



EUROPEAN  
PUBLIC  
PROSECUTOR'S  
OFFICE

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**The EPPO: a new EU judicial institution?**

*Check Against Delivery*  
*Seul le texte prononcé fait foi*  
*Es gilt das gesprochene Wort*

Ladies and Gentlemen,

Thank you for your invitation to the Bridge Forum Dialogue. It is a great honour to be able to address such distinguished guests. And also to speak on behalf of the youngest of European institutions: the European Public Prosecutor's Office.

We are the Prosecution office of the EU.

We investigate, prosecute and bring to judgment the perpetrators of criminal offences affecting the financial interests of the Union.

We cannot choose on which suspicion to act. If it appears solid enough under the applicable national criminal law, we must act.

We also must seek all relevant evidence: both inculpatory and exculpatory.

We can use all the investigation measures that are available to national prosecutors. For example, we can intercept electronic communications; obtain the production of any object or document we deem relevant; search any premises, private homes, personal property...

With such a power to affect the fundamental rights of EU citizens, comes the obligation to abide by very strict criminal procedural rules.

Journalists sometimes ask me, what surprised me the most in this job.

I have been a prosecutor my entire professional life. The things that I have seen and heard in my career! I can assure you that there is enough material for an entertaining TV show.

Honestly, the first thing that surprised me as I became European Chief Prosecutor was that something still surprises me.

Let me start with a quote from a recent letter of a high civil servant of the European Commission:

“[...] the Commission notes that, contrary to the institutions and bodies financed from Heading 7, *decentralised agencies* – such as the EPPO – can be allocated additional staff, when entrusted with new additional tasks by the co-legislators.”

The fact that the Commission understands the EPPO as a “decentralised agency” surprised me.

Not only because it is inaccurate. It takes two seconds to read Article 3 paragraph 1 of our founding regulation:

“The EPPO is hereby established as a body of the Union.”

I repeat: a “body of the Union”. Like the European External Action Service, the European Investment Bank, or the European Data Protection Supervisor, to list just a few. Not a “decentralised agency”.

It surprised me because it shows a manifest lack of understanding of what the EPPO is supposed to be, displayed by an institution

entrusted with an important role in protecting the rule of law in the EU.

Decentralized agencies are under the responsibility and thus control of the EU executive power.

It is logical: decentralized agencies implement what the European Commission conceives. They implement Union policies, allowing the European Commission to concentrate on “policy making”.

First of all: the protection of the financial interests of the EU by means of criminal law is not a policy of the EU. It is an obligation under the Treaty.

Secondly, the administration of justice is not a policy of the EU, for which the Commission would bear political responsibility.

Above all: the EPPO is supposed to be independent.

It is written in Article 6 paragraph 1 of our founding regulation:

“The EPPO shall be independent. [...] Member States of the European Union and the institutions, bodies, offices and agencies of the Union shall respect the independence of the EPPO and shall not seek to influence it in the exercise of its tasks.”

If the EPPO was a decentralized agency, by definition, it could not be independent from the European Commission.

It is very important to understand this: our independence does not lie in the legal provision stating that everyone must refrain from

interfering with our operational activity. We are not a new version of the EU Antifraud-office - a directorate general of the Commission with administrative investigative powers.

Our independence lies in the constitutional principle of the separation of powers.

As far as I am concerned, there is no question mark: the EPPO is a judicial institution. Together with the European Court of Justice, we represent the justice pillar of the European Union.

If a different interpretation were possible, we would have a real issue with rule of law in the EU.

The EPPO plays a key role in defending the rule of law in the EU.

Let me illustrate this with an example.

Whenever the EPPO is competent, national authorities have a legal obligation to stand down and let the EPPO do its work.

Obviously, if in one Member State we do not have European Delegated Prosecutors, our ability to work on cases in this Member State is seriously affected. Moreover, our efficiency in cross-border investigations involving that Member State is also seriously affected.

In 2021, the Slovenian government was delaying the appointment of the first two European Delegated Prosecutors in Slovenia.

Concretely: the Slovenian government had created a prosecution gap in the EPPO zone. As a result, the level of protection of the financial interests of the EU decreased drastically.

Whoever does not allow the EPPO to fulfil its duties effectively is creating a situation, which affects the whole EPPO zone, with potentially serious consequences at EU level.

I am convinced that if not lifted, the Slovenian blockade would have become a matter to address under the regulation on a General regime of conditionality for the protection of the Union budget.

Moreover, the Slovenian government was in breach of its general duty to cooperate with the EPPO also according to article 63 of the Financial regulation. Without European Delegated Prosecutors, the detected fraudulent irregularities could not be effectively followed up by judicial means.

