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Case example

Reporting suspected cases to the EPPO, instituting proceedings at the EPPO / evocation of pending proceedings

1. The police department in France is contacted by a private person („whistle blower“) who reveals to the police information about fraudulent activities carried out by an Austrian-German consortium of construction companies that is involved in a major infrastructure project at Charles de Gaulle Airport (new terminal 4). The whistle blower believes that the project is partially financed by the European Union (EU). According to the information given by him, the consortium has been cooperating with an Italian engineering firm that has been contracted by the consortium (the responsible manager working from the consortium's joint office in Hannover, Germany) to design the layout of the terminal's sprinkler system. The whistleblower also claims that the documentation he can provide to the police (several copies of manual files plus a USB stick) will prove the fact that the Italian engineering firm has been grossly overcharging the consortium for services they claim to have provided. The whistleblower further claims that part of the money received by the Italian company as payments for their services has been paid as “kick-back” to the consortium's manager (an Austrian citizen) on his personal account at a bank in Zurich.
2. A prosecutor in Hannover is conducting a (national) criminal investigation against that same manager of the consortium for the same criminal conduct in respect of the same infrastructure project in France, also involving the same Italian engineering company. These investigations had not yet revealed the fact that this infrastructure project has been co-financed by the EU and thus the German prosecutor had no reason yet to inform the EPPO.

How will the European Public Prosecutor's Office (EPPO) proceed with the case?

Case example

Course of investigation proceedings, powers within EPPO

3. A European Delegated Prosecutor (EDP) is conducting an investigation against the manager. The following investigative measures need to be conducted:
- house search at the business premises of the consortium;
 - house search at the private premises of the manager;
 - search of all the data collected;
 - witness statements;
 - hearing of the suspect;
 - request for information about all bank accounts that the perpetrator is holding;
 - request for detailed information on the bank accounts and analysing the data obtained.
- a) Who can conduct the investigative measures in accordance with your national law?
- b) What are the national procedures and modalities for taking the measure in accordance with national law?
- c) When should the EDP report to the Chamber/ European Prosecutor (EP)?
- d) How do you imagine the interaction with the EP?
- e) How could the Central Office of the European Public Prosecutor's Office (EPPO) support the investigations of the EP?
- f) How should information of the media be organised within the EPPO?

Alternative:

The house searches are conducted during the weekend and immediately reveal that the perpetrator rented a flat where additional evidence can be expected. The EPPO has no 24/7 availability.

Case example

Concluding investigations and taking the case to court

4. The European Delegated Prosecutor (EDP) in Berlin, Germany, was entrusted with the investigations as the handling EDP. The following persons have become suspects:

- Armin A.: the responsible consortium manager (Austrian) working from the consortium's joint office in Hannover,
- Bodo B.: another manager (German) at the consortium's joint office, and closest colleague of A. there, who was introduced to the scheme by A. when it was running, and whose responsibility was to check and co-sign invoices accepted by A.,
- Carlo C.: the Milan-based employee (Italian) of the Italian engineering firm, to whom A. seems to have proposed the "kick-back" scheme, to which he then agreed with A.,
- Dirk D.: a third manager (German) at the consortium's joint office, who had been asked by either A. or B. to co-sign invoices a few times, when the other one was not available, and did so although voicing his suspicion that the invoices may be over-charging but acquiesced after A. gave him a 3,000 Euro watch as a gift.

The results of the investigations show that

- the Paris project was partially financed by the EU (30 % Union/70% French public funds),
- C. was the responsible within the Italian engineering firm to draft up and submit the invoices, which over-charged approx. 100,000 Euros in total,
- C. arranged that that an amount of approx. 50,000 Euros were falsely declared to be fees by a Swiss consulting firm and that they were transferred to A.'s bank account in Zurich,
- A. has not made any tax declarations regarding the funds received by him in his Swiss bank account.

Furthermore, a lawyer for D. has approached the handling EDP: D. is offering to testify against the other suspects and to compensate a part of the damage caused, i.e. at least the damage relating to the invoices co-signed by him. In return, he asks that no case is brought against him in court.

How should the handling EDP conclude his/her case against the four suspects?

Case example

Cross-border investigations within the EPPO, Cooperation between EPPO and other partners (non-participating EU Member States, EU authorities, third states)

5. A. has traveled to his holiday domicile in Hungary. It appears that he has decided not to return to Germany, given the pending investigations against him by the handling EDP in Germany.

The Swiss liaison magistrate at EPPO in Luxembourg has informed the EPPO Central Office that Swiss authorities have been able to trace 20,000 Euros that were transferred from one account of the Italian engineering firm to the Zurich bank account. The Swiss liaison magistrate mentions as well that the Swiss Public Prosecutor intends to carry out investigation because of money laundering. In the meantime Irish authorities have confirmed that incriminating e-mail correspondence is stored in an e-mail account on a server held by Microsoft Ireland.

The police investigators tasked with the case have received information about close connections of A. to Turkey. The handling European Delegated Prosecutor (EDP) has reasonable doubts whether A. will stay at his current whereabouts.

What measures are available to the handling EDP in order

- a) to ensure A.'s appearance before court,
- b) to carry out a search of the premises of the Italian engineering firm and C.'s home at Milan,
- c) to freeze the account at the Zurich bank and
- d) to obtain subscriber, transactional and content data from the Microsoft e-mail account?

Should the Swiss authorities ask for information about their money laundering investigations, would the handling EDP be able to answer to such a request? If so: What would be the relevant procedures and the applicable conditions?