



DIPARTIMENTO DI
GIURISPRUDENZA
SCHOOL OF LAW

THE EPPO and EU law: a step forward in integration



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EPPO AND EU LAW: A STEP FORWARD IN INTEGRATION

TOPIC 7: THE EPPO
PROTECTING EUROPEAN
TAXPAYERS' MONEY FROM
CRIMINALS

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“OPERATION MULINO – COMOSECHIAMA”



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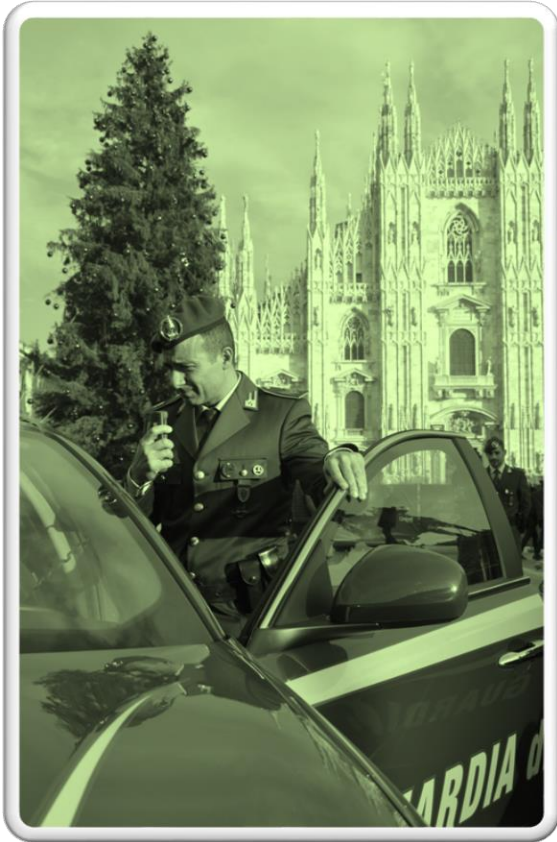


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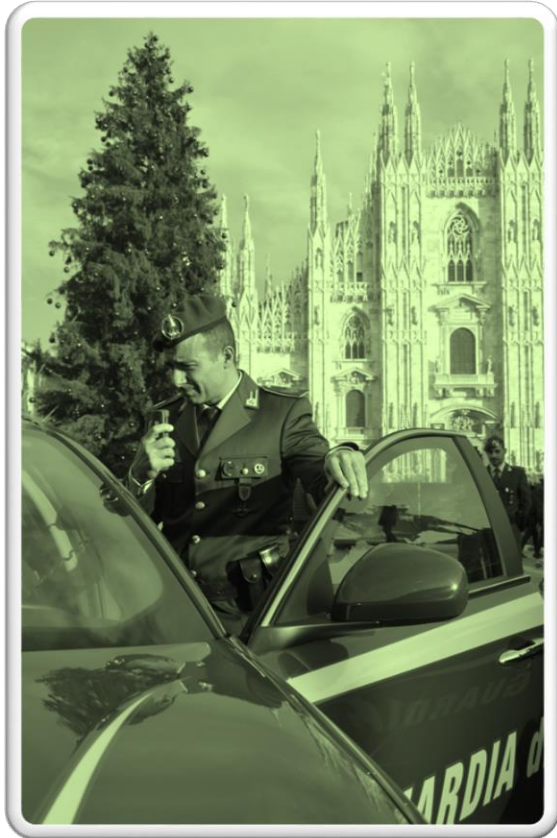


Fraud scheme & Investigation

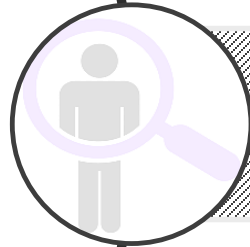


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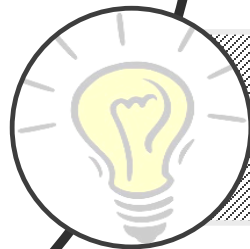
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THE INVESTIGATIVE BACKGROUND (1/3)

carried out by **Financial Police Department of Milan** (*Nucleo di Polizia Economico-Finanziaria della Guardia di Finanza di Milano*), along with **Criminal Investigation Department of the Police Headquarters of Upper Bavaria North**



allowed **seizures worth more than €13 million** throughout Germany, Italy and Bulgaria, with **10 successful arrests of people intrinsic** suspects in forming a criminal organization focused on **tax evasion**, by setting up a so-called **VAT carousel fraud re-selling cars** multiple times throughout different **European countries**.



THE INVESTIGATIVE BACKGROUND (2/3)

A **warrant of investigation** was initially issued by the **Anti-mafia Prosecution Office of Milan** against an **Organised Crime Group (OCG)** operating in **Italy, Germany, Portugal** and other **European Member States** in the field of *narcotics and drug trafficking*



The investigation identified another connection during an ongoing investigations in Germany



Further investigations revealed that a member of the OCG was the **contact person** for two different illegal actions, relating to

a **serious drug trafficking** across Europe



a **Value Added Tax fraud** in the luxury-car sector



THE INVESTIGATIVE BACKGROUND (3/3)

In brief, there was a suspicion that the suspects operated a **gang-type Value Added Tax Carousel Fraud system** connected with **at least two Member States** (Germany, Italy, Bulgaria, Belgium, Portugal and France) which caused an **estimated total tax evasion of at least €10 million**.



