



EUROPEAN
PUBLIC
PROSECUTOR'S
OFFICE

La Procura Europea (EPPO)

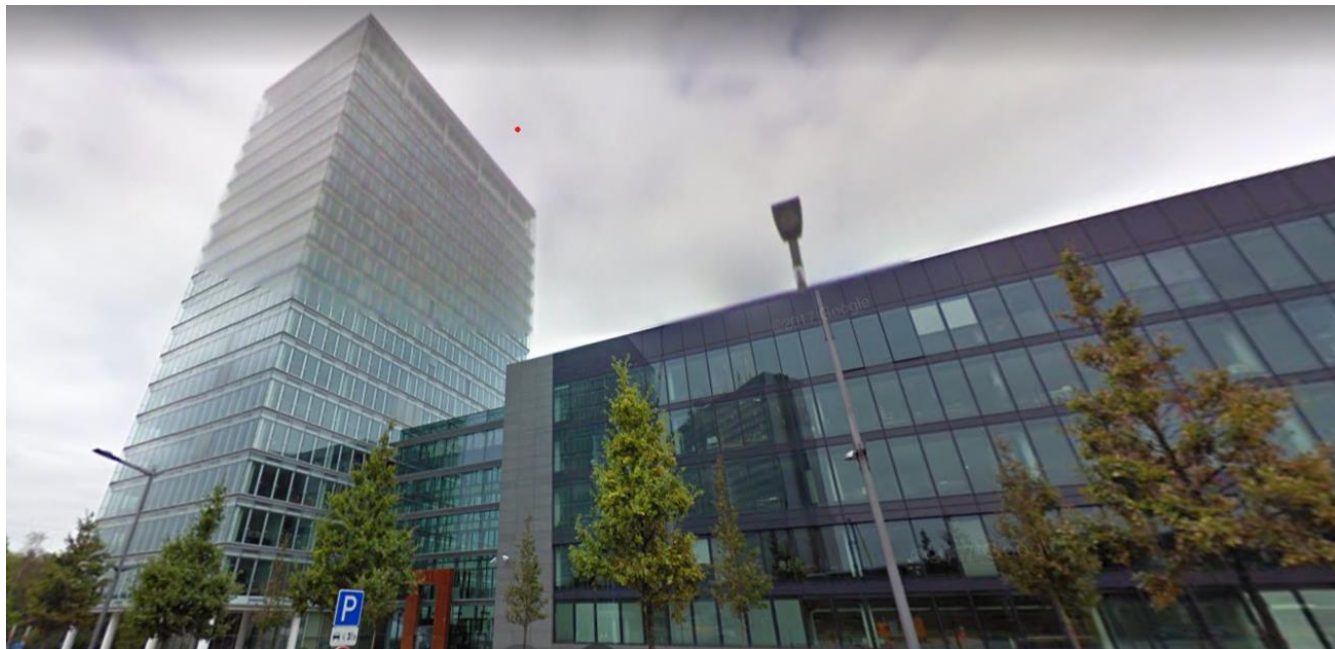
1° March 2022

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Summary



- 1) Legal basis
Structure
- 2) Competence
Mandate
- 3) Cross-border
investigations




