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ON CULTURAL ISSUES, HUMAN RIGHTS AND SECURITY

## EUROPEAN PUBLIC PROSECUTOR'S OFFICE, ANNUAL REPORT 2022

### Abstract

*The European Public Prosecutor's Office (EPPO) presented its annual report for on March 1, 2022. In the report, the EPPO lists the activities carried out during the year and highlights the critical issues that EU fraud determines to the detriment of European public revenues. With the largest investigation conducted so far "Operation Admiral", the EPPO, as the first transnational prosecutor specializing in criminal activities in the economic and financial sphere, has proven to fight a real criminal industry. The report shows a particular focus on combating fraud in the EU that affects tax revenue and cross-border VAT fraud. The importance of a continuous dialogue with the heads of police forces, tax administrations and specialised investigators assigned for this purpose in the participating Member States.*

### Keywords:

*European Public Prosecutor's Office, International and European Criminal law, Financial Crimes, Transnational Crimes.*

The **annual report** of the **European Public Prosecutor's Office (EPPO)** on its activities carried out in **2022** shows that the EPPO, in cooperation with all the competent national authorities, has succeeded in integrating the Prosecutor's Office into the judicial systems of the 22 participating Member States. During the first full year of the body's activity, the EPPO received and processed 3,318 reports of crime and launched 865 investigations. In particular, it has combated **fraud affecting tax revenue** and **cross-border fraud**. At the end of the year, a total of 1,117 investigations were underway, of which 16.5% concerned VAT fraud, for an estimated damage of EUR 6.7 billion; while 28.2% was cross-border, for a total damage of EUR 14.1 billion. The judges ordered the freezing of EUR 359 million. Through its work, the European Public Prosecutor's Office has shown that all EU jurisdictions can be involved regardless of where and when the damage occurs. Indeed, this result was achieved in the largest investigation conducted by EPPO so far, "**Operation Admiral**", which highlighted the complex international ramifications of financial crime.

In 2022, 31% of the offences investigated by the EPPO concerned **fraud relating to expenditure not related to procurement**. These are mainly committed through the presentation of false, inaccurate or incomplete documents, resulting in the

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misappropriation or unlawful retention of funds or assets from the general budget of the EU. In this regard, the **EPPO filed the first charge in the Czech Republic** against three natural persons and three legal entities accused of subsidy fraud, damage to the financial interests of the EU and legalisation of the proceeds of illegal activities. In total, 17 grant projects were affected by false information, causing damage to the budget of the Czech Republic and the Union for a total amount of EUR 5.5 million.

Conversely, 10% of offences are **fraud concerning the expenditure on public procurement**, thus involving corrupt public officials. In Riga, in September 2022, following an investigation by EPPO, the District Court sentenced four people for organising a fraudulent tender procedure, thanks to which they had illegally obtained EUR 780,000 of EU funds. These were fully recovered before the process.

20% of the offences concerned the most serious forms of VAT fraud linked to the territory of two or more EU Member States and involving a total loss of at least EUR 10 million. This type of **carousel fraud** is characterized by the involvement of defaulting traders (“missing trader”) and the presence of sophisticated criminal organizations operating across borders. In this regard, in Munich, three suspects were convicted on the basis of a platinum coin VAT fraud, managed by a criminal group resident in several participating Member States. The main objective was to manage a sales tax fraud system, which was characterized by the repeated circulation of platinum coins through the same companies. Some of these companies, the so-called “defaulting operators”, did not fulfil their tax obligations, thus allowing another company based in Germany, which was acting as an “intermediary”, to request an undue VAT credit. Tax losses from these criminal activities are estimated at around EUR 33.7 million.

4% of the offences investigated by the EPPO concerned the **active and passive corruption of public officials** (EU and national officials). In May 2022, the EPPO filed an indictment against 10 Croatian citizens, including the mayors of Nova Gradiška and Velika Gorica, for corruption and abuse of office. In September and November 2022, the **Zagreb District Court** handed down sentences against five defendants, who have been found guilty of unlawful favouritism and attempted abuse of office for manipulating procurement procedures in order to secure the award of projects for the construction of works. The projects, with a total value of EUR 22.6 million, were all co-financed by the European Union Cohesion Fund and the European Regional Development Fund. The damage to the EU budget has been largely avoided thanks to the effective action of investigators.