Therefore, the German investigation was attracted by the competence of the EPPO

[artt. 22, par. 1 and 2; 23; 120 par. 2 EPPO Regulation (EU Reg. 2017/1939) in connection with artt. 2 and 3 of the PIF Directive (EU Dir. 2017/1371)]

serious drug trafficking
across Europe



D.D.A.
(Antimafia Prosecution Office Milan)

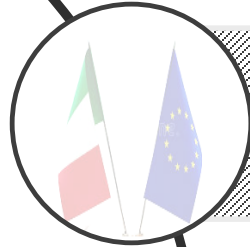
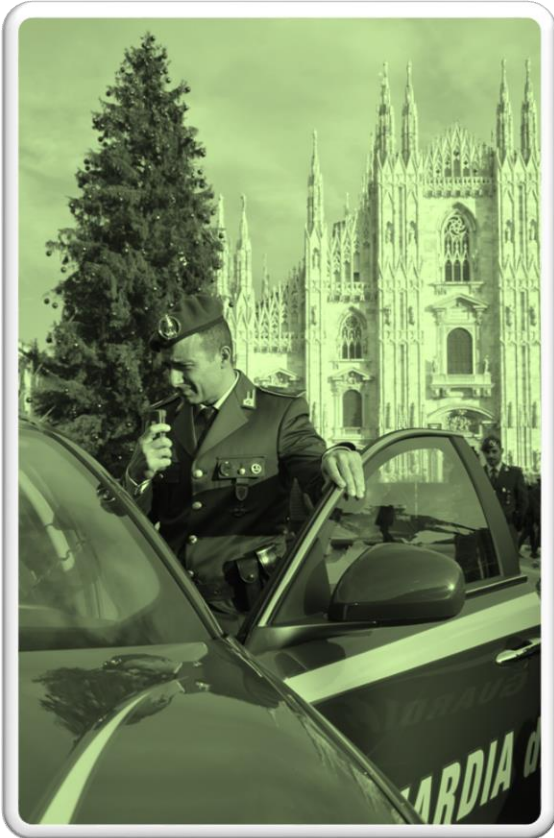
same
OCG

Value Added Tax fraud in the
luxury-car sector



European Public Prosecutor's
Office Milan/Munich

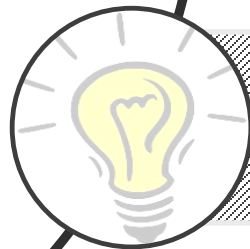
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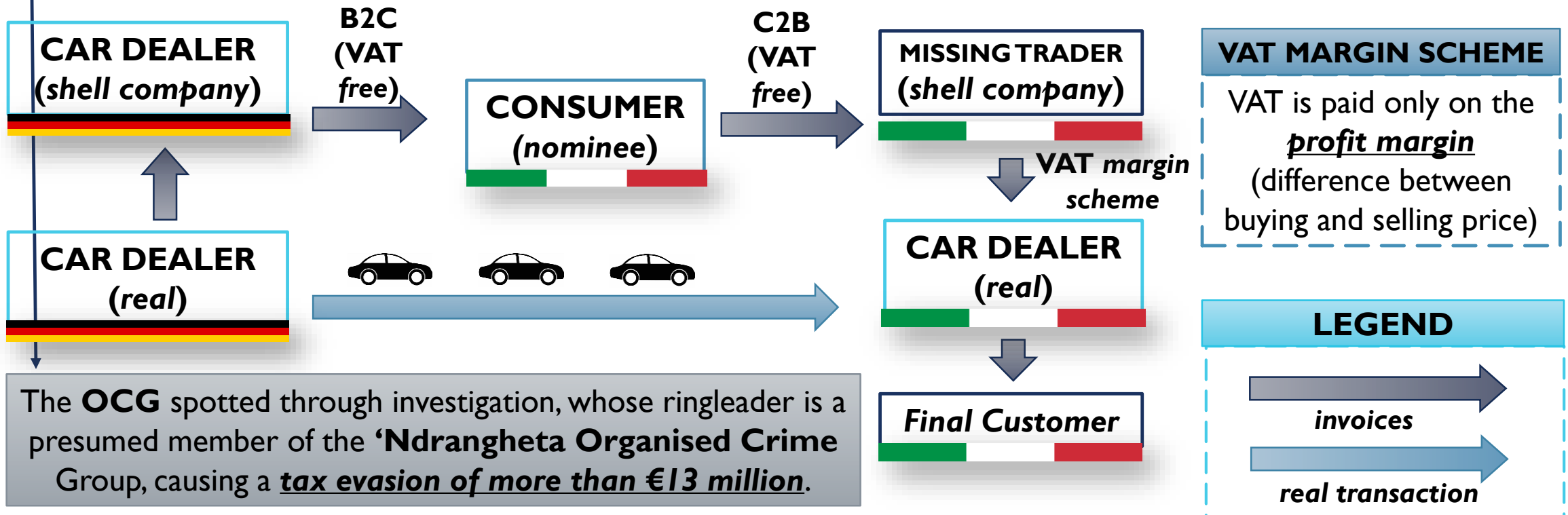


