the objectives of the Union, protect its interests and reinforce its integration process,*”<sup>14</sup> allowing interested Member States to participate. While the EPPO was initially based on this mechanism and comprised of only 22 Member States at its creation, it now includes 24, with Only Hungary, Denmark, and Ireland choosing not to participate. Ireland has justified its non-participation by expressing the desire to preserve its advantageous tax regime, as the EPPO could

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<sup>8</sup> Topan, ‘The Resignation of the Santer-Commission’.

<sup>9</sup> Nadia-Cerasela Aniței and Roxana-Elena Lazăr, ‘Aspects of Cooperation in Detecting and Combating Tax Evasion Between the ANTI-Fraud Department (DLAF) and the European Anti-Fraud Office (OLAF)’, *Jurnalul de Studii Juridice* 17, nos. 1–2 (2022): 35–47, <https://doi.org/10.18662/jls/17.1-2/98>.

<sup>10</sup> Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (EPPO) (2017).

<sup>11</sup> François Molins, “Le parquet européen : entre présent et avenir” [“The European Public Prosecutor’s Office: Between Present and Future”], *Les Cahiers de la Justice*, no. 3 (2022): 425–434, <https://doi.org/10.3917/cdlj.2203.0425>.

<sup>12</sup> Decision of the College of the European Public Prosecutor’s Office, Pub. L. No. 006/2022.

<sup>13</sup> Regulation (EU) 2017/1939, art. 22.

<sup>14</sup> Treaty on European Union (consolidated version), Pub. L. No. C 326/13, art. 20(1).

undermine its position.<sup>15</sup> The EPPO is based on a hybrid structure, combining a central office with European Delegated Prosecutors operating within certain EU Member States. This represents a shift of criminal law competences to the European level, departing from the intergovernmental dynamic<sup>16</sup> that had previously governed most EU institutions.

Despite their shared objective and functional complementarity, the effective implementation of cooperation between OLAF and the EPPO falls short of expectations. An examination of actual practices reveals a paradox: although their cooperation is envisioned as a key component of the EU's anti-fraud architecture, it is hindered by structural, strategic, and institutional obstacles.<sup>17</sup>

## 1.2 *Genesis of a cooperation*

More broadly within the extensive framework of inter-agency cooperation, which is a necessary condition for the effective functioning of anti-fraud governance in an environment where technology and criminal activities are constantly evolving, the specific interest in their cooperation stems from their distinct missions, yet shared objective of protecting the EU's financial interests.<sup>18</sup> Historically, OLAF has played a crucial role in this sector. Nevertheless, it lacked the authority to comprehensively address fraud affecting the EU's financial interests. The EPPO has thus, in a way, compensated for these shortcomings in the field of criminal law. In this context, cooperation between the two agencies is desirable and essential to the effectiveness of the EU's anti-fraud architecture. A coordinated, logical, and structural cooperation is the only viable solution. This cooperation is neither instinctive nor uniform; it relies on a legal and operational framework that has been progressively developed. The anti-fraud architecture aims to unify responses by combining administrative measures (prevention, investigation, detention) with enforcement actions (prosecution, sentences) while maintaining close cooperation with European institutions. This approach serves to ensure the broadest possible protection framework.

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<sup>15</sup> William Glover, 'One Step Forward, One Step Back: Ireland's Engagement with the European Public Prosecutor's Office', Magazine, Fieldfisher, 28 November 2022, <https://www.fieldfisher.com/en/insights/one-step-forward-one-step-back-irelands-engagement-with-the-european-public-prosecutors-office>.

<sup>16</sup> Soeren Schneider, « The Good, the Bad and the Ugly ? Establishing the European Public Prosecutor's Office: From Core State Powers to Supranational Criminal Justice? » (Bruges, College of Europe, 2022).

<sup>17</sup> James Eager, European Parliament, et al., *EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face* (2024).

<sup>18</sup> Weyembergh et al., *The Inter-Agency Cooperation and Future Architecture of the EU Criminal Justice and Law Enforcement Area*.

A key question arises in this context: Why is it crucial to observe the cooperation between OLAF and the EPPO?

OLAF is obliged to forward to the EPPO any information suggesting a criminal offense, making it a significant gateway into the European judicial system. Moreover, this top-down approach allows the EPPO to intervene more swiftly and to utilize information already gathered by OLAF. Finally, it is undeniable that the EPPO, possessing judicial prerogatives, plays a leading role in resolving investigations.<sup>19</sup> Cooperation is therefore essential to enable the EPPO to exercise these powerful prerogatives. Interviews with experts have emphasized this crucial role, stating that criminal investigations must take precedence over administrative inquiries. By nature, the EPPO, endowed with these new powers and representing a global innovation, is propelled into the spotlight by the political sphere. It also occupies a central position, as it is the only body authorized to handle criminal matters, which are decisive in the fight to protect the EU's financial interests and fall outside OLAF's competence. It is precisely this asymmetry that makes cooperation both necessary and complex. Although this cooperation is theoretically regarded as an essential element of the European anti-fraud architecture, its practical implementation highlights significant constraints and reveals a notable institutional paradox.

### ***1.3 OLAF and the EPPO paradox: promised cooperation vs practical misalignment***

Cooperation between OLAF and the EPPO is based on a bilateral cooperation arrangement<sup>20</sup> and adjustments to their respective regulations<sup>21</sup> following the establishment of the EPPO. Their mandates appear to be complementary. As illustrated in the table below, produced by the Policy Department for Budgetary Affairs of the European Parliament in *EU Anti-Fraud Architecture – The Role of EU-Level Players, How They Cooperate and Challenges They Face*, OLAF and the EPPO ideally complement each other: OLAF contributes to the development of anti-fraud policies, whereas the EPPO holds prosecutorial and sanctioning powers. This reality perfectly illustrates the transition from cooperation

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<sup>19</sup> Pauline Thinus and Paul Dermine, 'Financial Oversight: Internal and External Control Authorities', in *Research Handbook on Post-Pandemic EU Economic Governance and NGEU Law*, ed. Federico Fabbrini and Christy A. Petit (Edward Elgar Publishing, 2024), <https://doi.org/10.4337/9781035328161.00026>.

<sup>20</sup> OLAF & EPPO, Working Arrangement between the European Public Prosecutor's Office and the European Anti-Fraud Office, Luxembourg, 2021.

<sup>21</sup> Council of the European Union, Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (EPPO); European Commission, Commission Decision of 28 April 1999 establishing the European Anti-Fraud Office (OLAF), Pub. L. No. 1999/352/EC (1999).

between Member States to genuine judicial integration focused on protecting the financial interests of the Union.

<b>AFA component</b>	<b>OLAF</b>	<b>EPPO</b>
<b>Prevention Phase</b>	Supports the development of policies and strategies to prevent fraud, provides training, and conducts awareness-raising activities.	
<b>Investigation Phase</b>	Conducts administrative investigations into fraud, corruption, and serious misconduct within the EU institutions and Member States. OLAF cannot open an investigation if the EPPO is already conducting a parallel investigation on the same facts, except with EPPO's approval or upon its request.	Investigates crimes against the EU's financial interests. All institutions, bodies, offices, and agencies of the EU and competent national authorities have to report to the EPPO any criminal conduct to which it could exercise its competence.
<b>Prosecution Phase</b>		Directly and independently prosecutes offenses against the EU's financial interests in national courts.
<b>Sanction Phase</b>		Ensures that penalties imposed by courts are executed and can enhance the recovery of defrauded funds.

Table 1 Eager et al., « EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face ». p.31-32: “Table 4: Distribution of role and responsibilities per phase of the process”.

Their cooperation should be straightforward; however, it proves to be more complex than anticipated by European policymakers. Both entities are part of an extensive network of agencies integrated within the EU's anti-fraud architecture.<sup>22</sup> Together, they support common objectives to protect the EU's financial interests. However, in 2024, OLAF transmitted only 0.7% of its investigations to the EPPO,<sup>23</sup> despite having a legal obligation to do so under Regulation 2020/2223,<sup>24</sup> which amends Regulation 883/2013.<sup>25</sup> The cooperation between OLAF and the EPPO reveals inherent tensions within an institutional framework that, while promoting collaboration, generates competitive dynamics that are difficult to manage. Some authors argue that there is an overlap of competencies despite their differing mandates.<sup>26</sup>

Therefore, this antagonistic situation calls for a more in-depth analysis of the processes involved in this flawed cooperation by clearly defining the current study's objectives, scope, and methodology.

#### ***1.4 Research objectives and scope***

This study aims to understand the reasons behind the dysfunctional cooperation between OLAF and the EPPO. The analysis is temporally bounded by the recent establishment of the EPPO in 2021, but it also considers factors preceding this date. The study addresses a largely unexplored area. Although considerable research has been devoted to inter-institutional collaboration within the EU, inter-agency cooperation, particularly among agencies within the EU's anti-fraud architecture, remains significantly underexplored in political science, raising specific questions about horizontal cooperation. To explain this cooperation deficit between OLAF and the EPPO, the theoretical framework draws on rational choice theory as a general approach, and more specifically on

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<sup>22</sup> Eager, European Parliament, et al., *EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face*.

<sup>23</sup> Javier Zarzalejos and Laura Codrutu Kovesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*, Bruxelles, 19 March 2025, Conference.

<sup>24</sup> European Parliament and Council of the European Union, Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 regarding cooperation with the European Public Prosecutor's Office and the effectiveness of investigations by the European Anti-Fraud Office, Pub. L. No. 2020/2223 (2020).

<sup>25</sup> European Parliament and Council of the European Union, Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council 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 Regulation (Euratom) No. 1074/1999 of the Council.

<sup>26</sup> Anne Weyembergh and Chloé Brière, *The Future Cooperation between OLAF and the European Public Prosecutor's Office* (2018), <https://journals.sagepub.com/doi/10.1177/2032284417743820>.

three theories and methods: principal-agent theory, specifically the multi-agent, multi-principal model developed by Zhong,<sup>27</sup> will be analysed. Next, Maillard's cost-benefit approach<sup>28</sup> concerning the optimization of interests will form the focus of the concluding section. Finally, Busioc's reputational approach<sup>29</sup> will be examined from the perspective of reputation and territorial protection.

Therefore, this research aims to identify the institutional, strategic, and political factors hindering cooperation, which is legally mandated and ostensibly desired. It is crucial to understand the operational mechanisms of OLAF and the EPPO and the dynamics of competition and cooperation between the different agencies to analyse the current constraints of the European anti-fraud architecture. It is from this perspective that the research question of this study arises:

## **Why does the cooperation between OLAF and the EPPO not function as expected?**

### ***1.5 Outline of the study***

To address this question, this thesis will be structured into four chapters. The first chapter serves as this introduction (Chapter 1).

The second chapter (Chapter 2) will entail the research design and begin with a preliminary literature review (2.1). It will then establish the conceptual and theoretical framework of the study (2.2). It will first explain rational choice institutionalism (2.2.2). The theoretical framework will then comprise three distinct approaches within rational choice institutionalism: the multi-agent approach inspired by Zhong's principal-agent theory (2.2.3), the cost-benefit approach inspired by Maillard's *homo economicus* model (2.2.4), and finally the reputational and turf protection approach of Busioc (2.2.5). These three theories have formulated explanatory hypotheses regarding our subject, allowing for a better understanding of the dynamics of cooperation, or rather the lack thereof, between OLAF and

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<sup>27</sup> Yichen Zhong, 'A Principal-Agent Analysis of Inter-Agency Cooperation in EU Border Management', *Journal of European Integration* 47, no. 1 (2025): 2–20, <https://doi.org/10.1080/07036337.2024.2356843>.

<sup>28</sup> Jacques de Maillard and Daniel Kübler, *Analyzing Public Policies [Analyser les politiques publiques]*, chapter 4, "Rational Choice Approaches" ["Les approches par le choix rationnel"], 2nd ed. (Fontaine: Presses Universitaires de Grenoble [PUG], 2015).

<sup>29</sup> E. Madalina Busuioac, 'FRIEND OR FOE? INTER-AGENCY COOPERATION, ORGANIZATIONAL REPUTATION, AND TURF', *Public Administration* 94, no. 1 (2016): 40–56, <https://doi.org/10.1111/padm.12160>.

the EPPO. The final section of this chapter will be dedicated to the methodology applied in this study (2.3).

The third chapter of this study will analyse empirical data gathered (Chapter 3) through documentary analysis and semi-structured interviews conducted with professionals from OLAF, the EPPO, and the European Commission.

Finally, the concluding chapter (Chapter 4) will summarize the study and open a discussion on the future of OLAF.

## 2 Research design

### 2.1 Documentary analysis

This documentary analysis examines the cooperation (or lack thereof) between the EPPO and OLAF in protecting the EU's financial interests. It is based on academic literature.

The analysis presents the perspectives of various authors regarding the importance of agency cooperation, their complementarity, the challenges posed by this cooperation, and finally, the present and future role of OLAF in this context. Based on this analysis, it is essential to recall the research question that will guide the entire study:

**Why does the cooperation between OLAF and the EPPO not function as expected?**

#### 2.1.1 The Importance of Cooperation Between OLAF and the EPPO

Professors Weyembergh and Brière emphasize the importance of this cooperation, given that OLAF and the EPPO work towards a “*common objective of ensuring the protection of these interests,*”<sup>30</sup> referring to those of the EU. The agencies must work together because their goals converge. In this regard, doctoral researcher Gergely Bekes Adam affirms that it is “*undeniable that OLAF constitutes the EPPO's preferred partner.*”<sup>31</sup> Bellacosa and De Bellis share this perspective, highlighting that their common goal is the foundation of their cooperation. Accordingly, to the book *EU Rule of Law Procedure at the Test Bench*, in its chapter 8,<sup>32</sup> the 2021 annual reports of OLAF and the EPPO demonstrate practical joint work with no apparent difficulties. Thus, a strong relationship emerged around the creation of the EPPO, which took shape during the early years of this European judicial body.