Legal basis

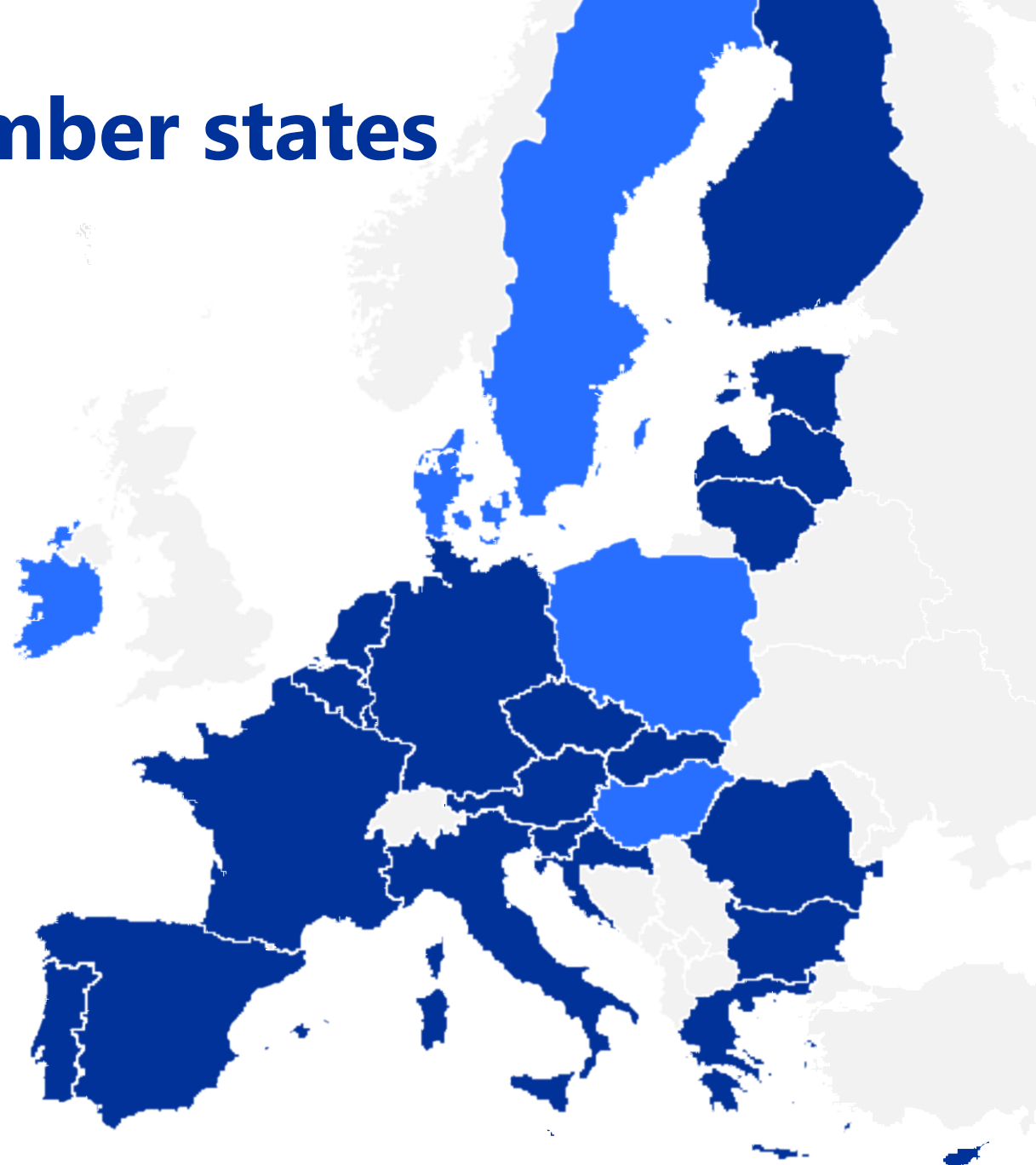
- Article 86 Treaty on the Functioning of the European Union
- EPPO Regulation (EU)2017/1939
- PIF Directive(EU) 2017/1371
- Italy: D.L.vo 9/2021 in force since 6.2.2021