Investigations' insights

FRAUD SCHEME & INVESTIGATION [1/2]

The **VAT fraud pattern** detected during the investigation was a so-called “*margin scheme*” related to **commerce of luxury cars**

This **type of fraud**, which mostly concerns **B2C transactions**, focusses on the **following format**



The **OCG** spotted through investigation, whose ringleader is a presumed member of the ‘**Ndrangheta Organised Crime Group**, causing a **tax evasion of more than €13 million**.

FRAUD SCHEME & INVESTIGATION [2/2]

A new *powerful tool* for gathering evidence in **VAT fraud** and related **organized crime investigations**



the *investigative measures* sets out by **article 30 and 31 of the EPPO Regulation**



Covered operation:

- ✓ Phone tapping
- ✓ E-mail address seizure;
- ✓ Observation of all suspects
- ✓ Technical observation (also by using special technical tools like IMSI-catcher)
- ✓ Money flow and SARs analysis

Open Field Operations

- ✓ Search warrant in 14 locations in Germany;
- ✓ Search warrant in 31 locations in Italy;
- ✓ Arrest warrants of 10 people for tax evasion.

Council Regulation (EU) 2017/1939

SECTION 2

Rules on investigation measures and other measures

Article 30

Investigation measures and other measures

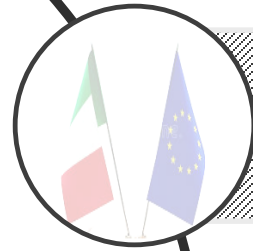
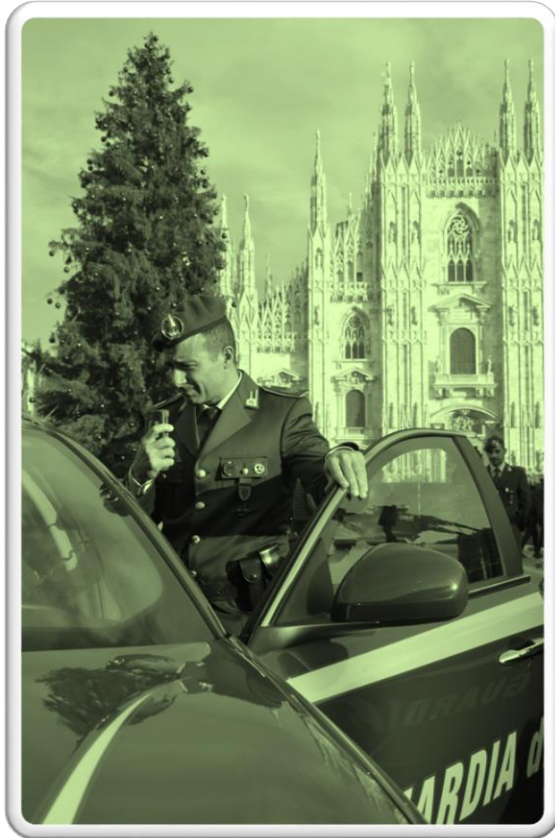
1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:

- search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;
- obtain the production of any relevant object or document either in its original form or in some other specified form;
- obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council⁽¹⁾;
- freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.

⁽¹⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).



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INVESTIGATIONS' INSIGHTS [1/2]

benefits provided by EPPO to **financial police investigations'** techniques are *two-fold*



when GdF acts as a ***National Tax Administration (TNA)***, committed in defeating and detecting VAT fraud through administrative cooperation tools

when the Corps performs its role of ***Law Enforcement Agency (LEA)***, in the context of a criminal investigation in a EPPO-related crime

new range of administrative cooperation channels between the different Tax Authorities

additional channel to the European judicial and police cooperation toolbox



from the paradigm of the "mutual recognition" to the model of the "single jurisdiction"

INVESTIGATIONS' INSIGHTS [2/2]

The operation **MULINO-KOMOSECHIAMA** is relevant not only because is the **first case** where an EPPO's investigation ended with **precautionary measures**, but also because it reveals



“ (...) the paradigm shift that the creation of the EPPO has brought about for cross-border investigations. This is the new reality of the EPPO zone: no more cumbersome mutual legal assistance formalities; speedy and decisive action; and focus on effective damage recovery”
(Laura Kövesi - ECP, 20 October 2021)

EPPO is a real “game changer” for GdF’s investigation. Guardia di Finanza is called to play an increasing crucial role



THANK YOU!



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