Therefore, in addition to the convergence of objectives highlighted by the literature, the alignment of missions between OLAF and the EPPO is a crucial tool in the fight against fraud targeting the EU budget.

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<sup>30</sup> Weyembergh and Brière, *The Future Cooperation between OLAF and the European Public Prosecutor's Office* (2018). P.65

<sup>31</sup> Ádám Gergely Békés, ‘Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation’, *Annals of the West University of Timisoara, Law Series*, 2018. P.12

<sup>32</sup> Cristina Fasone et al., eds., *EU Rule of Law Procedures at the Test Bench: Managing Dissensus in the European Constitutional Landscape*, Palgrave Studies in European Union Politics (Springer Nature Switzerland, 2024), <https://doi.org/10.1007/978-3-031-60008-1>.

## 2.1.2 Complementary nature of mandates

Regarding the complementarity of mandates and competencies between OLAF and the EPPO, authors generally agree that, while the two agencies differ in nature, one with an administrative mandate and the other with a criminal one, they can nonetheless be complementary in the fight against fraud. As noted by legal scholar Ádám Gergely Békés,<sup>33</sup> their coexistence enables coverage of a wide range of offenses, whether administrative or criminal. “*Their cooperation will be essential to foster new synergies and improve the efficiency of PIF*”<sup>34</sup> (protection of financial interests). This view is also elaborated by Maurizio Bellacosa and Maurizia De Bellis,<sup>35</sup> who argue that cooperation is a way to leverage the strengths of each entity.

Although the complementarity of mandates is praised in theory, it does not fully address all doctrinal concerns related to the practical challenges of the coexistence of OLAF and the EPPO.

## 2.1.3 Challenges in cooperation

Despite the high expectations for effective cooperation expressed by many authors, the fact remains that both entities operate within the same field of competence, which can lead to overlapping responsibilities. In this regard, even before the creation of the EPPO, scholars such as Professors Weyembergh and Brière,<sup>36</sup> as well as Alessandro Nato,<sup>37</sup> emphasized the need to avoid duplication of investigations into the same case. A key issue emerges concerning the investigative limits of OLAF. This concern is shared by most authors, including Gergely Békés,<sup>38</sup> Bellacosa and de Bellis<sup>39</sup> as well as Grozdev and Dianese.<sup>40</sup> In the initial versions of the relevant regulations, they identified potential

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<sup>33</sup> Gergely Békés, ‘Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation’.

<sup>34</sup> Gergely Békés, ‘Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation’. P.12

<sup>35</sup> Maurizia De Bellis and Maurizio Bellacosa, ‘The Protection of the EU Financial Interests between Administrative and Criminal Tools: OLAF and EPPO’, *Common Market Law Review* 60, no. Issue 1 (2023): 15–50, <https://doi.org/10.54648/COLA2023002>.

<sup>36</sup> Weyembergh and Brière, *The Future Cooperation between OLAF and the European Public Prosecutor’s Office* (2018).

<sup>37</sup> Fasone et al., *EU Rule of Law Procedures at the Test Bench. Chapter 8*, p.119.

<sup>38</sup> Gergely Békés, ‘Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation’.

<sup>39</sup> De Bellis and Bellacosa, ‘The Protection of the EU Financial Interests between Administrative and Criminal Tools’.

<sup>40</sup> Dimo Grozdev and Gianluca Dianese, ‘Criminal and Administrative Procedures in Protecting the Financial Interests of the EU, EPPO and OLAF - Cooperation by Design’, *The European Criminal Law Associations’ Forum*, 2022.

conflicts of interest, overlapping mandates and competences; and difficulties reconciling the geographical limitations imposed by the EPPO's enhanced cooperation framework.

In light of these structural challenges, a number of these authors have questioned whether the European Anti-Fraud Office should undergo a transformation, both in terms of its regulatory framework and its institutional prerogatives.

#### 2.1.4 Evolving role of OLAF: current challenges and future outlook

The author of "Critical Thoughts on the Future Cooperation between EPPO and its partners in light of the recently adopted regulation"<sup>41</sup> published in 2018, reflected on OLAF's future following the establishment of the EPPO. He envisioned OLAF as an operational partner, potentially as an administrative investigation branch within the EPPO, or under the most favourable scenario, as maintaining a more distinct and autonomous form of cooperation.<sup>42</sup> Moreover, the author emphasized that OLAF's current legal framework, namely Regulation 883/2013<sup>43</sup> (in force at the time of Békés' writing), required amendments and more detailed provisions concerning cooperation between the two agencies. The authors of "Future cooperation between OLAF and the European Public Prosecutor's Office" published in the *New Journal of European Criminal Law*,<sup>44</sup> appear to share this view, considering it necessary to establish a formal working arrangement. A modification of their legislation, as well as the Commission's proposal regarding "*the transfer of part of OLAF's staff to the EPPO, potentially including the transfer of investigators*"<sup>45</sup> was essential to facilitate cooperation and remedy the lack of primary resources. This appears to steer OLAF towards legislative transformation to optimize the cooperation between the two entities.

Although doctrinal analyses have explored the future of these two entities and their cooperation, areas of uncertainty and gaps appear to be emerging due to a lack of current and empirical observations.

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<sup>41</sup> Gergely Békés, 'Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation'.

<sup>42</sup> Gergely Békés, 'Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation'.

<sup>43</sup> Regulation (EU, Euratom) No. 883/2013 concerning investigations conducted by OLAF and repealing Regulation (EC) No. 1073/1999.

<sup>44</sup> Weyembergh and Brière, *The Future Cooperation between OLAF and the European Public Prosecutor's Office* (2018).

<sup>45</sup> Weyembergh and Brière, *The Future Cooperation between OLAF and the European Public Prosecutor's Office* (2018). P.76

### 2.1.5 Literature gap

The existing literature on cooperation between OLAF and the EPPO was predominantly produced between 2017 and 2024 reveals a significant gap. There is an apparent difficulty in finding up-to-date studies on the cooperation between these two entities, meaning much of the analysis remains hypothetical and unverified. As a result, the available data are often imprecise and lack current relevance. Moreover, the literature shows that many authors have maintained an optimistic view regarding the collaboration between the agencies. However, some have already identified early signs of cooperation challenges. Because empirical data are lacking, these difficulties have not been fully confronted in practice.

Additionally, essential information necessary for this study seems missing from the existing academic discourse. Due to the absence of empirical evidence, weaknesses in cooperation between OLAF and the EPPO tend to be explained solely by legal shortcomings in their respective regulations. Nevertheless, the limited cooperation cannot be reduced to legal factors alone. Inter-agency competition, power dynamics, and the particular interests of each agency, especially those of OLAF, also influence the collaborative framework. These aspects suggest underlying conflicts related to institutional positioning that remain largely undocumented. Finally, relevant theories addressing inter-agency cooperation, not only within the EU but also beyond, have been somewhat challenging to locate.

### 2.1.6 Conclusion

The literature review on cooperation between the EPPO and OLAF reveals complex dynamics that have given rise to several hypotheses. These hypotheses aim to address the fundamental challenges of protecting the interests of the EU. While most authors agree on the complementarity of their functions and the alignment of their objectives, it remains clear that the cooperation studied is mainly theoretical. The documentary analysis is primarily based on optimistic forecasts alongside notable doubts. Competitive dynamics and internal resistance also influence how this cooperation operates.

## 2.2 *Theoretical framework*

### 2.2.1 Introduction

In any political science research, employing a theoretical framework is essential for structuring an analysis of actors' behaviour. In this case, the focus is on the mutual

cooperation between OLAF and the EPPO. This thesis is based on the study of rational choice institutionalism,<sup>4647</sup> as its foundational theory. This framework enables us to view OLAF and the EPPO as rational and strategic agents. To understand the rational dynamics underlying cooperation between these two agencies, three approaches will be examined here: first, the principal-agent theory as explained by Zhong,<sup>48</sup> with particular attention to the multi-agent logic. Next, Maillard's cost-benefit approach<sup>49</sup> will highlight the agents' pursuit of self-interest within institutional constraints. Finally, Busuioc's reputational and territorial protection approach<sup>50</sup> will help explain how agencies defend what they consider their "turf,"<sup>51</sup> or domain of action.

Accordingly, the theoretical approaches to rational choice institutionalism will be analysed in a thematic order, moving from broad to more specific theories relevant to this study.

## 2.2.2 Rational choice institutionalism

Authors of rational choice institutionalism start from the premise that individuals act strategically and deliberately to maximize their utility or achieve their objectives.<sup>52</sup> This perspective was initially developed in the United States to explain the "decision-making processes of the American Congress."<sup>53</sup> (translated by the author) Subsequently, it was applied to characterize European institutions, which authors consider structuring entities. These institutions shape the rules of the game through the cost-benefit evaluations derived from rational choice institutionalism theory. At the core of these conceptions lie rationality and the pursuit of utility, which are essential for understanding this theory. Actors, viewed as strategic agents, seek to maximize their interests despite their institutional constraints.

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<sup>46</sup> Sabine Saurugger, chapitre 5, *Institutionnalismes [Institutionalisms]*, 2e édition updated and argumented Théories et concepts, Références, vol. 1 (Sciences Po Les Presses, 2020).

<sup>47</sup> Anthony Downs, 'An Economic Theory of Political Action in a Democracy', *Journal of Political Economy*, Vol. 65, N°2, Avril 1957, The University of Chicago Press Journals Edition.

<sup>48</sup> Zhong, 'A Principal-Agent Analysis of Inter-Agency Cooperation in EU Border Management'.

<sup>49</sup> Jacques de Maillard and Daniel Kübler, *Analyser les politiques publiques [Analyzing Public Policies]*, chapitre 4, "Les approches par le choix rationnel" ["Rational Choice Approaches"].

<sup>50</sup> E. Madalina Busuioc, « Friend or foe? Inter-agency cooperation, organizational reputation, and turf », *Public Administration* 94, n° 1 (mars 2016): 40-56, <https://doi.org/10.1111/padm.12160>.

<sup>51</sup> Busuioc, 'FRIEND OR FOE?', 2016.

<sup>52</sup> Sabine Saurugger, chapitre 5, *Institutionnalismes [Institutionalisms]*, 1 Theories and Concepts, 5, p. 132.

<sup>53</sup> Sabine Saurugger, chapitre 5, *Institutionnalismes [Institutionalisms]*, 1 Theories and Concepts.

This innovative approach contrasts with traditional ways that assume social norms primarily determine actors.<sup>54</sup>

Downs' work<sup>55</sup> demonstrates that these underlying personal interests shape political parties as enterprises selling their policies much like products on a market. Within this framework, public policies become commodities intended for voters, who are perceived as rational consumers. It is within this rationality that parties and voters are seen, each pursuing their interests.<sup>56</sup> Downs lays the foundation for this logic of strategic choice, calculation, and competition, which is later incorporated into rational choice institutionalism theory.

Meanwhile, the authors of *Théorie et concept de l'intégration européenne*<sup>57</sup> (*Theory and concept about European Integration*) and *Choices, Preferences, Procedures: A Rational Choice Theoretic Approach Account*<sup>58</sup> extend the analysis of rational choice institutionalism by developing principal-agent theory to explain how the dynamics and governance of actors arise from institutions. Consequently, the diversity of actors, horizontal cooperation, reputation-seeking, and cost-benefit evaluation emerge as a logical extension of the economic model proposed by these authors.

In this context, OLAF and the EPPO are considered rational agents acting strategically, albeit within constraints imposed by higher institutions. This study will demonstrate that the cooperation or rather rivalry between these two agencies can be understood through a three-step theoretical approach. These approaches will help explain why cooperation between OLAF and the EPPO remains limited.

It is now essential to analyse a more precise approach to rational choice institutional theory, focusing on principal-agent theory, particularly its multi-agent variant.

### 2.2.3 Multi-agent theory within principal-agent theory

The principal-agent model was initially adapted in political science to understand the delegation of power from a principal agent to a secondary agent subordinate to their authority, “*thereby reducing transaction costs between actors.*”<sup>59</sup> (translated by the author). This model was later applied to the mechanisms of the European Union to explain the

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<sup>54</sup> Kotaro Suzumura, *Choice, Preferences, and Procedures : A Rational Choice Theoretic Approach*, First edition (Harvard University Press, 2016).

<sup>55</sup> Downs, ‘An Economic Theory of Political Action in a Democracy’.

<sup>56</sup> Downs, ‘An Economic Theory of Political Action in a Democracy’.

<sup>57</sup> Sabine Saurugger, chapter 5, *Institutionnalismes [Institutionalisms]*, 1 Theories and Concepts.

<sup>58</sup> Downs, ‘An Economic Theory of Political Action in a Democracy’.

<sup>59</sup> Sabine Saurugger, chapter 5, *Institutionnalismes [Institutionalisms]*, 1 Theories and Concepts, 5, P. 130.

delegation of power from member states to the EU institutions as we know them today. Under these conditions, the author Zhong developed a different approach by moving away from the concept of a primary and secondary agent to a multi-agent framework, analysing horizontal rather than vertical cooperation. His point of view focuses on specific EU agencies involved in border management. He emphasizes that such cooperation would increase the autonomy of participating agencies beyond their initially assigned competences. By working collectively, these agencies would strengthen their outcomes and benefit from broader operational reach and influence.

By nature, OLAF and the EPPO do not exist in a principal-agent or subordinate agent relationship; instead, they must complement each other, thus representing the logic of multi-agents. While Zhong indicates that this approach allows for viable cooperation to enhance their performance in protecting the EU's financial interests, the coexistence of these agencies can paradoxically lead to overlapping competences.

The comparison between Frontex and Europol, mentioned in Zhong's article, and the agencies discussed in this case study (the EPPO and OLAF) is relatively straightforward. All these agencies hold the status of an EU agency or body and are thus aligned to implement EU policies. The divergence in expected results between Frontex/Europol and OLAF/EPPO raises interesting questions about the applicability of this approach.