EPPO – main features

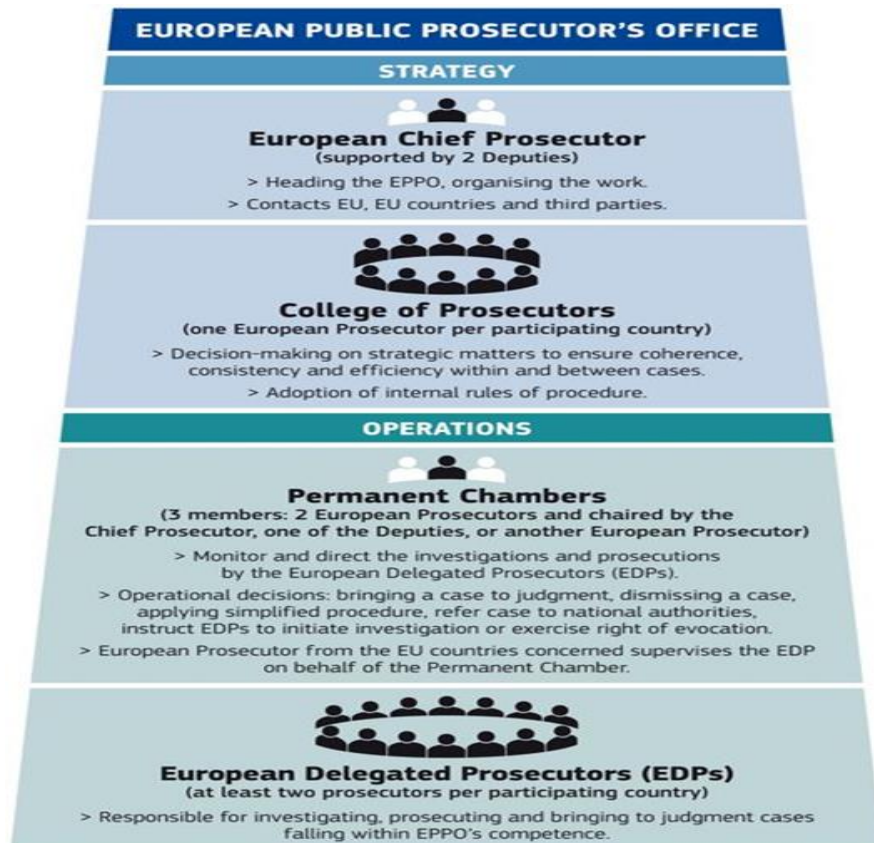
- Independent prosecutorial authority, entirely new judicial body and system
- Supranational (EU) prosecutor's office, entirely independent from the European and national authorities, including the national prosecutorial and judicial authorities
- Single office with a central and a decentralised level: European Delegated Prosecutors fully members of the EPPO
- Concurrent/Exclusive competence for investigating, prosecuting and bringing to judgment "PIF offences", up the final judgement (until the case has been finally disposed of) – any offence that could affect the financial interest of the EU
- Within the 22 Member States participating in the EPPO, as a rule the tools of the judicial cooperation between prosecutor's offices are not applicable – direct execution

Participating EU member states

-  Participating EU member states
-  Non-participating EU member states
-  Non-EU



Structure



Central office in Luxembourg:

- ▶ Chief European Prosecutor
- ▶ Two Deputy European Chief Prosecutors
- ▶ One European Prosecutor for each Member State (22)
- ▶ College (strategic decisions, policy, guidelines)
- ▶ Permanent Chambers (operations and investigations)
- ▶ Administrative Director
- ▶ Supporting staff at central level (employed by the EPPO)

Decentralised level – European Delegated Prosecutors:

- ▶ 140 EDPs – at least two for each MS
- ▶ In charge of investigation and prosecution
- ▶ Supporting staff and resources at decentralised level (from the Member States)

Structure: the College

- Chaired by European Chief Prosecutor
- 1 European Prosecutor per participating EU member state
- Take decisions on strategic matters, including determining the priorities and the investigation and prosecution policy of the EPPO.



Permanent Chambers

- Novelty for a prosecution office
- Ensure independence
- Monitor and direct the investigations and prosecutions
- 15 Chambers: 3 European Prosecutors + legal support
- Cases are allocated randomly, automatic and alternating



Structure: Decentralised level

- Up to 140 European Delegated Prosecutors (EDPs).
 - in charge of EPPPO investigations
 - monitored by 15 Permanent Chambers in Luxembourg, composed of 3 European Prosecutors.
- Full independence from their national authorities. Cases are tried before national courts.



