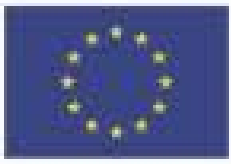
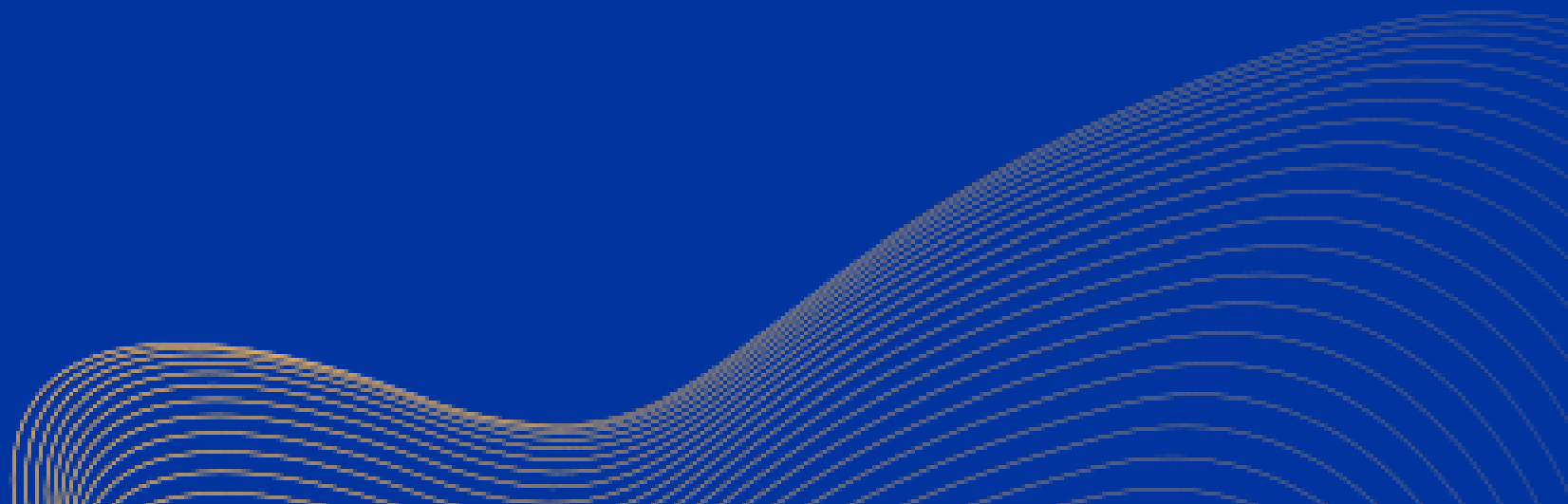


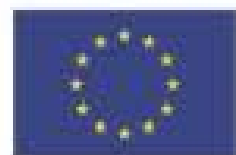
EPPO and EU Law

(Jean Monnet Centre of Excellence - STEPPO)



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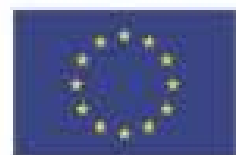


STEPPO AND THE RULE OF LAW

Procura

Napoli

Lecturer : LORENZO SALAZAR
Sostituto Procuratore generale alla
Generale presso la Corte di Appello di



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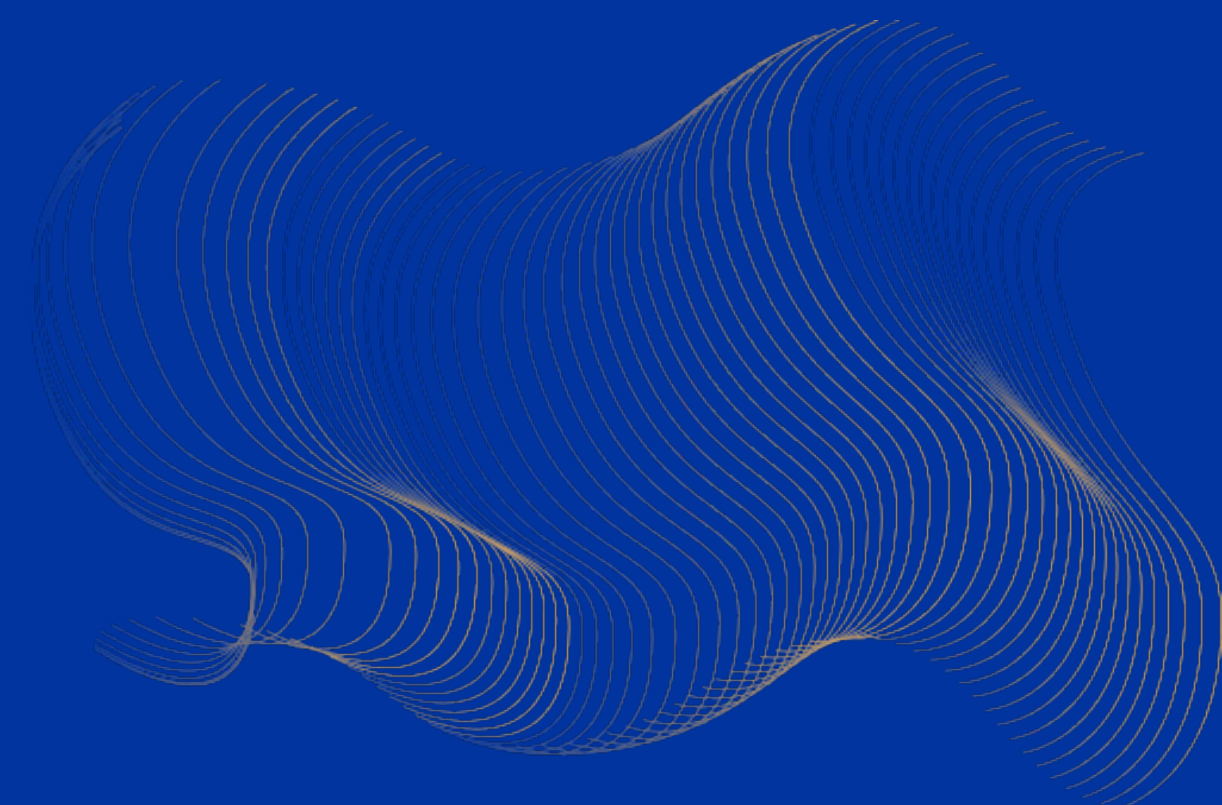
STEPPO AND THE RULE OF LAW

