



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 2: THE EPPO

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EPPO'S ROLE AND MANDATE



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COUNCIL REGULATION 2017/1939 – 12 OCTOBER 2017

- This Regulation provides for a system of **shared competence between the EPPO and national authorities** in combating crimes affecting the financial interests of the Union, based on the right of evocation of the EPPO.



THE MANDATE: LEGAL BASIS

- Article 22(1) Regulation 2017/1939: 'The EPPO shall be competent in respect of the **criminal offences affecting the financial interests of the Union** that are provided for in Directive (EU) 2017/1371'



MANDATE: THE LEGAL BASIS



- EU Directive 2017/1371:
- Article 3 deals with ‘**fraud affecting the Union’s financial interests**’.
- There are four main categories of fraud defined under Article 3(2).

CATEGORY I: NON -PROCUREMENT RELATED EXPENDITURE

Any act or omission relating to:

- (i) The **use or presentation of false, incorrect or incomplete statements or documents**, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget or budgets managed by the Union, or on its behalf ;
- (ii) **Non -disclosure of information** in violation of a specific obligation, with the same effect ; or
- (iii) **The misapplication of such funds or assets for purposes** other than those for which they were originally granted.



CATEGORY 2: PROCUREMENT-RELATED EXPENDITURE

At least when committed in order to make an **unlawful gain** for the perpetrator or another by causing a loss to the Union's financial interests, any act or omission relating to:

- (i) **The use or presentation of false, incorrect or incomplete statements or documents**, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget or budgets managed by the Union, or on its behalf;
- (ii) **Non-disclosure of information** in violation of a specific obligation, with the same effect; or
- (iii) **The misapplication of such funds or assets for purposes** other than those for which they were originally granted, which damages the Union's financial interests.



CATEGORY 3: REVENUE OTHER THAN REVENUE ARISING FROM VAT OWNED RESOURCES



- (i) the **use or presentation of false, incorrect or incomplete statements or documents**, which has as its effect the illegal diminution of the resources of the Union budget or budgets managed by the Union; or on its behalf;
- (ii) **non-disclosure of information** in violation of a specific obligation, with the same effect; or
- (iii) **Misapplication of a legally obtained benefit**, with the same effect.

CATEGORY 4: IN RESPECT OF REVENUE ARISING FROM VAT OWN RESOURCES, ANY ACT OR OMISSION IN CROSS-BORDER FRAUDULENT SCHEMES:

- (i) The use or presentation of **false, incorrect or incomplete VAT-related statements or documents**, which has as an effect the diminution of the resources of the Union budget;
- (ii) **Non-disclosure of VAT-related information** in violation of a specific obligation, with the same effect; or
- (iii) The presentation of correct VAT-related statements for the purposes of **fraudulently disguising the non-payment or wrongful creation of rights to VAT refunds**.



ARTICLE 4 – OTHER CRIMINAL OFFENCES AFFECTING THE UNION'S FINANCIAL INTERESTS



- **Money Laundering:** Article 4(1):
‘Member States shall take the necessary measures to ensure that money laundering as described in Article 1(3) of Directive (EU) 2015/849 involving property derived from the criminal offences covered by this Directive constitutes a criminal offence.’

MONEY LAUNDERING



Art. 3(1) Directive 2015/849:

- 3. For the purposes of this Directive, the following conduct, when **committed intentionally**, shall be regarded as money laundering:
 - (a) The **conversion or disguise** of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, **property**, knowing that **such property is derived from criminal activity or from an act of participation in such an activity**.

MONEY LAUNDERING



Art. 3(1) Directive 2015/849:

- (b) the **concealment or disguise** of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that **such property is derived from criminal activity or from an act of participation in such an activity** ;

MONEY LAUNDERING

Art. 3(1) Directive 2015/849:

- (c) The **acquisition, possession or use of property**, knowing, at the time of receipt, that **such property was derived from criminal activity or from an act of participation in such an activity**.



MONEY LAUNDERING



Art. 3(1) Directive 2015/849:

- (d) **Participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling** the commission of any of the actions referred to in points (a), (b) and (c).

ARTICLE 4 EU DIRECTIVE 2017/1371

2(a)- **Passive Corruption:** Passive corruption means the action of a public official who, directly or through an intermediary, requests or receives advantages of any kind, for himself or for a third party, or accepts a promise of such an advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests.



ARTICLE 4 EU DIRECTIVE 2017/1371



2(b) **Active Corruption:** Active corruption means **the action of a person who promises, offers or gives, directly or through an intermediary, an advantage of any kind to a public official for himself or for a third party** for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests.

ARTICLE 4 EU DIRECTIVE 2017/1371

3 Misappropriation: For the purposes of this Directive, 'misappropriation' means **the action of a public official who is directly or indirectly entrusted with the management of funds or assets to commit or disburse funds or appropriate or use assets contrary to the purpose for which they were intended in any way which damages the Union's financial interests.**



ANCILLARY OFFENCES

Article 5(1):

- Member States shall take the necessary measures to ensure that **inciting and aiding and abetting the commission of any of the criminal offences referred to in Articles 3 and 4 are punishable as criminal offences.**

THANK YOU!



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