● = number of EDPs

Decentralized level - Italy

- Agreement between the Minister of Justice and the Chief European Prosecutor signed on 1/4/2021; 9 local offices and 20 European Delegated Prosecutors (2 for each office, apart from Rome and Milan, that have 3 EDP);
 - Bari
 - **Bologna**
 - Catanzaro
 - **Milano**
 - **Roma**
 - **Napoli**
 - **Torino**
 - **Palermo**
 - **Venezia**



Livello decentralizzato - Italia

Bologna

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The mandate of the Eppo

- The independent prosecution office of the EU.
- Responsible for investigating, prosecuting and bringing to judgment crimes affecting the EU's financial interests.



Mandate: competence

□ Article 22:

- Criminal offences affecting the financial interests of the Union that are provided for in Directive (EU) 2017/1371, irrespective of the legal qualification under national law
 - Organised crime
 - Inextricably linked offences
 - Money laundering
- VAT Fraud: connected with the territory of two or more Member States and involve a total damage of at least EUR 10 million

Exercising the competence

- **Initiation of an investigation(24.1):** institutions, bodies, offices and agencies of the Union and the authorities of the Member States shall report to the EPPO any criminal conduct in respect of which it could exercise its competence
- **Italy - Article 14 co. 2 D.L.vo n. 9/2021:** the criminal report is sent simultaneously to the EPPO and to the competent national prosecutor's office – the national prosecutor may start the investigation only and exclusively if the EPPO has not communicated its intention to exercise the competence and it is necessary to undertake urgent action
- **Evocation (24.2):** When a national judicial or law enforcement authority is carrying out an investigation in respect of a criminal offence for which the EPPO could exercise its competence, that authority shall without undue delay inform the EPPO so that the latter can decide whether to exercise its right of evocation
- **Conflicts of competence (25.6):** in case of disagreement between the EPPO and the national prosecutor's office in respect of the competence for inextricably linked offences or organised crime, the Italian Prosecutor General at the Court of Cassation may be called to resolve the conflict – in this case the EPPO cannot evoke the case

Cross-border investigation

One case for all the MS - Allocation rule 26(2)

- Member State that has jurisdiction
- Case handled in a MS where the focus of the criminal activity is or where the bulk of the offences has been committed
- Justified deviation taking into account the following criteria, in order of priority:
 - (a) the place of the suspect's or accused person's habitual residence;
 - (b) the nationality of the suspect or accused person;
 - (c) the place where the main financial damage has occurred
- Additional criteria - guidelines?

Cross-border investigation

Investigation measures – principles – Art. 31

- Acting as a single office, not as external cooperation
- EDPs acting in close cooperation by assisting and regularly consulting each other
- Immediate involvement of the central level
- Assignment of investigation measures:
 - Handling EDP assign the measure to a EDP located in the Member State where the measure needs to be carried out
 - Immediate information to the supervising EP
 - Justification and adoption of such measures governed by the law of the handling EDP
 - Judicial authorization when needed in the assisting MS - or in the MS of the handling EDP
 - The assisting EDP shall undertake the assigned measure

Cross-border investigation

- Coordination at central level necessary in any case when:
 - The assignment is incomplete or contains a manifest relevant error
 - The measure cannot be undertaken within the time limit set out
 - A less intrusive measure would achieve the same results
 - The assigned measure does not exist or would not be available in a similar domestic case (but mandatory measures: Article 30(1)) – only in this case the EDP can use legal instruments on mutual recognition or cross-border cooperation
- If the matter cannot be resolved within 7 working days:
Permanent Chamber
- Enforcement (32):
 - Law of the Member State of the assisting EDP
 - Formalities and procedures indicated by the handling EDP shall be complied with unless contrary to the fundamental principles of law of the MS of the assisting EDP
- Evidence: admission shall not be denied on the mere ground that it was gathered in another MS or in accordance with the law of another MS

Articles 99 to 105

Cooperation and working agreements with EU partners Non participating Member States Third countries International Organisations



Thanks for your attention