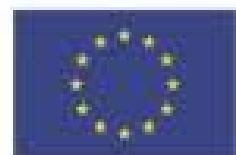
OUTLOOK:

A) The Regulation

B) The Practice

C) Conclusions



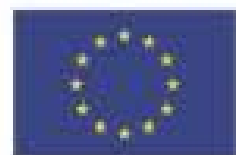


THE STARTING POINTS: A) ART.5 REG.

BASIC PRINCIPLES:

- The EPPPO shall ensure that its activities respect the rights enshrined in the Charter.

- The EPPPO shall be bound by the principles of rule of law and proportionality in all its activities.



THE STARTING POINTS: B) ART.41 REG.

3 different sources of protection of the rights of persons involved in EPPO proceedings:

1. the Charter of Fundamental Rights of the European Union

2. the EU Directives on procedural safeguards (as implemented by national law)

3. applicable national law

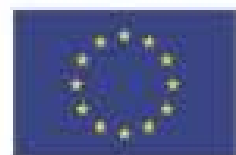
THE STARTING POINTS: B) ART.41 REG.

3 different sources of protection of the rights of persons involved in EPPO proceedings:

- the Charter: **uniformity > ECJ (art. 47 and Kolev)**
- the EU Directives: **as implemented by national law > ECJ(?)**
- applicable national law: **...? > The right to present evidence (Reg 41.3) and Defence investigations**

THE STARTING POINTS: C) ART.42 REG.

- The COMM proposal: review exclusively by national judges
- The Regulation:
 - 263 TFEU: decisions to dismiss a case
 - 267 TFEU: preliminary rulings on:
 1. Validity of EPPO procedural acts, “*insofar as such question of validity is raised ... directly on the basis of Union law*”
 2. Validity or interpretation of EU law, including the Regulation
 3. Conflicts of competence among EPPO and National Authorities

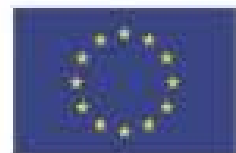


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THE CHOICE OF FORUM.

Review exclusively by national judges and not by the ECJ (nor by a European pre-trial chamber)



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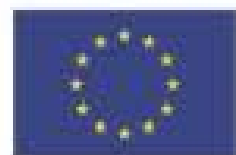


HOW TO GRANT THE EQUALITY OF THE ARMS

1. An Euro Defensor

2. A 24/7 emergency service of defense lawyers

3. A European Network of defense lawyers.



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B. THE PRACTICE

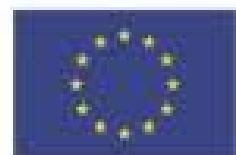
- A general acknowledgement of fairness in the conduct of investigations
- The first cases of conflicts of competences solved (IT, SP)
- The first preliminary ruling on judicial control in cross-border EPPO investigations (C-281/22)
- Tensions in some Countries...?



C) CONCLUSIONS

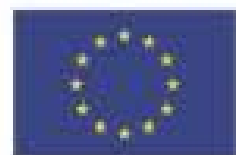
“The half-way house between co-operation and integration has also led to a half-way house regarding safeguarding the rule of law.”

(MITSILEGAS)



EPPO AND THE RULE OF LAW

- *It is not much about EPPO to respect the Rule of Law*
- *Is more about EPPO to promote the Rule of Law in the [participating] MS*

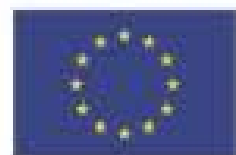


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EPPO AND THE RULE OF LAW: THE MESSAGE

- *The co-existence in the same national judicial system of independent EDPs only subordinated to the directives from the central level and of their colleagues Prosecutors cannot be without positive effects*
- *A certain level of approximation of procedural law is needed*
- *The already announced enlargement of the reinforced cooperation to Poland and Sweden will increase these positive effects further*

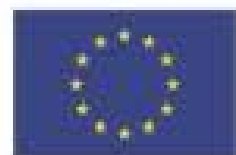


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EPPO AND THE RULE OF LAW: THE MESSAGE

- *It is for the EDPs to “lead by example”, i.e. conducting their investigations in a way which is at the same time efficient and respectful of fundamental rights*
- *They may also have a stimulate function on the judges and the Courts by soliciting them to ask the ECJ by way of preliminary ruling*

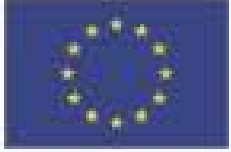


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EPPO AND THE RULE OF LAW: THE MESSAGE

- *In a nutshell: there is a life beyond the protection of the financial interests of the EU and the experience of the EPPO may do a lot for pushing the European Judiciary to move a step forward towards a closer integration*



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THANKS!