As part of the investigations, the EPPO carried out 210 **recovery actions** in 18 participating Member States (Austria, Belgium, Bulgaria, the Czech Republic, Croatia,



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Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, the Netherlands, Portugal, Romania, Slovakia, Spain). In total, it filed seizure requests for EUR 516 million, obtaining authorisation for more than EUR 359 million. This figure represents 7 times the EPPO budget in 2022. The largest single seizure was over EUR 49 million in monetary instruments.

The **European Public Prosecutor's Office** acts on behalf of the European public interest and operates as a single office with a decentralised structure. In all Member States, European prosecutors implement the same criminal prosecution policy as defined by the College of the independent body. The European Public Prosecutors represent the EPPO in the front line and their task is to investigate, prosecute and bring to justice crimes affecting the financial interests of the EU. This includes fulfilling the obligation to report to the **Permanent Chambers** and cooperating with other delegated European Prosecutors in cross-border cases. As of 31 December 2022, **114 European Prosecutors** were active. During the reporting period, a further 15 delegated European Prosecutors were appointed. In order to facilitate cooperation between the central office and the decentralised level of the EPPO in the participating Member States, the **Association of Delegated European Prosecutors** was established. The association aims to strengthen the inclusion of Prosecutors in the internal decision-making processes of the European Prosecutor's Office, to improve their working conditions and to increase the cohesion of European Prosecutors delegates from different professional and national contexts.

In 2022, for the first time, the EPPO **Human Resources** Unit launched an **annual re-employment procedure** based on the comparative examination of merit within each grade of temporary and contract agents. The re-employment process has allowed 30 employees to move up to the next higher grade within their functional category and the first Staff Committee has been set up to support a constant and constructive dialogue between the staff and the administration of the EPPO.

The **Legal Service** plays an important and transversal role in providing advice and support to the College, the European Prosecutors and the Administrative Director on the interpretation of the Union legal framework governing the activities of the EPPO. The year 2022 was marked by the **first reference for a preliminary ruling** concerning an investigation by the European Public Prosecutor's Office (Court of Justice of the European Union, Case C-281/22). In particular, the *Oberlandesgericht Wien* (Austria) referred to the Court of Justice of the European Union for a preliminary ruling three questions concerning the interpretation of Articles 31 and 32 of the EPPO Regulation, asking, in practice, an interpretation of the scope of the powers of examination by a judge of the Member State of the delegated European Prosecutor responsible for providing assistance, for measures requiring judicial authorisation. The Legal Service prepared and



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submitted the written comments of the EPPO, in this case, its members acted on behalf of the European Public Prosecutor's Office. In 2022, the Legal Service also created an **intranet platform** that collects practical guidance on judicial cooperation in criminal matters between the EPPO and the authorities of third countries and non-participating Member States.

The **EPPO** has carried out a number of initiatives to strengthen links and promote **cooperation** with EU institutions, bodies, offices and agencies, competent authorities of third countries and non-participating Member States, as well as international organisations. Among them:

- **European Union Agency for Criminal Justice Cooperation (EUROJUST)** with which the EPPO contributed to the activities of the operational action on EMPACT MTIC fraud conducted by Eurojust and participated in the "*US-EU expert group for obtaining electronic evidence from the United States through mutual legal assistance*" within Eurojust.
- **European Anti-Fraud Office (OLAF)** in this case the European Public Prosecutor's Office responded to 133 positive/negative feedback requests sent by OLAF in order to avoid parallel investigations into the same facts. In addition, OLAF sent OLAF 20 requests for support in its investigations, while OLAF conducted 19 additional investigations into cases of the European Public Prosecutor's Office subject to its approval.
- **European Police Office (EUROPOL)** with which the EPPO cooperated effectively in various operational matters, under the aegis of the EPPO-Europol Steering Committee. In particular, at the request of the European Public Prosecutor, Europol provided support (exchange of information, analytical support, expertise, etc.) in 28 cases. Since March, EPPO has also been part of the Secure Information Exchange Network Application (SIENA), which provides a secure channel of communication for operational cooperation between the two organisations.

Finally, **2022** saw the conclusion of several **employment agreements** with the **authorities of third countries** whose common denominator is the full recognition of the European Public Prosecutor's Office as the competent authority for the Council of Europe Conventions on Cooperation in Criminal Matters and in particular the 1959 European Convention on Mutual Assistance in Criminal Matters and its two additional protocols.

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In addition, the **EPPO** has signed an **employment agreement** on cooperation with the Department of Justice and the US Department of Homeland Security.

For a deeper analysis see: [Annual Report for the activities of the European Public Prosecutor's Office \(EPPO\) in 2022](#)

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