The principal-agent theory, viewed through Zhong's multi-agent approach, is challenged for not fully corresponding with the observed empirical results. In that case, more specific behaviours require examination from another perspective.

#### 2.2.4 The cost-benefit approach as model

The cost-benefit approach is derived from the broader theoretical framework of rational choice institutionalism, in which "*man is seen as a selfish being, constantly pursuing his own personal interests.*"<sup>60</sup> (translated by the author). According to this view, any social organisation stems from "*individuals seeking to maximise their advantage in a given situation.*"<sup>61</sup> (translated by the author). The core model, *homo economicus*, is constantly

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<sup>60</sup> Jacques de Maillard and Daniel Kübler, *Analyser les politiques publiques [Analyzing Public Policies]*, chapter 4, "Les approches par le choix rationnel" ["Rational Choice Approaches"], p. 109.

<sup>61</sup> Jacques de Maillard and Daniel Kübler, *Analyser les politiques publiques [Analyzing Public Policies]*, chapter 4, "Les approches par le choix rationnel" ["Rational Choice Approaches"], p. 109.

weighing the costs and benefits of his actions to choose the one that brings the most significant personal gain.

This approach is grounded in the idea that the agent will favour their advantage even in a collective interest. De Maillard and Kübler build on this by portraying politics as a type of market, where electoral action once again becomes a product. However, the authors also nuance this cost-benefit logic: although rational agents are primarily guided by self-interest, they are constrained by the obligations and rules imposed by institutions. The institution, defined as the structure that restricts the freedom of the rational actor, represents the limits that the agent must operate within. According to De Maillard and Kübler, understanding this institutional factor is key to identifying solutions to cooperation challenges.<sup>62</sup>

In this context, both OLAF and the EPPO can be seen as rational actors seeking to evaluate the costs and benefits of mutual cooperation. The act of cooperating is shaped by a logical calculation in which the contribution should not outweigh the expected gain even if institutional constraints are designed to promote cooperation.

While the logic developed by De Maillard and Kübler steers inter-agency cooperation toward self-interest, it must be analysed alongside the reputational approach to assess whether this strategic logic alone explains the limited cooperation observed.

### 2.2.5 Reputational approach of “turf” protection

Building on the previous cost-benefit model, the reputational and “turf” protection approach offers a complementary understanding of why cooperation between agencies such as OLAF and the EPPO may remain limited. Developed by Busuioc through her analysis of EU agencies like Europol and Frontex, this perspective emphasizes that organisational behaviour is not only shaped by strategic calculations but also by the desire to protect institutional reputation and preserve jurisdictional authority. Reputation is “*a set of symbolic beliefs about an organization's unique or separable capacities, roles, and obligations, where these beliefs are embedded in audience networks.*”<sup>63</sup> This reputation gives each agency a symbolic authority that it must uphold to maintain credibility and visibility within the broader institutional ecosystem. At the same time, “turf” refers to the agency’s defined mission area and competences, which are often closely tied to its identity and performance

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<sup>62</sup> Jacques de Maillard and Daniel Kübler, *Analyser les politiques publiques [Analyzing Public Policies]*, chapter 4, “Les approches par le choix rationnel” [“Rational Choice Approaches”], p. 126.

<sup>63</sup> Busuioc, ‘FRIEND OR FOE?’, 2016. p.42

metrics. When agencies engage in cooperation, they risk losing their distinctiveness. The collective effort may overshadow their achievements, and their regulatory authority might be perceived as weakened. This creates a structural tension. Busuioc states, “*Cooperation efforts can be risky; [...] intruding upon one’s ‘regulatory dominion.’*”<sup>64</sup> Therefore, agencies will only enter cooperative arrangements when they are confident that doing so, will not compromise their reputational value or institutional turf.

This analysis becomes particularly relevant in the case of OLAF and the EPPO. If OLAF perceives the EPPO as a competitor that could diminish its visibility and marginalise its unique role in the anti-fraud framework, it will likely resist to a deeper cooperation. On the contrary, if both entities see that cooperation enhances their reputations and amplifies their influence, they will be more inclined to work together.

This reputational dynamic adds an essential dimension to understanding inter-agency cooperation in the EU. It shows that institutional pride, role definition, and perceived authority are not merely abstract concerns but practical factors that shape how and whether agencies collaborate in pursuit of shared goals.

## 2.2.6 Conclusion

The cooperation between OLAF and the EPPO cannot be fully understood without the theoretical framework of rational choice institutionalism. Through the examination of three derivative approaches, OLAF and the EPPO can be seen as rational actors pursuing their self-interests. This analytical reading followed a funnel-shaped logic, aiming to identify the extent to which both agencies reflect the strategic behaviours described by the authors. Far from being automatic, their cooperation is shaped by strategic rationality, where institutional interests, reputational concerns, and positioning within the EU’s anti-fraud framework are constantly at play.

## 2.3 Methodology

### 2.3.1 Introduction to methodology

This study adopts an exploratory and partly explanatory research method based on a qualitative methodological approach to understand the cooperation between OLAF and the EPPO. Given the relatively recent nature of their joint work and considering that cooperation

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<sup>64</sup> Busuioc, ‘FRIEND OR FOE?’, 2016. P.43

between these two actors must be situated within a broader framework of inter-agency cooperation, a qualitative approach appears to be the most appropriate. The reasoning followed is deductive,<sup>65</sup> aiming to develop answers based on empirical data and previously outlined theoretical frameworks.

The empirical data are drawn from documentary analysis of institutional reports and semi-structured interviews. The choice of this methodology is driven by the need to understand OLAF's apparent reluctance to cooperate with the EPPO. Triangulating these data sources will help reduce potential bias in the results and strengthen their reliability. The methodological framework is inspired by *Méthodes de la science politique*,<sup>66</sup> (Methodology of political science) providing a structured scientific basis for the findings.

The adopted methodology will guide the analysis of the hypotheses developed from the theoretical models mobilised in this study.

### 2.3.2 Hypothesis

To analyse the cooperation, or lack thereof, between OLAF and the EPPO, three hypotheses were formulated based on approaches from rational choice institutionalism theory and on empirical data, including semi-structured interviews and institutional reports.

**Hypothesis 1:** OLAF does not cooperate with the EPPO due to the lack of a sufficient legal framework governing their cooperation.

**Hypothesis 2:** If OLAF concludes that cooperation with the EPPO does not serve its interests in terms of a cost-benefit analysis, it will rationally limit its willingness to cooperate.

**Hypothesis 3:** The more cooperation with the EPPO is perceived as a threat to OLAF's institutional reputation and control over its "turf", the less inclined it will be to engage in such cooperation.

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<sup>65</sup> Deductive reasoning was developed according to the methodology presented in the textbook *Méthode de la science politique, de la question de départ à l'analyse des données* [Political Science Methodology: From the Research Question to Data Analysis], which states that "the researcher starts from theory to define expectations about empirical reality."

Ramona Coman et al., *Méthode de la science politique, de la question de départ à l'analyse des données* [Political Science Methodology: From the Research Question to Data Analysis], 2nd ed., *Méthodes en sciences humaines* (De Boeck Supérieur, 2022), <https://shs.cairn.info/methodes-de-la-science-politique--9782807337756-page-45>, P. 28.

<sup>66</sup> Ramona Coman et al., *Méthode de la science politique, de la question de départ à l'analyse des données* [Political Science Methodology: From the Research Question to Data Analysis].

To test these three hypotheses, it is necessary to analyse the dependent variable and the associated independent variables.

### 2.3.3 Research variables

This thesis adopts a systemic approach to studying variables to address the three hypotheses, directly aligned with the theoretical tools employed. One dependent variable and several independent variables are extracted and analysed. According to the definition provided in the *Méthode de la science politique*<sup>67</sup> handbook, **the dependent variable in this study is identified as the absence or low level of cooperation between OLAF and the EPPO.** The core objective is to understand why OLAF does not fully cooperate with the EPPO, despite their shared mandate to protect the European Union's financial interests.

Three **independent variables** are therefore proposed:

**Independent Variable 1:** If cooperation depends on a sufficient legal basis between the two entities, then the absence or insufficiency of such a framework logically results in little or no cooperation.

**Independent Variable 2:** Drawing on the concept of *homo oeconomicus*,<sup>68</sup> OLAF is considered a rational actor seeking to maximise its self-interest. OLAF will likely limit its willingness to cooperate if cooperation with the EPPO provides no benefit and generates additional costs.

**Independent Variable 3:** If OLAF perceives cooperation with the EPPO as a threat to its institutional reputation and operational domain or "*turf*", this perception will lead to reduced cooperation.

By cross-referencing these variables with the empirical data collected, this study aims to shed light on the dynamics suggested by the theoretical models, to understand better inter-agency cooperation and, more specifically, the cooperation between OLAF and the EPPO.

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<sup>67</sup>Ramona Coman et al., *Méthode de la science politique, de la question de départ à l'analyse des données* [Political Science Methodology: From the Research Question to Data Analysis], 2nd ed., *Méthodes en sciences humaines* (De Boeck Supérieur, 2022).

<sup>68</sup>Jacques de Maillard and Daniel Kübler, *Analyser les politiques publiques* [Analyzing Public Policies], chapter 4, "Les approches par le choix rationnel" ["Rational Choice Approaches"], 2nd ed. (Fontaine: Presses Universitaires de Grenoble [PUG], 2015).

A data collection methodology has been designed to test these variables in line with the scientific standards of this research.

#### 2.3.4 Data collection method

The data collection method used is an intermediate approach between the direct and indirect survey strategy, according to the type of research strategy defined by *Méthode de la science politique*.<sup>69</sup> This is explained by the fact that the sources concerning OLAF's poor cooperation with the EPPO partly come from the report on the anti-fraud architecture of the European Union<sup>70</sup> and from a conference on the EPPO's 2024 annual report for the CONT and LIBE Committees of the European Parliament<sup>71</sup> (Annex 6). These two tools made it possible to raise questions concerning OLAF's lack of cooperation with the EPPO and served as the starting point for this reflection.

This study focuses on OLAF's asymmetric cooperation with the EPPO due to OLAF's support role towards the EPPO, which does not exist in the opposite direction according to the regulations.

A documentary analysis was carried out on OLAF's and the EPPO's annual reports to compare their results, the evolution of their mandate, and their recognition within the European institutional scene. An analysis of institutional reports was also conducted to complement the empirical data.

Then, semi-structured interviews were conducted with specialists in inter-agency cooperation. The semi-structured format was chosen to give the interviewee freedom of expression while following a set of prepared questions. This method allowed professionals to address issues that the study, in its research phase, did not yet cover, while maintaining a framework that provided enough empirical data to produce conclusive results. The interviewees were selected based on their expertise in cooperation and the institution in which they work. They were conducted via videoconferencing platforms to optimize time.

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<sup>69</sup> Ramona Coman et al., *Méthode de la science politique, de la question de départ à l'analyse des données* [Political Science Methodology: From the Research Question to Data Analysis], 2nd ed., Méthodes en sciences humaines (De Boeck Supérieur, 2022).

<sup>70</sup> Eager, European Parliament, et al., *EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face*.

<sup>71</sup> Zarzalejos and Kovesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*.

An interview guide was prepared using the theoretical framework, the hypotheses formulated, and the two documents previously cited.<sup>7273</sup>

The consent form was sent to the professionals, and consent for recording the interview was obtained. One interview was not recorded, at the person's request, and most interviews were anonymized in terms of personal identity. An agreement was obtained from the experts regarding the disclosure of their positions within the agencies or institutions. Laura Schmeer agreed to reveal her identity, which can be explained by her academic position as a doctoral student and the distance between her doctoral subject and this study. Peter Csonka also consented to disclose his identity, which might be explained by his distance from the conflict between OLAF and the EPPO. Indeed, as an official at the European Commission, Mr. Csonka holds a coordinating and observing role and does not participate actively in this conflict. The interviews were transcribed using a digital transcription platform and manually reviewed to ensure the statements' accuracy.

Professional A did not wish to sign the consent form despite several reminders. In this case, a complete anonymization procedure was applied, and, although reference is made to this person's statements, no direct quotation is taken from this interview.

The conduct of interviews combined with documentary analysis helps enrich the empirical data and provide a different perspective. Most of the reports studied in the documentary analysis come from documentation issued by the European Parliament, notably the conference on the annual report and the study on the anti-fraud architecture. Ultimately, a methodological triangulation is used by cross-referencing the data to produce coherent and reliable results, thus preventing this study from being biased or approximate.

With the general data collection strategy completed, it is now appropriate to detail the semi-structured interviews conducted.

#### 2.3.4.1 Focus on the semi-structured interviews

To justify the choice of professionals interviewed and to focus on the field experience of the semi-structured interviews, this subsection will detail the conditions under which they were conducted and the decisions made. To cover a broad range of information and guide the research in this study, Laura Schmeer, Doctor in Political and Social Sciences who wrote

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<sup>72</sup>Zarzalejos and Kovesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*.

<sup>73</sup>James Eager et al., *EU Anti-Fraud Architecture, The Role of EU-Level Players, How They Cooperate and the Challenges They Face* (2024).

her dissertation on the EPPO, helped define the initial theoretical research and begin the collection of empirical data. Next, an interview was conducted with a professional from the EPPO who specialized in legal procedures and the practical realities of this cooperation. I carried out three more specific interviews to complement these initial interviews. The first was with a specialist with experience in both agencies, initially at OLAF who then, joined the EPPO. Finally, two experts on the cooperation between OLAF and the EPPO were interviewed: one OLAF expert and Peter Csonka, an official at the European Commission. The latter interview was conducted in two parts due to time and schedule constraints. Contacting professionals at OLAF was quite challenging due to the sensitivity of the topic for the agency's policy.

The data collection thus conducted then requires structuring to be used scientifically.