This directly undermined the legality and regularity of the expenditures of the European budget in Slovenia. If the blockade would have persisted, which European Commissioner could have taken the responsibility for continuing to provide EU funding to anyone in Slovenia?

The EPPO constitutes a systemic part of the overall architecture put in place by the EU to protect its financial interests.

Consequently, if the EPPO cannot effectively exercise its competence, the EU budget cannot be considered as adequately protected.

To tell you the truth, I am not sure that all our relevant counterparts have fully grasped the implications of this yet.

I agree with you, all this sounds very technical.

When it comes to the rule of law, I prefer to highlight EPPO's role on a more fundamental level.

Democracy can exist only where no one is above the law.

EPPO is here to prove that the law is equal for everyone.

It is in this context, for example, that we interpret the Protocol on the privileges and immunities of the European Union.

Officials and other servants of the EU are granted immunity from legal proceedings. This immunity is not absolute. It is granted in respect of acts performed by them in their official capacity. And solely in the interest of avoiding any interference with the functioning and independence of the European Union.

Each institution of the Union is required to waive such immunity upon request of the EPPO. Unless it considers it contrary to the interests of the Union.

The key question is the margin of appreciation of any EU institution when it comes to what constitutes the interest of the Union in such a situation.

I think that this margin is extremely limited: how could the lifting of immunity requested by the EPPO affect the functioning and independence of the EU?

I cannot imagine any scenario in which an investigation by the Prosecution office of the EU could have such an effect.

In fact, EPPO's institutional independence is the strongest possible guarantee that the interest of the Union is safeguarded, no matter who is the object of any of its investigations.

Ladies and Gentlemen,

We are a European institution, but we are embedded in the national justice systems of the participating Member States. The EPPO counts 151 European delegated prosecutors located in 42 offices.

The European Delegated Prosecutors investigate and prosecute according to national criminal laws and national procedural criminal laws. They bring their cases to judgement before national courts.

We have access to more information than any national prosecution office.

Compared to traditional cross-border coordination methods, we are much faster. Obtaining information or evidence from another country



usually takes a long time. Even with speedy mutual legal assistance within the EU, you do not always get the answer you need, when you need it. In the EPPO zone, a simple phone call or an instruction in our case management system is enough.

No Member State alone, nor any EU agency can achieve such unity of purpose and combine so many forces.

This unique combination of decentralised and central capacities, and synergies created between the law enforcement authorities of the Member States, allow us to investigate all the ramifications of a cross-border case. At last, we have the possibility to see the whole picture, and to take out entire criminal organisations. We are the first transnational Prosecution office.

Let me give you an example of what this means in practice. Take our largest investigation code-named Admiral.

It all started in Portugal, with a report from a local tax authority before the EPPO was established. The national prosecutor could not move forward, as nothing seemed illegal from a national perspective.

When it comes to cross-border VAT fraud, this situation is quite common: national authorities cannot move beyond their initial suspicion as everything looks legal, and there does not seem to be a financial damage from a purely national perspective.

However, the Portuguese authorities transmitted this case to the EPPO. Eighteen (18) months later, we had identified almost nine thousand (9000) legal entities and more than six hundred (600) individuals located in different countries involved in a giant VAT fraud scheme. About half of these companies were considered legitimate by the tax authorities. We estimated the damages at two point two (2.2) billion euro.

After our first searches and seizures of assets under investigation Admiral were performed, eighty percent (80%) of companies that national tax authorities had identified as the most suspicious when it comes to VAT disappeared. They were fraudulent. Our investigation simply forced the people behind them to shut them down.

This is a concrete result behind our statistics.

As you can read in our latest Annual Report, at the end of 2023 we had more than one thousand nine hundred (1900) active investigations, with an overall estimated damage of more than nineteen (19) billion euro. Over two hundred (200) of these investigations relate to the first projects funded under NextGenerationEU. Almost sixty per cent (60%) of the estimated damage under our investigation was linked to VAT fraud.

These numbers may seem shocking but this is still only the beginning. More money will be sent on the ground with the NextGenerationEU

funds and a lot of the fraud will happen from now on. Also, I sure hope that the level of detection and reporting will continue to increase as the starting point is uneven and, in most instances, frankly low. So for sure, our workload will continue to increase.

Our main finding from last year is that this scale of fraud, especially on the revenue side of the EU budget, can only be explained by the heavy involvement of organized crime.

To tell you the truth, when we started operations, we did not expect to see what we are seeing. The EPPO was set up based on the assumption that it could be confronted with organized crime groups from time to time. In reality, very quickly, we found ourselves standing against dangerous criminals, who do not shy away from extreme violence.

