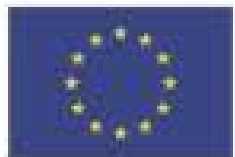
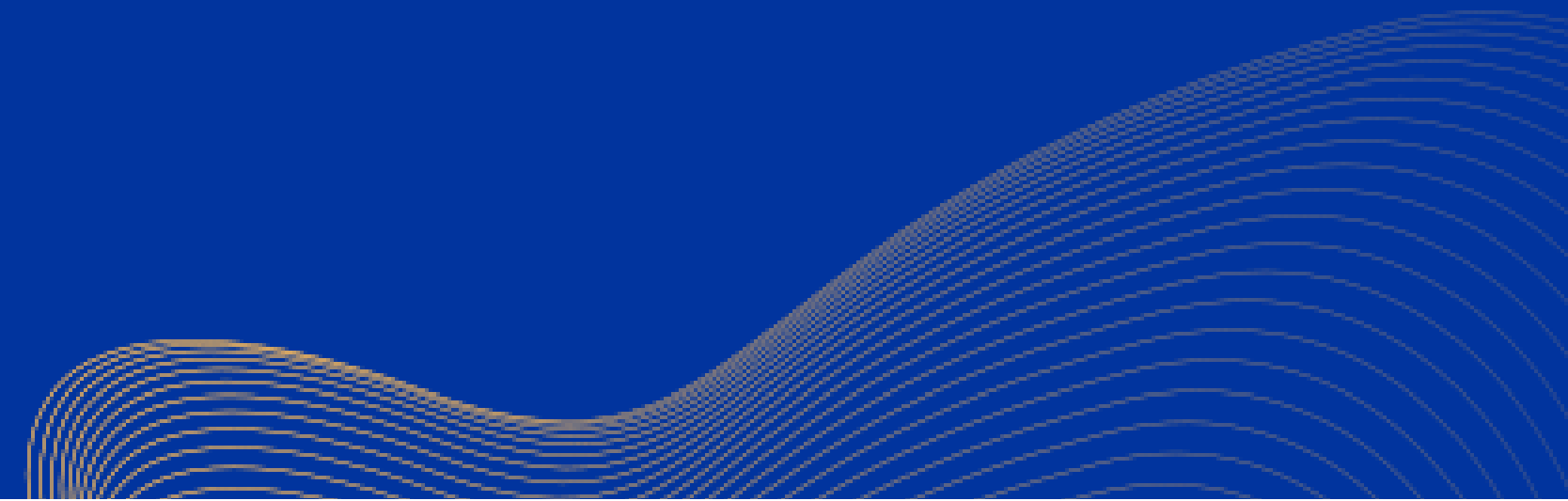


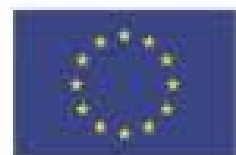
EPPO and EU Law

(Jean Monnet Centre of Excellence - STEPPO)



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Interviews Subcommittee

CHAIR: Serena Cacciatore

Members:

Costanza De Caro (University of Florence), Alejandro Hernández López (University of Valladolid), Cristina Ruiz López (University of Cordoba), Ana Vicario Pérez (University of Burgos), Celia Carrasco Perez (University of Burgos)

The team is composed of six members of which two Italians and four Spanish

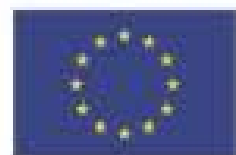
INTERVIEWS

European delegated prosecutors: Stefano Castellani- Calogero Ferrara- Amelia Luise etc.

Deputy Prosecutor General to the Court of Appeal of Naples: Lorenzo Salazar

PhD student: Olga Vicente Sarasúa





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Third cycle of the module (2024)

How enhanced cooperation on the EPPO began, and paid off.

EPPO regulation: rules applicable to the European Delegated Prosecutors

La Procura europea: analisi e prospettive

Milano, 28 febbraio 2024

Serena Cacciatore

Researcher in Procedural Criminal Law – University of Burgos

Grupo de Investigación "La Cooperación Judicial Civil y Penal en el Ámbito de la Unión Europea: Instrumentos Procesales" (CAJI)

Grupo de Investigación Emergente en Protección Jurídica del menor

Interviews and Media Committee

INTERVIEW TO LAW PROFESSIONALS Interview & Media Sub-committee.

Professional Interviewed

Interviewed by:

Date:

INFORMATION: The aim of this group is to interview professionals specialised in the field of European integration, such as lawyers, magistrates, or Deputy European Public Prosecutors, with particular emphasis on the role of the European Public Prosecutor's Office. Through the various interviews (with Spaniards and Italians in particular), useful information, statistical data and experiences gained in the "field" will be collected, which are necessary for the purposes of the project.

Request permission to record interview:

Authorisation signed:

General questions

1. How was the establishment of the European Public Prosecutor's Office welcomed in the job field of reference?
2. Which PIF offences are for the most part ascertained in the judicial experience within the country or the geographical area of reference?
3. What issues arise from the provisions governing the material competence of the EPPO as envisaged by the Regulation (EU) 1939/2017?
4. Do the provisions concerning cross-border investigations provide an added value compared to the international cooperation mechanisms already in force?
5. Does the EPPO represent a useful countermeasure to the corruptive conducts perpetrated by criminal organizations in order to illicitly drain European Union funds (see the National Recovery and Resilience Plans)?
6. Would you consider it appropriate for the European Public Prosecutor's Office to extend its substantive jurisdiction to offences that are not confined to the protection of the EU's financial interests or membership of criminal organisations?
7. Poland, Hungary, Denmark, Ireland, and Sweden do not participate in the Regulation, and do you think there is a need for rules governing the investigation of the misuse of European funds in these countries?