### 2.3.5 Data analysis method

The data analysis method uses a qualitative approach that cross-references empirical and theoretical data. Combining different empirical sources will enable the confirmation or refutation of the hypotheses established based on political theories. Data processing is not conducted through a coding system, but rather through organizing a cross-analysis of empirical data with the previously discussed theories. For each hypothesis, theoretical concepts, relevant elements from each interview, and institutional documents were extracted. This chronology respects the deductive method and will allow the necessary data triangulation to validate or invalidate the hypotheses.

Cooperation involving the EPPO provides fertile ground for a qualitative analysis of empirical data. However, it is also essential to understand the limitations of these data.

### 2.3.6 Research delimitation and bias

A critical bias lies in the subjectivity of empirical results derived from the interviews. This is caused by the agents' desire to preserve a positive image of their agency and thus present their organization in a more favourable light than reality. This bias leads to exaggerating the actual level of cooperation between the two agencies and minimizes the frictions that may exist between them, to maintain a professional image. Another bias stems from the fact that experts are, in a way, gagged by their institution and thus unable to respond freely to specific questions; this was the case for most interviews with EPPO. Indeed, it was confirmed by several sources that the EPPO forbade official interviews on the topic due to

the inter-institutional issues such discussions could provoke. Consequently, professionals were not always free to speak publicly on this subject.

To counteract subjectivity, the empirical data collected through interviews were cross-checked with documentary analysis, even though the topicality of the issue limits this. Furthermore, to ensure freedom of expression, the preparation of the methodological protocol was crucial: at the start of each interview, the consent form was explained, allowing participants to anonymize their statements to facilitate open discussion on this subject. Despite these precautions, empirical data are inevitably subject to some degree of subjectivity because humans are inherently subjective beings. Moreover, one interview was excluded because the professional couldn't sign the consent for non-disclosure reasons.

The study's delimitation aims to understand why OLAF does not cooperate with the EPPO; the focus is solely on OLAF's horizontal cooperation toward the EPPO, which is justified by the nature of these institutions. This is explained by complementary investigative and support mechanisms from OLAF to the EPPO, which do not exist in the opposite direction. Additionally, this dynamic is influenced by the EPPO's judicial powers, which OLAF does not possess. Another delimitation concerns the timeframe analysed: the period roughly starts in 2021, thus limiting the available data.

After analysing the methodological and scientific limitations of the study, it is appropriate to consider its scientific interest and added value.

### **2.3.7 Justification of the case study and added value**

The case study on OLAF's cooperation with the EPPO is motivated by several converging reasons. First, it allows for a better understanding of the inter-agency dynamics within the European Union, a topic largely overlooked by theorists, yet crucial given the growing number of agencies and bodies within the EU. Second, this study analyses the functioning of the EU's anti-fraud architecture, evaluating its viability in the context of creating a new agency: AMLA. Finally, it places inter-agency cooperation within theoretical frameworks that have been little explored in this thematic area. Therefore, this topic was guided by its current relevance, the lack of available data, which raised questions about the causes of this gap and the scientific importance of studying inter-agency cooperation.

### 3 Empirical results: from formal cooperation to strategic disengagement

#### 3.1 Introduction

“Protection of the European Union's financial interests has always been an issue at the core of many sensitive discussions.”<sup>74</sup> Offenses against the EU budget are multiple and do not only concern organized crime and major criminal networks. Senior EU officials also commit offenses against the budget, which are identified as white-collar crimes. In 2023, these crimes represented approximately €400 million reported as irregularities.<sup>75</sup> To address this challenge, the European Union has developed several mechanisms, notably the anti-fraud architecture and the multiplication of cooperation between actors in protecting the EU's financial interests. Theoretically, a bilateral cooperation arrangement regulates the cooperation between OLAF and the EPPO.<sup>76</sup> However, several dysfunctions have been observed, notably the mentioned low number of cases transmitted by OLAF to the EPPO, amounting to only 0.7% for 2023.<sup>77</sup> Furthermore, significant cases were not transmitted during 2024 by OLAF to the EPPO, revealing a fundamental breakdown in cooperation.<sup>78</sup>

This situation raises a central question: **Why is the cooperation from OLAF towards the EPPO not working?**

An analytical framework was formulated based on three hypotheses compared to rational choice institutional theory to address this research question. The first chapter (4.2) will address hypothesis 1: “OLAF does not cooperate with the EPPO due to a lack of an applicable legal basis for their cooperation”, using a triangulation of Zhong's theory, interviews, and documentary analysis.

Next, the second section (4.3) will focus on hypothesis 2: “If OLAF deduces that cooperation with the EPPO is not favourable to its interest in a cost-benefit balance, it will

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<sup>74</sup> Anne Weyembergh and Chloé Brière, *The Future Cooperation between OLAF and the European Public Prosecutor's Office*, In-depth analysis for the CONT committee EP 603.789 (European Parliament, Policy Department for Budgetary Affairs, 2021).

<sup>75</sup> James Eager, Luca Marcolin, et al., *EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face*, Study requested by the CONT Committee PE 763.761 (European Parliament, Policy Department for Budgetary Affairs, 2024). P.17

<sup>76</sup> OLAF et EPPO, Working arrangement between the European Public Prosecutor's Office and the European Anti-Fraud Office, Luxembourg, 2021.

<sup>77</sup> Zarzalejos and Kovési, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*. p.7

<sup>78</sup> Zarzalejos and Kovési, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*.

rationality restrict its cooperation.” The same methodology as for hypothesis 1 will be applied.

Finally, the third section (4.4) will be more specific and stem from hypothesis 3: “The more cooperation with the EPPO is perceived as a threat to institutional reputation and control over its territory, the less OLAF will be inclined to cooperate.” This hypothesis will be studied considering Busuioc’s reputational and ‘turf protection’ approach.

### ***3.2 OLAF under scrutiny: from legal duties to strategic decisions***

Therefore, hypothesis 1 corresponding to this first analysis is that OLAF does not cooperate with the EPPO due to a lack of applicable legal basis.

This hypothesis will be studied through Zhong’s multi-agent approach, which stems from the principal-agent approach of rational choice institutionalist theory. The idea mostly studied in this section will focus on his approach to interagency cooperation, considering that agencies cannot cooperate effectively without a solid legal basis. It is more broadly through the rational choice institutionalist theory from which this principal-agent idea originates that we will attempt to respond to this hypothesis by demonstrating that this cooperation does have a proper legal basis, both through the respective regulations of the agencies (4.2.1), and through their bilateral working arrangement and the division of their competences (4.2.2). Then, we will nuance this point by observing that, even though the legal basis is relatively broad and clear, grey areas exist in the legal literature (4.2.3). Finally, we will analyse the fact that this legal vacuum is strategically used by OLAF (4.2.4).

#### **3.2.1 The question of legal basis? Illusion of a problem**

To explain the lack of cooperation between OLAF and the EPPO, the first idea put forward in the literature is based on the absence of a solid legal basis for building cooperation. This concerns the authors referenced in the section "Documentary analysis"<sup>79</sup><sup>80</sup> (3.1). Furthermore, Zhong’s theory, *"A principal-agent analysis of inter-agency cooperation in EU border management"*, includes an analysis of the multi-principal,

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<sup>79</sup> Grozdev and Dianese, ‘Criminal and Administrative Procedures in Protecting the Financial Interests of the EU, EPPO and OLAF - Cooperation by Design’.

<sup>80</sup> Gergely Békés, ‘Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation’. De Bellis and Bellacosa, ‘The Protection of the EU Financial Interests between Administrative and Criminal Tools’.

<sup>81</sup> De Bellis and Bellacosa, ‘The Protection of the EU Financial Interests between Administrative and Criminal Tools’.

multi-agent approach, starting from the assumption that interagency cooperation will exist if it is legally framed. This legislation must be sufficiently clear so as not to create overlaps in competences. Following Zhong's analysis, this study tends to indicate that cooperation between OLAF and the EPPO would suggest that their cooperation does not work because it lacks a legal basis or because the legal basis is insufficient. However, to understand whether this hypothesis is founded or unfounded, it is necessary to analyse the legislation governing cooperation between OLAF and the EPPO.

Regulation (EU 2017/1939),<sup>82</sup> the legal basis of the EPPO, states in Article 101 that *“The EPPO shall establish and maintain a close relationship with OLAF based on mutual cooperation within their respective mandates and on information exchange. The relationship shall ensure that all available means are used to protect the Union’s financial interests through the complementarity and support by OLAF to the EPPO.”*<sup>83</sup> The article thus provides for close cooperation with OLAF. Moreover, if we compare the articles addressing the EPPO's cooperation with other EU agencies such as Europol or Eurojust, the article concerning OLAF is more extensive, corresponding to a more in-depth explanation of their mutual collaboration. It is explicitly provided that OLAF may conduct administrative investigations complementary to the criminal investigations of the European Union. Their actions must avoid duplication of investigative work and respect the details of their respective mandates. It is thus stated in Recital 103 that *“OLAF should in principle not open any administrative investigations parallel to an investigation conducted by the EPPO into the same facts.”*<sup>84</sup>

Similarly, the OLAF Regulation was significantly revised in 2020 to legislate on cooperation with the EPPO even before its establishment. Articles 12 quater, quinquies, septies, and octies provide great information regarding their cooperation. *“The Office shall submit a report to the EPPO without undue delay on any criminal conduct in respect of which the EPPO could exercise its competence following Chapter IV of Regulation (EU) 2017/1939.”*<sup>85</sup> *“EPPO opens an investigation following the report referred to in that*

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<sup>82</sup> Council of the European Union, Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office.

<sup>83</sup> Council Regulation (EU) 2017/1939, *op. cit.*, art. 101(1).

<sup>84</sup> Council Regulation (EU) 2017/1939, *op. cit.*, recital 103.

<sup>85</sup> European Parliament and Council of the European Union, *Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council amending Regulation (EU, Euratom) No. 883/2013 concerning cooperation with the European Public Prosecutor’s Office and the effectiveness of investigations by the European Anti-Fraud Office.*

*paragraph, the Office shall not continue its investigation into the same facts.*”<sup>86</sup> Article 12 was extensively amended to allow OLAF to provide full support to the EPPO. The coexistence of these two regulatory frameworks, each specific to the respective body, demonstrates a clear political will for complementary coordination. In the wording used in the OLAF Regulation, it can be understood that OLAF must act in support of the EPPO, thus developing a principal-agent relationship with a secondary agent. Furthermore, if we adhere to Zhong’s rationalist approach, which states that practical inter-agency cooperation is influenced by a sound legal basis, OLAF and the EPPO have a solid legal foundation based on clear obligations. Therefore, a first reading does not allow us to attribute OLAF’s lack of cooperation with the EPPO to a lack of legal basis.

This initial reading therefore invites further analysis toward other explanatory variables.

### 3.2.2 Solid legal grounds, shaky cooperation

Suppose we continue a deductive reading of Zhong’s theory, according to which the lack of cooperation from OLAF towards the EPPO results from a deficient legal framework. In that case, it is necessary to examine this legal framework further. Firstly, their legal framework explicitly includes a clause preventing the duplication of investigations. In addition to this being part of their respective regulations, OLAF and the EPPO signed a bilateral working arrangement<sup>87</sup> in July 2021 detailing their joint working methods. The arrangement outlines a division of operational strategies and actions, defining the exchange of information, reporting, and case transfers between the two agencies, OLAF’s support for EPPO investigations, professional training, staff exchanges, and liaison officers operating between the two agencies. Each of these legal rules and arrangement establishes a framework: the EPPO is responsible for criminal prosecution, while OLAF oversees administrative investigations and financial recommendations.

The interviews converge on the utilitarian function of the legal basis for cooperation between OLAF and the EPPO. European Commission official Peter Csonka stated that Article 101 of the EPPO Regulation is “*the bible of their relationship.*” The interview with Expert C, who works for OLAF, supports this initial assessment of the legal basis and the working arrangement. Expert C, a member of OLAF, stated that: “*If OLAF identifies a*

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<sup>86</sup> Regulation 2020/2223, *op. cit.*, art. 12(5).

<sup>87</sup> OLAF et EPPO, Working arrangement between the European Public Prosecutor's Office and the European Anti-Fraud Office, Luxembourg, 2021.

*potential offence, it must forward the case to the EPPO.*” This is confirmed by Expert B and Laura Schmeer, who respectively noted that OLAF “*is obliged to send cases to the EPPO, if it falls under the latter’s competence,*” and that OLAF has a legal obligation to transmit information to the EPPO in relevant cases falling within its jurisdiction. This finding clearly shows that OLAF has a legal duty to cooperate.

This consensus among the interviews supports rejecting the hypothesis that OLAF and the EPPO fail to cooperate due to a weak legal basis. Zhong’s theory appears, for the time being, to be invalid considering the empirical evidence collected. A dual legal framework exists, alongside a working arrangement. The Head of the EPPO, Laura Codruța Kövesi, described OLAF’s cooperation with the EPPO as “*modest*”<sup>88</sup> during a conference at the European Parliament. She denounced the failure to transmit certain cases, and the breach of obligations clearly outlined in OLAF’s regulation and the working arrangement. During that conference, some Members of the European Parliament described these shortcomings as “*systemic,*”<sup>89</sup> highlighting a gap between legal provisions and their implementation.

The regulatory gaps had been addressed beforehand to prevent any overlap in the mandates of the two entities. This reflects the legislator’s intent to avoid such difficulties, considering the shared objective of both agencies. Moreover, most interviews further confirm the strength of the legal basis underpinning the cooperation between OLAF and the EPPO. From Zhong’s principal-agent theory perspective, the cooperation issue thus does not lie in the legal framework.

As highlighted in this analysis, the lack of cooperation between OLAF and the EPPO confirms the existence of a legal basis. This conclusion is also supported by the empirical data gathered through interviews. However, because the legislation was designed in anticipation of the cooperation before it was practiced, the legislator left legal grey areas, allowing the cooperation to be shaped according to the current operational needs of the agencies involved.