Organized crime has been growing stronger and expanding with fraud against the EU budget, especially on the revenue side, for at least a decade.

To briefly explain VAT fraud: criminals exploit legislation that allows VAT-free trading in the EU. In essence, the customers pay goods including VAT, but this VAT is not paid back to the government, it is stolen. Moreover, fraudulent companies claim and receive reimbursement for VAT payments that never occurred. This costs

Member States approximately fifty (50) billion euro annually in tax losses. Let that sink in: fifty (50) billion euro, every year.

Our investigations reveal that complex VAT fraud operations are often financed with money from other criminal activities or involve the same operators laundering money.

VAT fraud is no longer a niche criminal activity. It has evolved into one of the most attractive criminal enterprises within the EU, characterised by low detection rates, minimal risks, and high rewards. Several organised crime groups have scaled their operations in this field to an industrial level.

There are not two separate criminal worlds. The world of the really bad and dangerous criminals smuggling drugs, trafficking people on the one side; and the world of white-collar criminals, “merely” corrupting and laundering money, on the other side. Serious organised crime cannot exist without financial crime.

This is a reason why we cannot treat financial fraud as a minor offence. It is not the only reason.

During my recent visit in Athens, the only topic that interested people was the Tempe railway accident. Fifty seven (57) people were killed and eighty (80) others were injured. A tragedy that proves again that fraud and corruption eventually kill.

In December last year we brought charges against twenty three (23) suspects – including eighteen (18) public officials – for crimes relating to the execution of contracts for restoring remote traffic control and signalling systems on the Greek rail network. These contracts were co-financed by the EU.

We opened this case ex officio.

When we, prosecutors, are confronted with such cases, the key question, the only question is if the citizens trust in our activity.

It is difficult to gain the citizens' trust, and even harder to keep it. They believe in a Europe where we do our job efficiently, in which things work properly, a Europe where money is spent correctly, where no one can obtain undeserved advantages through corruption or money laundering. It is not a foolish belief. It is actually a modest aspiration.

As the new European Parliament is taking shape, I hear about ongoing reflections on how to strengthen the EU Anti-fraud architecture.

I hope that these reflections are rooted in the reality of the criminal phenomenon that we are fighting. That they address the right priorities and identify correctly the roles, responsibilities and powers of each of the relevant stakeholders.

Ladies and Gentlemen, to conclude

There is a lot of work ahead of us.

Let me share three ideas how we can achieve more:

Firstly, we cannot have unlimited funds. Our strategy cannot be to match the financial capacity of organized crime groups.

You might remember the Italian investigative judge Giovanni Falcone for his famous motto, 'follow the money'. The EPPO makes it possible to go a step further and 'focus on the money'.

Europol estimates that the amount of assets that law enforcement manages to take away from the hands of criminal networks in the EU remains below two percent (2%) of their yearly proceeds.

Our strategy should be to cripple the financial capacity of the organised crime groups.

If we want to seriously affect criminal organisations' ability to operate, we must take white-collar criminals out of the equation.

This is what we mean when we say that our prosecutorial policy is to improve the recovery of criminal assets and to focus on cases involving organized crime groups.

In order to be able to do that, we need dedicated and specialized investigators in support of our work and, as the first transnational Prosecution office, corresponding analytical capacities.

Secondly, the EPPO is the most efficient tool currently available for the fight against transnational criminal organisations. If this is valid

for VAT and customs fraud, it also applies to the circumvention of EU restrictive measures.

To be clear, when it comes to all the possibilities to extend our competence, I advocate for restraint. We have to fully equip the EPPO as it is now first. The only extension that we could handle relatively easily, and that would not require a significant increase in resources is to the circumvention of EU restrictive measures. Bear in mind that, being competent for smuggling, as it affects the EU budget's revenue, we could already get involved in certain investigations involving the circumvention of EU sanctions.

Thirdly, the EPPO Regulation must be revised in light of the experience gathered in the first three years of operations. The most pressing issues are well known. We need to clarify and simplify provisions on the exercise of EPPO's competence, and prevent any attempts to undermine EPPO's jurisdiction in sensitive cases. It is now merely a question of political will.

The revision of the Regulation will also be an opportunity to state the true institutional nature of the EPPO.

The EPPO is not the result of a delegation of powers by the Union's executive but an independent judicial authority.

The respect of the principles of the separation of powers and the independence of the judiciary are the fundamentals of the rule of law in the EU.

For me, the European Public Prosecutor's Office is a formidable means to win the hearts and minds of the European citizens. To increase their trust in the European Union and adherence to European integration.

People must see that the law applies to everyone, that justice is tangible.

Our duty is to work efficiently, and in full independence. I can only promise you, that we will continue to do our best.

Thank you for your attention.