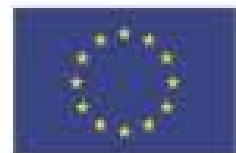


The EPPO and EU Law: A Step Forward in EU Integration.

a) European perspective

b) Spanish perspective and Italian perspective

- Concrete and real-life aspects will be examined, incorporating the point of view of practitioners, in order to learn about the progress of this new European body.
- In this regard, the study will focus on the European and national perspective not only in Italy but also in Spain.
- The creation of the European Public Prosecutor's Office, after a long period of lack of awareness, has been very well received by practitioners, both from the judiciary and the legal profession.
- It is a unique institution in that it is a judicial office in its own right; not a cooperative agency like those existing within the EU or other international bodies nor a court that decides on certain questions of interpretation of the norms. In this case, it is an investigative and prosecutorial judicial office operating in a wide territory in terms of the size and variety of legal systems involved.



a) European perspective

THE LEGAL NATURE OF EPPO

Article 3(1) of the EPPO regulation reads:

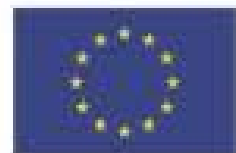
«The EPPO is hereby established as a body of the Union»

-It cannot be called an institution, at least so far, although the situation may change in the future, as it is not included in the list of EU institutions in Article 13.1 TEU:

“The Union’s institutions shall be: the European Parliament, the European Council, the Council, the European Commission, the Court of Justice of the European Union, the European Central Bank, the Court of Auditors”.

-Nor can it be called an agency, since the European Public Prosecutor’s Office «should be established from Eurojust» (Whereas 10 of the EPPO Regulation)

-A relationship (EPPO Eurojust), more of proximity than origin. This is further confirmed by Article 3.3, of the same regulation, which states that «The EPPO shall cooperate with Eurojust and rely on its support in accordance with Article 100»

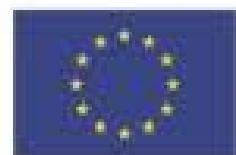


a) European perspective

Article 31 of the EPPO Regulation: Cross-border investigations

Key points:

- mutual assistance between EDPs;
 - coordination of the investigations, which can take place through the exchange of information and the establishment of common strategies;
 - the role of national competent authorities who are personally involved;
-
- ❖ The EDP is responsible for investigations and decides what steps to take, under the supervision of the European Public Prosecutor of its Member State and the decisions of the Permanent Chamber hearing the case.
 - ❖ In cross-border investigations the European Public Prosecutor's Office goes beyond the traditional mechanisms of judicial cooperation.
 - ❖ The rules on transnational investigations represent an added value with respect to the existing instruments of international cooperation



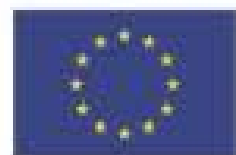
1. The overall goal is to ensure a uniform and effective response against financial crimes involving EU funds.

2. *Ley Orgánica 9/2021* of July 1 where the EPPO Regulation is applied should be commended.



the mandatory inclusion of the new figure of the Judge of Guarantee, who, as an external body to the management of the proceedings, assumes the functions of judicial review expressly provided for in the EPPO Regulation

3. The difference between the Spanish public prosecution service and those of the rest of the EU countries, including EPPO, is that Spain is the only country where the investigation of criminal cases is not directed by prosecutors, but by judges.



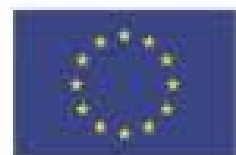
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- Italy implemented the Directive with *decreto legislativo del 14 luglio 2020, n. 75 2020*, and subsequently adapted its domestic legislation to the Regulation with *decreto legislativo del 2 febbraio 2021, n. 9*

- The system that the Italian legislature has envisaged provides for a prevalence, where an offence of those referred to in the BIP Directive is found, that the prosecutor reports both to the European Public Prosecutor's Office and to the national prosecutor

- No major problems have emerged in relations with other national prosecutors' offices. They also do not report exceptions of nullity of the investigation activity carried out by the European Public Prosecutor's Office based on lack of competence. In any case, the relationship with the national prosecutors tends to be a relationship of confrontation in which solutions are found without coming to any conflict.



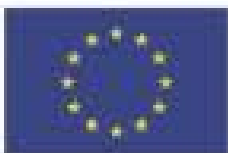


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CONCLUSIONS

- Being a single European-level prosecutor's office greatly facilitates coordination among the various EDPs. This ease of coordination, is certainly a factor of great progress.
- A deterrent effect on those who might try to commit such crimes, knowing that there is a specific body in charge of prosecuting them.
- Articles 31 and 32, of the EPPO Regulations, respectively govern «Cross-border Investigations» and «Enforcement of assigned measures». They create a system of cooperation that surpasses all previous instruments in terms of effectiveness and efficiency. However, there may arise questions of violation of fundamental rights or compliance with the case law of the Court of Justice of the European Union.
- The possibility of extending the jurisdiction of the EPPO, has been another subject of study. Specifically, whether criminal conduct falls within the material scope of EPPO's jurisdiction. Certainly, this is a sensitive issue and one for which there is an urgent need for a doctrine of the Court of Justice of the European Union that provides us with more legal stability.
- For the functioning of the rule of law in the EU, particularly in the fight against corruption, and based on the principle of maximum fairness and mutual cooperation, spaces must be created of mutual cooperation.



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THANK YOU FOR YOUR ATTENTION



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