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<sup>88</sup> Zarzalejos and Kövesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor’s Office for the Annual Activity Report 2024*. p.6

<sup>89</sup> Zarzalejos and Kövesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor’s Office for the Annual Activity Report 2024*. p.8

### 3.2.3 Existing legal basis. Yet not without flaws

The legal framework governing the mutual cooperation between OLAF and the EPPO provides a relatively comprehensive basis. However, it is not exhaustive: gaps remain within this framework. Its partial adoption before the EPPO's creation and the current cooperation stage between the two bodies fail to address the present challenges fully. Legal grey areas and ambiguous formulations leave room for individual interpretation.

This is demonstrated by the empirical data collected through semi-structured interviews regarding “*without undue delay*”<sup>90</sup> or “*tacit approval*.”<sup>91</sup> This concept of tacit approval, present in the OLAF regulation,<sup>92</sup> is applied when opening a complementary investigation if the EPPO remains silent within thirty days.<sup>93</sup> In such cases, OLAF may conduct its investigation independently of the EPPO. The divergence between the two regulations is necessary to meet the respective mandates of each agency. Nonetheless, this also creates a grey area, sometimes leading to tensions.

Regarding the working arrangement signed between the two agencies, its non-binding nature allows for a certain degree of flexibility in their cooperation. The literature indicates that OLAF's misinterpretation stems from a lack of understanding of the EPPO's judicial mechanisms. Therefore, training for professionals appears necessary to address this misunderstanding, which undermines mutual cooperation and contributes to a degree of operational ambiguity surrounding their collaboration.<sup>94</sup>

This grey area is also present in the cooperation from the EPPO towards OLAF. Indeed, the EPPO is not obliged to share information with OLAF following an investigation. This creates a unilateral power dynamic that disadvantages OLAF and may explain why the agency has, to some extent, developed defensive mechanisms.<sup>95</sup> However, this asymmetry alone does not fully account for their lack of cooperation. A comparison of OLAF's cooperation with other agencies under similar legal conditions namely, those with

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<sup>90</sup> Online interview with Expert B, expert who worked at OLAF and then at the EPPO, [Zoom], 1 April 2025.

<sup>91</sup> Peter Csonka, Officiel de la Commission sur la coopération OLAF et EPPO, entretien en ligne avec l'auteure, [teams], Partie 2, 16 avril 2025.

<sup>92</sup> Regulation (EU, Euratom) 2020/2223, *op. cit.*

<sup>93</sup> Vérane Edjaharian-Kanaa, Les Relations entre le Parquet Européen et l'Office Européen de lutte Antifraude (OLAF) : ‘Tu m’aimes : Un Peu, Beaucoup, Passionnément... Pas Du Tout’ ? [The Relations Between the European Public Prosecutor's Office and the European Anti-Fraud Office (OLAF): ‘Do You Love Me: A Little, A Lot, Passionately... Not at All?'], Droit de l'Union Européenne (Lefebvre Sarrut, 2021).

<sup>94</sup> EdjaEdjaharian-Kanaa, *The Relations Between the European Public Prosecutor's Office and the European Anti-Fraud Office*.

<sup>95</sup> Edjaharian-Kanaa, *The Relations Between the European Public Prosecutor's Office and the European Anti-Fraud Office*.

cooperation provisions in their respective regulations and bilateral working arrangements shows that cooperation between OLAF and Europol appears stronger, according to OLAF's reports and academic analyses.<sup>96</sup> This is especially evident given the significant number of cases reported in annual reports resolved through cooperation between the two agencies.<sup>97</sup>

In summary, the legal basis is imperfect; the legal formulations are flawed. This condition does not result from poor cooperation and cannot solely explain OLAF's behaviour. Moreover, OLAF knowingly uses these legal grey areas strategically.

### 3.2.4 Strategic autonomy

The relationship between OLAF and the EPPO can no longer be explained at this stage by the absence of a legal framework. However, as mentioned earlier, the legal basis governing their cooperation is imperfect and thus facilitates a variable and subjective interpretation by the entities involved. These shortcomings objectively enable the interpretations made by OLAF and the EPPO. In this sense, OLAF can leverage this legal space for strategic autonomy. The term "strategic autonomy" is not explicitly mentioned in Zhong's theory, yet this phenomenon is evident in the behaviour of the actors. The theory analyses that the regulations governing Europol and Frontex are distinctly characterized by a lack of clarity, allowing these agencies to "*explore, adapt, and adjust its strategies.*"<sup>98</sup> This leeway in their legal framework was intentionally designed to legitimize a certain degree of autonomy among the actors. This dynamic is not intended to encourage law violations but instead constitutes a deliberate institutional choice to allow agencies to coordinate according to their operational needs. Thus, the theory demonstrates that agents make strategic choices to enhance cooperation.

These observations are verifiable both at the OLAF and EPPO regulations level and through empirical data. The difference between this case study and the theory lies in OLAF's instrumental use of this autonomy. Based on personal observations, Expert B notes that OLAF must take responsibility for understanding certain aspects of the regulations. Indeed, the phrase "*without undue delay*" has been exploited by OLAF as a loophole to justify transmission delays. These delays were justified by the need to extend internal investigations or to determine better whether the EPPO had jurisdiction. At this stage of our study, we may

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<sup>96</sup> European Anti-Fraud Office, *OLAF Report 2023*, Rapport annuel (OLAF, 2024).

<sup>97</sup> Weyembergh et al., *The Inter-Agency Cooperation and Future Architecture of the EU Criminal Justice and Law Enforcement Area*.

<sup>98</sup> Zhong, 'A Principal-Agent Analysis of Inter-Agency Cooperation in EU Border Management'. p.5

consider that this loophole was not used to delay the transmission process, as noted by Professional B: “*What is the meaning of the term, without undue delay?*”<sup>99</sup> These transmission delays do not constitute regulation breaches, and one might think that these delays are not the result of a conscious strategy. However, this observation must nonetheless be put into perspective. The Commission official, who can be seen as more biased than Expert B and works for OLAF, states that the agency “*fully exploits*”<sup>100</sup> this loophole in an informed and deliberate manner.

This strategy is also evident in other regulatory gaps. Indeed, the primacy of criminal prosecutions is not fully explicit in the regulations. OLAF takes advantage of this absence to conduct investigations under the pretext of verifying the EPPO’s competence. This strategic use of loopholes is also applied in complementary investigations: if the EPPO remains silent regarding its intention to prosecute, OLAF may take over the investigation. This legal vacuum is allowed by the “*tacit approval*”<sup>101</sup> clause in Article 101 of the EPPO Regulation 2017/1939. This tacit approval leaves room for interpretation by the various parties.<sup>102</sup> OLAF’s strategic autonomy is enabled by the grey areas permitted by the law. While Zhong argues that these grey zones improve cooperation between agencies, OLAF uses this ambiguity strategically to serve its interests.

### 3.2.5 Conclusion

This first hypothesis invites a partial rebuttal of Zhong’s argument and calls into question the core of his theoretical framework. The lack of cooperation between OLAF and the EPPO does not stem from the absence of a legal framework. A formal framework does exist, complemented by a working arrangement. The legal ambiguities that create interpretative leeway tend to benefit OLAF in its actions as an independent actor. This initial reading of OLAF as a strategic agent leads us to scrutinize this interpretation further and deepen it.

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<sup>99</sup> Online interview with Expert C, OLAF, [Zoom], 1 April 2025.

<sup>100</sup> Peter Csonka, Official at the Commission on OLAF and EPPO cooperation, online interview with the author, [Teams], Part 2, 16 April 2025.

<sup>101</sup> Regulation (EU) 2017/1939, *op. cit.*

<sup>102</sup> Edjaharian-Kanaa, *The Relations Between the European Public Prosecutor’s Office and the European Anti-Fraud Office*

### 3.3 OLAF and the Cost-Benefit trade-off: Functional imperative

The hypothesis explored in this second part is as follows: if OLAF concludes that cooperation with the EPPO does not serve its interests in terms of a cost-benefit analysis, it will rationally limit its level of cooperation. This hypothesis will be examined through the lens of the cost-benefit approach conceptualised by Maillard, which is rooted in the definition of *homo economicus* within rational choice institutional theory. This theory posits that individuals are self-interested agents who consistently evaluate the costs and benefits of their actions to influence outcomes in their favour. The case study suggests that OLAF tends to act according to its institutional interests rather than the shared objective of protecting the European Union's financial interests. This line of reasoning will first be addressed by examining OLAF's preference for conducting complementary investigations (3.3.1), followed by an analysis of its internal result-oriented management logic from the *homo economicus* perspective (3.3.2). The hypothesis will then be nuanced considering mitigating factors (3.3.3). These elements will ultimately contribute to a final discussion assessing the validity of this second hypothesis (3.3.4).

#### 3.3.1 Efficiency over partnership

The conditions of cooperation between OLAF and the EPPO regarding investigative modalities are divided into two categories based on the respective legal frameworks of both bodies. On the one hand, OLAF may provide support functions upon request from the EPPO in criminal investigations, primarily by contributing evidence to a case led by the Prosecutor. On the other hand, OLAF may also conduct complementary investigations focused on the administrative aspects of a case. This distinction between criminal and administrative matters is fundamental and significantly shapes OLAF's approach to cooperation.

In the context of support investigations initiated by the EPPO, OLAF contributes its analytical and human resources. However, the outcomes of such support are ultimately absorbed into the EPPO's criminal procedure. As several professionals indicate, this creates an imbalance. Expert B notes that "*the results belong to the EPPO, not to OLAF.*" The administrative investigation agency thus "*invests time, financial and human resources without receiving the direct benefits.*"<sup>103</sup> Expert C corroborates this analysis, observing that the results of support investigations are "*not formally accounted for in OLAF's performance reports.*" This leads to a structural asymmetry in outcomes between the two bodies. If OLAF

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<sup>103</sup> Online interview with Expert B, who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

seeks to maximise its institutional output, it is interested in conducting more complementary rather than supportive investigations when cooperating with the EPPO.

This behaviour can be explained through the cost-benefit approach articulated by Maillard, according to whom “*man is a self-interested being, constantly pursuing his own advantage. All social action can thus be traced back to this fundamental motivation: individuals seeking to derive maximum benefit from any given situation.*”<sup>104</sup> (translated by the author) This rational choice institutionalist theory frames individuals as strategic actors concerned primarily with their gain. Applied to the OLAF–EPPO relationship, the theory helps explain OLAF’s greater investment in complementary investigations, as these allow the agency to increase its output and improve the substance of its annual reports. Experts B and C, both of whom have worked for OLAF, note that the agency consistently favours complementary investigations to “*retain ownership of the information collected*”<sup>105</sup> and to conduct “*its own administrative investigations,*”<sup>106</sup> which result in more recommendations and a higher number of recorded cases.<sup>107</sup>

OLAF’s reporting supports this assessment: in 2023, only four support investigations were conducted at the EPPO’s request, compared to 22 complementary investigations.<sup>108</sup> OLAF thus acts as a rational actor, weighing the costs and benefits of cooperation with the EPPO. Since complementary investigations yield greater organisational benefit, this becomes its preferred mode of cooperation, even if this comes at the expense of the shared goal of protecting the EU’s financial interests. This marked preference for complementary investigations reveals a broader logic of organisational utility.

To further explore this dynamic, it is essential to analyse how this logic plays out in the actual distribution of resources. While this first section has shown OLAF’s preference for complementary investigations, the next step is to examine the reasons behind this preference considering Maillard’s cost-benefit approach.

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<sup>104</sup> de Maillard and Kübler, *Analyser les Politiques Publiques [Analyzing Public Policies]*, Chapter 4, “Les approches par le choix rationnel” [“Rational Choice Approaches”], p. 109.

<sup>105</sup> Online interview with Expert B, who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

<sup>106</sup> Online interview with Expert C, OLAF, [Zoom], 2 April 2025.

<sup>107</sup> Edjaharian-Kanaa, *The Relations Between the European Public Prosecutor’s Office and the European Anti-Fraud Office*.

<sup>108</sup> European Anti-Fraud Office, *OLAF Report 2023*.

### 3.3.2 Limits of rational behavior

The internal logics of OLAF are no longer oriented towards the protection of the interests of the European Union; it is a strategic trade-off carried out by OLAF for its interest within an organisational utility of the results produced. The interviews corroborate this hypothesis indicating that OLAF corresponds to the definition given by de Maillard of *homo oeconomicus*. In a production-oriented logic, focused on quantifiable and visible outcomes, OLAF uses the cooperation mechanisms with the EPPO within a results-based management logic. The 2021 annual report even mentions a unit dedicated to activity measurement, allowing OLAF to maintain a certain control over the amount of its production.<sup>109</sup> De Maillard's definition of *homo oeconomicus* corresponds to the analysis of the empirical data collected. Indeed, this theory sets out four characteristics of *homo oeconomicus*.

First, the actor is selfish; “*the individual thinks first and foremost of himself.*”<sup>110</sup> (translated by the author) This corresponds to the fact that the agency focuses primarily on its interests, position vis-à-vis institutional actors, budget, and visibility.<sup>111</sup>

Secondly, the agent also tries to “*maximize his utility*”<sup>112</sup> (translated by the author): OLAF focuses on the personal benefits it will obtain; the cost of its cooperation must be profitable. The complementary investigations show the predominant interest in this type of investigation, as they allow it to receive the benefits.<sup>113</sup>

Thirdly, the theory implies calculated rationality: OLAF makes strategic choices between complementary and support investigations, but also in transmitting data to the EPPO, retaining some investigations longer than necessary.<sup>114</sup>

Finally, the last criterion defining this approach lies in the agent's capacity to understand the options available.<sup>115</sup> OLAF has an enlightened knowledge of the modes of investigation and transmission since they are present in its regulation. Moreover, the bilateral

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<sup>109</sup> OLAF, *OLAF Report 2021: Twenty-Second Report of the European Anti-Fraud Office from 1 January to 31 December 2021*, Annual Report (European Anti-Fraud Office, 2022).

<sup>110</sup> de Maillard and Kübler, *Analyser les Politiques Publiques [Analyzing Public Policies]*, Chapter 4, “Les approches par le choix rationnel” [“Rational Choice Approaches”], p. 110.

<sup>111</sup> Online interview with Expert B, [Teams], 1 April 2025.

<sup>112</sup> de Maillard and Kübler, *Analyser les Politiques Publiques*, p. 110.

<sup>113</sup> Online interview with Expert B, an expert who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

<sup>114</sup> de Maillard and Kübler, *Analyser les Politiques Publiques*, p. 111.

<sup>115</sup> de Maillard and Kübler, *Analyser les Politiques Publiques*, p. 111.

working arrangement was signed by both parties, rendering the knowledge of the different mechanisms complete.<sup>116</sup>

As de Maillard's approach indicates, OLAF behaves like the *homo oeconomicus* defined in the institutional approach of rational choice. However, this reading must be nuanced considering the limits of this rationality: "*humans are selfish beings*"<sup>117</sup> (translated by the author) but are also capable of error. The absence of cooperation is not only the result of a strategic decision. It is therefore essential to develop the limits of this approach so that this study is as complete as possible.

### 3.3.3 Challenges to OLAF's rational choice model

The rational choice theory and the approach used in this specific case, the *homo oeconomicus* of de Maillard, relate to the hypothesis raised regarding the implementation of organizational strategies by OLAF to optimize its benefits. However, conducting a more nuanced reading of this proclaimed selfishness is essential. A purely rational interpretation must consider secondary data demonstrating elements that may explain the lack of cooperation, whether structural or institutional, human conditions, that hinder a reading solely focused on the cost-benefit calculation. Expert C, a professional from OLAF, indicates that the absence of transmission of some instances results from individual judgments regarding the criminal qualification, which corresponds to the earlier analysis concerning the lack of knowledge among OLAF professionals about the criminal actions of the EPPO. However, the testimony of this professional must be considered in light of his internal position within the agency: his answers remained cautious throughout the interview, reflecting a desire to protect the institution. His testimony is subjective, and it should be noted that, after the interview, he stated that this study must be honest and reflect the objective reality of OLAF's position in this cooperation. This response suggests that he is aware of the difficulties in cooperation between OLAF and the EPPO. Moreover, this study tends to recall that cognitive or strategic biases are inherent in the analysis of interviews. Some caution is therefore exercised regarding the interviews with expert C, a professional from OLAF. Regarding the interview with expert A, it will not be used, as the professional did not wish to send the consent form. This study is thus conditioned by the prism of institutional rational choice theory, which assumes strategic behaviour by agents.

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<sup>116</sup> Peter Csonka, Commission Official on OLAF and EPPO Cooperation, online interview with the author, [Teams], Part 2, 16 April 2025.

<sup>117</sup> de Maillard and Kübler, *Analyser les Politiques Publiques*.

These elements allow us to understand that a cost-benefit response does not solely dictate OLAF's actions but must be nuanced considering the developed factors. It is now appropriate to conclude on the validity of the formulated hypothesis.

### 3.3.4 Conclusion

This second hypothesis supports the reasoning proposed by de Maillard and validates the application of the cost-benefit approach presented. The cooperation between OLAF and the EPPO is conditioned by a calculation of OLAF's interests, which effectively favours complementary investigations over support investigations, as they allow OLAF to increase the number of investigations conducted yearly. A unit within OLAF is dedicated to measuring the activities carried out by the agency. This finding directly influences the agency's annual reports. This rational behaviour fits within the logic of maximizing its benefits and thus its interest. However, this interpretation must be nuanced: empirical data reveal that this cost-benefit strategy is not the only explanation for this lack of cooperation. Indeed, these actions also stem from institutional constraints, human errors, and a lack of understanding of the EPPO's competences. The rationality of the perfect selfish agent is imperfect and invites further study.

## 3.4 *How to keep the spotlight? OLAF on a quest*

The hypothesis explored in this final section is as follows: **the more cooperation with the EPPO is perceived as a threat to institutional reputation and control over its domain, the less willing OLAF will be to cooperate.**

This hypothesis will be analysed through the lens of the reputational approach and the protection of the "*turf*", a concept developed by Busuic.<sup>118</sup> This approach, stemming from the institutional rational choice theory, suggests that agents facing the arrival of new actors adopt defensive strategies to preserve their "*reputational uniqueness*"<sup>119</sup> and their scope of action. This study operationalizes this approach to cooperation between OLAF and the EPPO, seeking to identify OLAF's behaviour and its identity and symbolic logics in its cooperation with the EPPO.

Accordingly, this analysis will be structured around four points. First, the threat that cooperation with the EPPO poses to OLAF's reputation will be examined (4.4.1). Then, the

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<sup>118</sup> Busuic, 'FRIEND OR FOE?', 2016.

<sup>119</sup> Busuic, 'FRIEND OR FOE?', 2016. P.42

study will seek to understand how statistical results impact this cooperation through behavioural changes on the part of the EPPO (4.4.2). Third, an interpretation of OLAF's resistance attempts in the face of its future as a secondary actor in the anti-fraud architecture will be discussed (4.4.3). Finally, before concluding with a general discussion of the various factors in this subsection, the study will examine the primacy of the EPPO and its impact on OLAF's reputation and territory (4.4.4).

### 3.4.1 Identity-driven rationality

This final hypothesis mobilizes the reputation and “*turf*” protection approach developed by Busiuc to analyse OLAF's lack of cooperation with the EPPO in greater detail. According to this approach, agents are driven by a logic of protecting their reputation and territory. Inter-agency cooperation is perceived as a threat, a risk, rather than a decisive mechanism for protecting the financial interests of the EU.<sup>120</sup> The agency's reputation must be defended to preserve its stature and unique identity, just as its territory constitutes its mandate and scope of action.

Comparing this approach with the empirical analysis conducted, a relative consensus emerges that OLAF views the EPPO as a rival, a direct threat to its reputation.<sup>121</sup> Many experts interviewed reveal OLAF's fear of being relegated to a subordinate role, such as an assistant to the EPPO. This phenomenon explains the minimal use of support investigations.<sup>122</sup> This type of cooperation is underused compared to complementary investigations<sup>123</sup> because support investigations do not produce official and visible results for OLAF; as such, it cannot claim the resolution of significant cases and does not attract institutions' attention through its work.

From this perspective, the choice of cooperation modes results from a strategy aimed at maintaining OLAF's institutional reputation. Engaging in cooperation would risk rendering OLAF invisible, something it cannot afford, as this could jeopardize the approval of European decision-makers and, in turn, crucial financial support. This cooperation would also threaten its existence as a central agent in the fight against fraud. If OLAF is not a profitable tool for the EU, it will be reduced, rearranged, or even disappear.

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<sup>120</sup> Busiuc, ‘FRIEND OR FOE?’, 2016.

<sup>121</sup> Online interview with Expert B, an expert who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

<sup>122</sup> Interview with Expert B, [Teams], 1 April 2025.

<sup>123</sup> Edjaharian-Kanaa, *The Relations Between the European Public Prosecutor's Office and the European Anti-Fraud Office*.

Busiuc's approach sheds light on the identity rationality shaping the relationship between OLAF and the EPPO. In other words, the theoretical approach distinguishes that OLAF is not opposed to cooperation with the EPPO; however, it will be less inclined to participate if such cooperation damages its reputation and identity. The preference for complementary investigations is understood because they allow OLAF to issue recommendations and maintain symbolic possession of the results of these investigations.

The reputational strategy analysed in the cooperation between OLAF and the EPPO expresses choices made in the support methods provided by OLAF to the EPPO; this strategy also manifests itself in the instruments and methodology of cooperation. Within this logic, the following analysis will be developed to understand how performance indicators become tools for legitimizing and defending OLAF's "turf".

### 3.4.2 Competition and efficiency: metrics as weapons

By comparing Busiuc's approach<sup>124</sup> with our case study, it can be affirmed that OLAF perceives the production of statistics as a crucial legitimization tool with other European institutions,<sup>125</sup> including the Commission and the European Parliament.<sup>126</sup> Applying the reputational approach to the efforts of European agencies to preserve their singularity and their ability to position themselves as the sole competent entities providing precise contributions reveals a reality far more complex than mere practical actions; this competition is embedded in political theories. OLAF's visibility and reputation primarily derive from the recommendations and actions undertaken to produce significant results. Empirical data from the interviews indicate that OLAF's strategy to maintain adequate results is to optimize its cooperation. This process is highlighted in OLAF's annual reports,<sup>127</sup> which present the number of closed cases, the amounts recommended for recovery, and the presumed financial impact, even though no public statistics exist on the actual sums recovered.<sup>128</sup> Criminal matters have always been highly publicized, thus solidifying the EPPO as a major actor. The EPPO quickly secured a prominent place in the EU's anti-fraud architecture because it handles high-impact cases. For example, the EPPO recently opened an investigation concerning a Commission official, Henrik Hololei,

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<sup>124</sup> Busiuc, 'FRIEND OR FOE?', 2016.

<sup>125</sup> Eager, Marcolin, et al., *EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face*.

<sup>126</sup> Busiuc, 'FRIEND OR FOE?', 2016.

<sup>127</sup> OLAF, *Annual Report 2023* (2023).

<sup>128</sup> OLAF, *Annual Report 2023* (2023).

suspected of direct corruption;<sup>129</sup> this case received broad media coverage both because of its importance and because of the EPPO's well-managed handling, which was once again praised for its quality work. This focus naturally diminishes OLAF's capacity to attract political and media attention, eroding its reputation on the European stage regarding the coexistence of OLAF and the EPPO. This shift of interest is also supported by a decrease in the European budget allocation to OLAF, a transfer of personnel to the EPPO, and repeated criticisms about the implementation rate of OLAF's recommendations, which is below 30% according to the Court of Auditors.<sup>130</sup> These statistics compromise OLAF's institutional position and transform cooperation tools into defensive and strategic defence instruments. The results of OLAF and the EPPO become, in a sense, a profitability competition between two agents protecting the same interests.

In this arena of power, OLAF defends its reputation in its need to fight against the rise of the EPPO, which has resulted in declines in results, staff, and budget cuts for OLAF. A shift of the EU anti-fraud architecture's focal point from OLAF toward the EPPO places the European jurisdiction as the primary actor. It pushes OLAF to respond with protective mechanisms.

### 3.4.3 Resisting erasure

The rise of the EPPO has reshaped the EU's anti-fraud architecture. The EPPO represents an unprecedented judicial body at the EU level. As a *sui generis* entity, it has become the EU's first judicial authority. Part of OLAF's staff was transferred to the EPPO for its creation. This institutional shift was a challenging experience for OLAF.<sup>131</sup> It lost part of its human resources, and with the establishment of the EPPO itself, it now has to share the budget allocated to anti-fraud agencies with an additional actor, the EPPO.<sup>132</sup> According to a study conducted by the CONT Committee of the European Parliament, OLAF has only seen a very modest increase in its staff numbers and allocated budget annually. Between 2022 and 2023, OLAF's budget increased by only €1.9 million, while its number of employees decreased by nine compared to 2022.<sup>133</sup>

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<sup>129</sup>Zarzalejos and Kovesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*.

<sup>130</sup>Eager, Marcolin, et al., *EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face*.

<sup>131</sup>Online interview with Expert C, OLAF, [Zoom], 2 April 2025.

<sup>132</sup>OLAF must now share this budget with a third party actor: AMLA.

<sup>133</sup>James Eager et al., *EU Anti-Fraud Architecture – the Role of EU-Level Players, How They Cooperate and the Challenges They Face* (2024).

In contrast, although the EPPO did not see an increase in staff numbers either, it received an additional €15 million in its budget compared to 2022.<sup>134</sup> With this loss of technical resources, OLAF adopted a strategy consistent with Busioc's definition of preserving its territory: maintaining an independent field of action to safeguard its distinctive role. This approach favours using complementary investigations so that OLAF retains a certain level of control, responding to the threat posed by the EPPO. OLAF also employs other mechanisms to protect itself from this threat: delaying the transmission of cases to the EPPO, as in the Qatar Gate case,<sup>135</sup> or the indirect exploitation of the so-called "*tacit approval*."<sup>136</sup> These actions reflect an identity preservation strategy. After over twenty years, OLAF resists being quietly erased; it seeks to be the central agency protecting the EU's financial interests.

The creation of this new body has disrupted OLAF's stability within the anti-fraud architecture and triggered an identity crisis for the agency. Its reactions reflect a struggle to maintain its central position in this framework rather than a wholesale rejection of this cooperation.

#### 3.4.4 Shift in hierarchies: EPPO's role

Article 101 of the Regulation on the EPPO<sup>137</sup> demonstrates the legal pre-eminence of criminal matters. This dominance marks an institutional shift for OLAF. Historically, it has played a crucial role in combating fraud against the EU budget. With the creation of the EPPO, OLAF was relegated to a supporting role in the EPPO's activities. According to Peter Csonka, an official at the European Commission, OLAF may have felt "*a bit redundant*"<sup>138</sup> in the face of an EPPO that "*monopolises*"<sup>139</sup> visibility and the prestige of resolving investigations. According to the regulations, criminal matters take precedence over administrative ones an observation confirmed by empirical data gathered through semi-structured interviews. This conclusion is supported by academic authors: "*it [the EPPO], in that it can initiate investigations and prosecutions on its own motion, its powers and*

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<sup>134</sup> Eager et al., *EU AFA Architecture, Annexe D : Institutional Fiches*.

<sup>135</sup> Taavi Eilat | ERR, 'Report Sheds More Light on Henrik Hololei's Qatar-Funded Luxury Trips', ERR, 21 November 2024, <https://news.err.ee/1609527781/report-sheds-more-light-on-henrik-hololei-s-qatar-funded-luxury-trips>.

<sup>136</sup> Regulation 2020/2223, op. cit.

<sup>137</sup> Regulation 2017/1939, op. cit.

<sup>138</sup> Peter Csonka, European Commission professional on OLAF and EPPO cooperation, online interview with the author, [Teams], Part 1, 4 April 2025.

<sup>139</sup> Peter Csonka, Professionnel de la Commission européenne sur la coopération OLAF et EPPO, entretien en ligne avec l'auteure, [teams], Partie 1, 04 avril 2025.

*autonomy are undeniably stronger than that of OLAF.*”<sup>140</sup> OLAF resorts to defensive mechanisms to protect its core identity, as its identity and political stability are being challenged. Going further, OLAF appears to be facing a true existential crisis. The interview guide used in this study revealed real concerns about OLAF’s continued existence, not only from EPPO professionals<sup>141</sup> but most notably from the Commission official, who openly questioned the agency’s future.<sup>142</sup> Moreover, while OLAF professionals did not directly express a fear of disappearance, the challenges identified pave the way toward a genuine questioning of OLAF’s added value within the EU’s anti-fraud architecture and for the EU more broadly.<sup>143</sup>

### 3.4.5 Conclusion

The analysis of this final hypothesis confirms that OLAF selectively engages in cooperation with the EPPO to protect its interests and preserve its reputation as a leader in safeguarding the EU’s financial interests. Busioc’s approach anticipates a purely rational behaviour, which is validated by the actions of the European Anti-Fraud Office. OLAF consciously assesses the degree of cooperation to maintain cordial relations while safeguarding its institutional standing. The primacy of criminal matters has shifted the centre of gravity within the anti-fraud architecture, triggering an identity crisis for OLAF. Passive resistance strategies such as delays in the transmission of evidence and cases, or the predominant use of complementary investigations indicate a strategy aimed at defending its turf at all costs, rather than a lack of willingness to cooperate. In short, the lack of cooperation appears more as a strategic effort to protect its reputation and territory than a refusal to engage.

## 3.5 Conclusion: OLAF between cooperation and self-preservation

This chapter was dedicated to analysing empirical data regarding OLAF’s cooperation with the EPPO, to test the three hypotheses put forward in this thesis. The primary documentary analysis partially anticipated the results observed, although that initial review did not yet reveal the full extent of the lack of cooperation. While cooperation has

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<sup>140</sup> Thinus and Dermine, ‘Financial Oversight’.

<sup>141</sup> Online interview with Expert B, an expert who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

<sup>142</sup> Peter Csonka, European Commission professional on OLAF and EPPO cooperation, online interview with the author, [Teams], Part 1, 4 April 2025.

<sup>143</sup> Weyembergh and Brière, *The Future Cooperation between OLAF and the European Public Prosecutor’s Office* (2021).

been legally framed and politically encouraged, it remains strategically conditioned. Contrary to the optimistic views expressed in part of the literature, such as by Doctor of Law Békés<sup>144</sup> or by Bellacosa and Maurizia de Bellis,<sup>145</sup> the empirical data point toward logics of interest, visibility, and institutional positioning.

Substantively, what is at stake is not a categorical refusal to cooperate, but rather a set of rational choices made to protect the entity itself from the consequences of the creation of the EPPO. The EPPO's rise, driven by its strong judicial powers and the broad support of the European Parliament<sup>146</sup>, European Commission and other institutions, is accompanied by significant budgetary resources and extensive political and media visibility throughout the EU and beyond for the criminal cases it handles. This dynamic exacerbates an identity crisis within OLAF. In response, OLAF fiercely defends its interests, reputation, and turf not by rejecting cooperation outright, but by introducing interpretative reservations.

In sum, this research demonstrates that the collaboration between the two agencies, initially portrayed as self-evident and indispensable by many authors,<sup>147</sup> is governed by complex interinstitutional dynamics that have been underestimated. It is not failing due to a lack of structure, but because it is evolving into a bargaining space between two actors with divergent rationalities and aspirations.

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<sup>144</sup> Gergely Békés, 'Critical Thoughts on the Future Cooperation EPPO and Its Partners in Light of the Recently Adopted Regulation'.

<sup>145</sup> De Bellis and Bellacosa, 'The Protection of the EU Financial Interests between Administrative and Criminal Tools'.

<sup>146</sup> Zarzalejos and Kovési, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*.

<sup>147</sup> Grozdev and Dianese, 'Criminal and Administrative Procedures in Protecting the Financial Interests of the EU, EPPO and OLAF - Cooperation by Design'.

## 4 Conclusions

This study reveals that a more ambivalent strategic reality complicates this cooperation despite a formal legal basis for cooperation between OLAF and the EPPO. The three hypotheses examined in this thesis shed light on OLAF's underlying motivations, not as a failing entity but as a rational and strategic actor seeking to preserve its identity within a shifting institutional environment. It is now appropriate to conclude the findings of these hypotheses.

The empirical results did not support the first hypothesis, which suggested that the lack of cooperation stemmed from a legal vacuum regulating the relationship between the two agencies. Regulation 2017/1939<sup>148</sup> on the EPPO and Regulation 2020/2223<sup>149</sup> on OLAF provide a sufficiently robust legal framework that meets the criteria outlined in Zhong's multi-agent approach.<sup>150</sup> The bilateral working arrangement further strengthens this legal basis. Moreover, as noted by the European Commission official interviewed for this thesis, Peter Csonka, the current legal framework constitutes “*the bible*”<sup>151</sup> for proper cooperation between the two entities. Therefore, the theory linking the lack of cooperation to the absence of a legal foundation is unfounded. However, the existence of grey areas has created avenues for strategic interpretation, which OLAF exploits to maintain de facto independence in selecting the modalities of cooperation with the EPPO.<sup>152</sup>

The second hypothesis was based on Maillard's cost-benefit approach, which posits that individuals behave selfishly, primarily considering their interests and constantly weighing perceived benefits against incurred costs.<sup>153</sup> Based on the empirical data collected, this hypothesis is confirmed: OLAF, likened to a human actor, behaves like the author's *homo aeconomicus*, assessing each form of cooperation through the lens of its organisational interests. This strategy leads it to favour complementary investigations, more visible and quantifiable in OLAF's reported outcomes, over support investigations, which bring no tangible benefits to OLAF. Support cases have no impact on OLAF's individual statistics or

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<sup>148</sup> Regulation 2017/1939, op. cit.

<sup>149</sup> Regulation 2020/2223, op. cit.

<sup>150</sup> Zhong, ‘A Principal-Agent Analysis of Inter-Agency Cooperation in EU Border Management’.

<sup>151</sup> Peter Csonka, Professionnel de la Commission européenne sur la coopération OLAF et EPPO, entretien en ligne avec l'auteur, [teams], Partie 1, 04 avril 2025.

<sup>152</sup> Peter Csonka, European Commission professional on OLAF and EPPO cooperation, online interview with the author, [Teams], Part 1, 4 April 2025.

<sup>153</sup> de Maillard and Kübler, *Analyzing Public Policies*, chap. 4.

institutional visibility. As highlighted in several interviews,<sup>154</sup><sup>155</sup> these strategic choices do not stem from a lack of regard for the EPPO but from deliberate, calculated decision-making. OLAF prefers to engage in cooperation where the symbolic benefit is highest.

Finally, the third hypothesis is confirmed by OLAF's rational choice in its cooperation with the EPPO. Busiuc's reputation and territory-based approach<sup>156</sup> allows OLAF's resistance to be viewed not as a dysfunction but as a defensive reaction to perceived marginalisation. The EPPO's rise has disrupted the pre-existing institutional balance, triggering an identity crisis for OLAF. It has been relegated to a secondary role in protecting the EU's financial interests.<sup>157</sup> This shift away from OLAF's centrality has fostered a "*territorial protection*" strategy to preserve its spheres of action, defend its own investigative initiatives, and avoid hierarchical subordination. Ultimately, the lack of cooperation stems from OLAF's rational decision to minimise engagement and safeguard its vulnerable institutional position.

To conclude, the first hypothesis has been invalidated, unlike the other two, which both share the same ultimate aim: understanding why OLAF does not cooperate. This objective has been successfully achieved. However, certain limitations were observed.

From an empirical perspective, the study is primarily based on semi-structured interviews with participants involved in the cooperation between OLAF and the EPPO. While these interviews provided detailed and often critical insights, the limited number of participants and the confidentiality constraints imposed on EU officials somewhat hindered expressing more polarised views or revelations of internal tensions. Some statements may have been shaped by institutional guidelines or influenced by personal biases.

Furthermore, the academic literature on this subject remains limited. Most of the sources consulted were written before the cooperation was implemented and therefore approach the topic hypothetically, rather than offering informed and evidence-based analysis. This has constituted an additional limitation in the development of this study.

From a methodological standpoint, the absence of quantitative data concerning the actual exchanges between OLAF and the EPPO regarding transferred cases means that the

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<sup>154</sup> Online interview with Expert B, an expert who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

<sup>155</sup> Online interview with Expert C, OLAF, [Zoom], 2 April 2025.

<sup>156</sup> Busiuc, 'FRIEND OR FOE?', 2016.

<sup>157</sup> Online interview with Expert B, an expert who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

figure cited by the Head of the EPPO during the Parliamentary conference could not be verified.<sup>158</sup> Therefore, the analysis relies primarily on subjective impressions and institutional reports. The lack of theoretical frameworks on inter-agency cooperation also posed a challenge: it was difficult to find theories that fully corresponded to the approach of this thesis. Although the selected theories appear suitable to shed light on cooperation dynamics, they frame the issue from a particular perspective and omit certain elements explaining the lack of cooperation. For example, during the interviews,<sup>159</sup> my attention was drawn to the influence of the Commission regarding investigations transmitted by OLAF to the EPPO.<sup>160</sup> Few professionals didn't wish to address this question, as it would disrupt a certain balance. This thesis could not tackle this reality due to the research question, the hypotheses formulated, and the theoretical frameworks employed. This question therefore remains open.

These reservations do not diminish the impact of this study, which has highlighted a pressing issue.<sup>161</sup> This situation calls for more ambitious institutional clarification. The white paper announced by the European Commission official Peter Csonka, scheduled for this summer, aims to develop the *“key guiding principles for the new Multiannual Financial Framework concerning the antifraud system.”*<sup>162</sup> It will also provide an opportunity to reflect on OLAF's future within this architecture, especially considering the creation of the AMLA. OLAF will be rethought within this framework. What is certain is that OLAF's future will involve significant changes: it will need to move beyond its current strategic logic and either consolidate its position or accept becoming an operational branch of the EPPO.

*“The organization of the relationship between the EPPO and OLAF, because it is necessary, will undoubtedly give rise to further normative developments to ensure the optimal protection of the European Union's financial interests. Let us hope for a*

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<sup>158</sup> Zarzalejos and Kovesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*.

<sup>159</sup> Online interview with Expert B, an expert who worked at OLAF and then at the EPPO, [Teams], 1 April 2025.

<sup>160</sup> Zarzalejos and Kovesi, *Transcript of the Conference LIBE AND CONT Committee with the Chief of the European Public Prosecutor's Office for the Annual Activity Report 2024*.

<sup>161</sup> Peter Csonka, European Commission official on OLAF and EPPO cooperation, online interview with the author, [Teams], Part 2, 16 April 2025.

<sup>162</sup> Peter Csonka, European Commission official on OLAF and EPPO cooperation, online interview with the author, [Teams], Part 2, 16 April 2025.

*constructive process so that the EPPO-OLAF partnership functions smoothly and intelligently”.*<sup>163</sup> (translated by the author)

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<sup>163</sup> Edjaharian-Kanaa, *The Relations Between the European Public Prosecutor’s Office and the European Anti-Fraud Office*.

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## **ANNEXE(S)**

## 5 Interviews' overview

N°	Name	Organisation & Category	Date	Duration	Reference
1	Laura Schmeer	Doctor in Political and social Sciences, specialized in the EPPO	26/03/25	1h14	Laura Schmeer, Doctor in Political and Social Sciences
	Anonymous	Anonymous	26/03/25	1h10	Not referenced due to absence of consent form
2	Anonymous	Professional who has worked at OLAF and then at EPPO	01/04/25	1h35	Expert B who has worked at OLAF and then at the EPPO
3	Anonymous	Professional at OLAF	02/04/25	53min	Expert C, OLAF professional
4	Peter Csonka	European Commission official	04/04/25	40min	Peter Csonka, European Commission Official, Part 1
5	Peter Csonka	European Commission official	16/04/25	35min	Peter Csonka, European Commission Official, Part 2

Table 2 Interview Inventory Table



## 6 Transcript of the CONT and LIBE Committee Conference on March 19, 2025, Regarding the 2024 Annual Report of the European Public Prosecutor's Office, with the Presence of EPPO Chief Laura Codruta Kövesi<sup>164</sup>

Our workload has increased and will continue, and EU citizens must trust justice and feel safe. That puts heavy injustice, and they feel secure. This puts a heavy responsibility on us. Last year, I explained how the EPPO ended up fighting organized crime groups. We do it together with national authorities and Europol, shoulder, shoulder to shoulder. Recently I met with the Italian anti-Mafia on counter terrorist prosecutor Mr. Giovanni Melillo. We agree that we must bring our cooperation to a higher level. There is too much at stake for the security of our citizens, not only in Italy, all around Europe. We all need to understand this. I know when you hear EPPO. You think you are fraud, you think about corruption, public procurement about The Recovery and Resilience Facility funds agricultural funds. Perhaps carousel fraud. You do not think about grenade powder, machine guns or terrorists. The organized crime groups, we are fighting, do not just defraud the EU budget, our investigations we found evidence of machine guns delivered to gangs that are killing on European streets. We have found evidence of shipments of grenade powder. We came across money laundering channels also. It used to finance terrorism. We are not competent for this, and we do not want to become competent for this, but we must share these findings with our partners. This said, we are competent for VAT fraud. Do you think it is a gentle criminal, very powerful criminal organizations have been investing massive amounts of money into VAT fraud.

- 1<sup>st</sup> : because it is super profitable on its own.
- Second, because it allows too simultaneously. Counter the proceeds from their other crimes.

And now there are consequences. We have wiretaps of very nasty people planning borders because of fraud, just like they would do it for drugs. People get beaten up; children are put in danger. There are shootings to control warehouses, or these warehouses go up in fire. In the middle of our towns. With each of our new investigations, more and more police officers and prosecutors in Europe realize that EPPO is a formidable weapon against the most sophisticated criminal organizations. I can assure you that these criminals already got the message. They threw the consequences and started to shift their activities.

This is why the accession of Sweden and Poland was so important. There are still some Member States missing and I hope they will join as soon as possible. Ladies and gentlemen. If I could only one wish to make our streets safer, to show our citizens they can trust justice. What would it be? I would wish all the European institutions to see the bigger picture. You cannot protect EU budget better if you do not focus on organized crime groups. I have been preaching for the EPPO Trinity for a while already. Reinforced EPPO reinforces the member states' support of the EPPO and reinforces Europol.

To be honest, based on the results of our work, I think that we achieve EPPO deserve also a second wish, extending our competence to the circumvention of EU sanctions. We are not a **power-hungry supranational institution somewhere in Luxembourg**. We are the first transnational prosecution office with the unique structure we have. This is in all the participating Member States. We are on the

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<sup>164</sup> Manual transcription completed.

ground in the first line of the fight against cross-border financial criminality. If we want EU sanctions to have a strong bite, extending our competency an asset.

#### **QUESTION AND ANSWERS:**

EPP coordinator for LIBE committee:

The presentation not only of the work, which I really salute here, the work of the airport. Also, of course, the way of presenting the task ahead of us, and you rightly said that indeed, and the recent doctor report yesterday also underlined that by Europol. The report by Europol yesterday underlined that again, organized crime is indeed one of the most threatening. Security situations we face within the European Union being even ever more violent than before, using ever more also legal ways of business to conduct their illegal business.

Having for that, you also touched upon shortly on the question of coordination and cooperation with the institutions we do already attend and maybe let me concretely ask about

- The planning knowing that it's further restraining the resources both personally and financially so say with Amla as they follow the money. Principle here and, of course, also the ways of better probably improving cooperation with Europe, but also with Eurojust where, where possible so that we can really live up to what you said at the very beginning that the European citizens feel safe also via the justice system.
- What would you like for analytical tools that you don't have at hand right now and, of course, the overall question, do you need something more in the mandate actually to do your job better than you're already doing?

#### **MEP Vice-chair for CONT committee:**

I'd like to begin by referring to the meeting that you had with the National International Terrorism Prosecutor lately that you mentioned that you talked about.

Used in cooperation between them and the EPPO and then in Commissioner Bruno's letter, it talks about increasing the fight against organized crime. I mean, we have a framework decision 841/2008, so that's what that relates to.

- Do you think that experiences such as those of the anti-mafia prosecutor, so a centralized organization to hold investigations on the mafia and organized crime and centralize all the local investigations?
- Is that a good model that could be brought to the European level with a view to a review of European rules?
- regarding the issue of cooperation again and you mentioned the link between financial crimes and more serious criminal acts. I would like to ask
- How we can further boost cooperation between Europol and EPPO, make Internet making more structural in nature, and also ensure that the information that you gather in your investigations can be effectively and appropriately used by the competent national authorities.
- How can we in the European Parliament provide further help to the excellent work that the European Prosecutor is doing in protecting Europe's financial interests and also protecting our citizens from serious crime.

#### **MEP LIBE committee:**

The European Parliament has once again been shaken by a corruption scandal, the Huawei affair, and we know that corruption continues to be very present within European institutions and also within Member States and we in trilogue phase tried a directive against corruption, which will enable us to move forward and make progress on the matter.

- the role of the EPPO in fighting these corruption cases, I mean, we have ethics bodies in the EP, and there's also something in member states as well, preventive bodies, but we need a strong judicial, independent body such as the one that you represent to fight corruption.
- Do you think that we should extend the remit of the EPPO to cover these kinds of crimes? We're often told that it would cost money, and that it would be a problem to extend your remit; what do you think about that?
- Have you already budgeted for how much it would cost to extend your remit to fighting corruption and also to fighting circumvention of European sanctions
- How do you see your cooperation with OLAF?

**MEP CONT committee:**

We know that Romania is very active when it comes to the suspect's abusive use of TikTok, now I'm saying that because last year in your presentation you talked about Pfizer gate, asked a question on it and you said that it's a complex file and they were looking at it. But results from another scandal emerged at the beginning of the year. It's the column to Commission which other column to raise the issues that green NGO's were used by the commission to get the unacceptable accepted when it came to the green deal.

**Our delegation sent you a letter and it remained unanswered. So, we are ultimately asking ourselves the question:**

- Is there not a double standard where you investigate at the other end of the EU, while organized crime is happening in our streets?
- Are you under pressure from the Commission?
- Are there indeed more investigations to be conducted in your files than others? All these scandals tarnish our citizens' trust, and you indeed have this heavy task of investigating and also responding to us.

**MEP CONT committee:**

Most professionals, including within your own services, are reluctant or hesitant to launch judicial investigations based on OLAF because these working methods are not reliable, do not provide guarantees of the rights of the defence, and are sometimes instrumentalized for political purposes. We see, for example, how an OLAF report is used in France to prevent Marine Le Pen from being a presidential candidate. There are other examples of OLAF being instrumentalized by the Commission, which makes cooperation between your services and other judicial services of the EU problematic for conducting investigations to defend the EU's financial interests.

- What do you propose to avoid such political drift in the future?
- Should OLAF be placed under your authority instead of leaving OLAF under the aegis of the European Commission?
- What are your cooperation priorities with other agencies like Europol, Eurojust, or even AMLA?
- In terms of the field of investigation, what is your vision on priorities, the areas on which it is important to focus investigations? No investigation into the financing by the C of Islamist organizations.

## **MEP LIBE committee:**

No recall by the Chief Prosecutor of the corruption scandals taking place in Brussels

- The Qatar gate concerning Henrik, no indictment has yet been pronounced, an investigation is underway targeting a Commission official, how is this investigation progressing?
- Have you heard about this case through a press report rather than an OLAF report? How can we understand that, regardless of the evidence collected, this official continues to work for the C.
- In the Didier Reynders money laundering case, was the EPPO informed by the Belgian services of an investigation?
- Pfizer gate, where are these investigations?
- The annual report mentions fabulous developments concerning Chinese interference, yet a few days ago the Huawei scandal broke out, do you have any information about this?

## **GENERAL RESPONSE FROM THE PROSECUTOR:**

Regarding cooperation with other agencies, bodies, and institutions

- AMLA: awaiting the operationalization of this agency which would allow the fight against money laundering, an MEP has been designated and will be an observer in this agency.
- Europol is the strategic partner at the European level, having excellent cooperation with the Prosecutor's services. Only 4 investigations: 1000 terabytes of information, not possible to analyse everything (neither EPPO nor Europol), so this information must be distributed among the Member States, during investigations the EPPO obtains other information not related to the basic competencies (drug trafficking, terrorism, etc.), this information is sent to national authorities. This is not always possible due to a lack of resources to evaluate this information. If we want to improve the situation of the EPPO, a revision of the EPPO regulation is necessary, strengthen EPPO and provide Europol with additional analytical capacity allowing it to analyse all the information and help the EPPO in its task. The EPPO needs the support of the Member States with secondments of competent police officers.
- Eurojust: very good especially concerning third countries, some third countries do not wish to cooperate with the EPPO (China, Turkey, Emirates). As for analytical tools, AI, it's a challenge how to use these tools when we have to reduce resources dedicated to operations to distribute computers to all the EPPO's Member States. Regarding the experience of the anti-mafia prosecutor: contact with the EPPO, the objective being to strengthen the fight against organized crime.
- Cooperation MS/EPPO: Having police officers is essential, they would be dedicated to the EPPO's missions and could easily proceed to information sharing, we also need customs, tax experts. The challenge being VAT fraud. Commission report from 2021, the EU represents a market of €30 billion for drugs, for VAT = €50 billion. More and more criminal groups use violence to take control of the market, companies, and carousel fraud. The EP has helped the EPPO in budgetary terms, each year thanks to certain amendments the EPPO benefits from additional resources, the time is soon coming to debate the next multiannual framework and the EP will be able to play its role in the additional resources received by the EPPO.
- Cooperation with OLAF: Returning to statistics, the EPPO has 0.7% of reports received this year, it's less than last year. Cooperation with OLAF is modest, OLAF should increase the reporting and detection of VAT fraud, work is underway and this can be done on OLAF's side.

Regarding the sending of cases to the EPPO, OLAF did not inform the EPPO in the Qatar gate case, in the Henrik Hololei case, OLAF did not inform the EPPO, this error is not the first time. This is a worrying situation because the Chief Prosecutor notes that in some cases information is not transmitted, everyone is supposed to respect the law and the regulation is clear, in case of fraud, the case must be mentioned and transmitted. The EPPO can therefore, in this case, launch an investigation only based on what the EPPO has learned in the media. Regarding the Huawei scandal: the EPPO has jurisdiction to investigate in the context of corruption offenses when there is a threat to the EU's financial interests, the Belgian authorities are in contact with the Prosecutor's Office, the investigation is ongoing in Belgium. The directive of the Prosecutor and the new anti-corruption directive, this new directive and any improvement of the legal framework in the fight against corruption is ideal. The EPPO requires that the new anti-corruption directive does not negatively impact the EPPO's competencies. The text proposed by the Commission would increase the risks of litigation in terms of competencies. [She hopes that the EP can do something] Regarding the extension of the EPPO's competencies concerning EU officials, the decision should be taken, if necessary, by the EP, the citizen does not understand why it is the Belgian Prosecutors who work on cases concerning European officials. This could be an interesting extension of the Prosecutor's competencies; however, priority should be given to the competency concerning the circumvention of EU sanctions.

#### **Regarding more specific investigations:**

- Pfizer gate: ongoing investigation, very long because there are international ramifications, third countries, the prosecutor must respect the steps of the procedure. The prosecutor has heard witnesses, administrative officials, the EPPO is doing its job in compliance with procedures. The EPPO has not received pressure from the Commission to end this investigation because the prosecutor is independent.

#### **QUESTION AND ANSWERS:**

##### **MEP CONT committee:**

Very supportive of the EPPO. The report demonstrates the scale of the challenges to be overcome. Investigations are increasingly complex. The levels of cooperation with the Member States are very variable. These difficulties lead to a reflection:

- How to make the fight against corruption more effective?
- What means to make the fight against fraud more effective?
- EU anti-fraud architecture? perhaps rethink this by adding the fight against organized crime?
- VAT fraud represents 50% of the damage detected by the EPPO due to criminal networks, what are the most urgent mechanisms to be put in place to better fight against VAT fraud?
- What are the most urgent adjustments to be made to the prosecutor's regulation?

##### **MEP LIBE committee:**

In favor of the EPPO and cooperation, notably from the Commission for the effectiveness of the prosecutor.

- Is there an evolution of the Member States vis-à-vis the EPPO concerning recent news (increase in violence linked to drug trafficking, organized crimes)?
- What can be done on the EP side to strengthen cooperation with the prosecutor, the next deadline being the MFF
- On the OLAF side, it is quite incredible in the face of multiplying cases of deputies/former deputies suspected of having abused allowances, incredible to know that less than 1% of cases are reported to the EPPO, this should challenge us concerning the effectiveness of the mechanisms put in place at the level of the institutions, we must in the EP be irreproachable by strengthening the rules notably because of the Qatar gate.
- Growing concern: VAT fraud linked to the explosion of e-commerce, the means are insufficient at the level of surveillance means, the EP is working on the reform of the customs code, has a report on e-commerce in which we must strengthen the EPPO's competencies, do you have recommendations on this subject
- How do you see the evolution of the EPPO, what are your recommendations regarding the successor of Mrs. Kovesi?

**MEP:** Very impressive result announced, €1 invested in the EPPO yields €2 in return concerning resolved investigations.

- You have pointed out that OLAF does not respect the legislation, OLAF does not transmit the cases that the legislation obliges it to transmit, is this something that the EPPO can resolve by its own means, or should the EP intervene?
- It seems strange to me that an EU anti-corruption body ignores the legislation, it's not an accident from time to time, it's a systemic problem, what should we do?
- Is the result excellent or do you only pursue cases when they have a chance to succeed?

**MEP:** Regarding the Greek railway accident, it was flammable liquids that caused the explosion. The loads were illegal

- Will you investigate this case?

**MEP CONT committee:** Most of the EPPO's fraud cases are related to VAT. Difficulty of cooperation with the Member States,

- new directive concerning digital VAT. There should be a platform under the aegis of the prosecutor in collaboration with OLAF to collect all data related to VAT-subjected transactions,
- What are the shortcomings to be filled by the EPPO to better tackle VAT fraud?

#### **GENERAL RESPONSE FROM THE PROSECUTOR:**

How to improve the anti-fraud architecture? The AFA is a vast subject: fraud being a crime, it depends on. Fighting VAT fraud is answering how to fight organized crime: analytical capacity at the prosecutor, liaison officers in the Member States. What are the most urgent measures:

- The revision of the legislation, the Commission had established a study 2 years ago, but the C is preparing a new study. This is, according to Kovesi, a waste of time, the moment requires modifying the legislation. Example: Eurofisc and EPPO have worked together so that Eurofisc transmits information to the prosecutor (some Member States do not have a legal basis for this

transmission but the majority say there is one.). Regulation 904 must be modified, nothing is happening.