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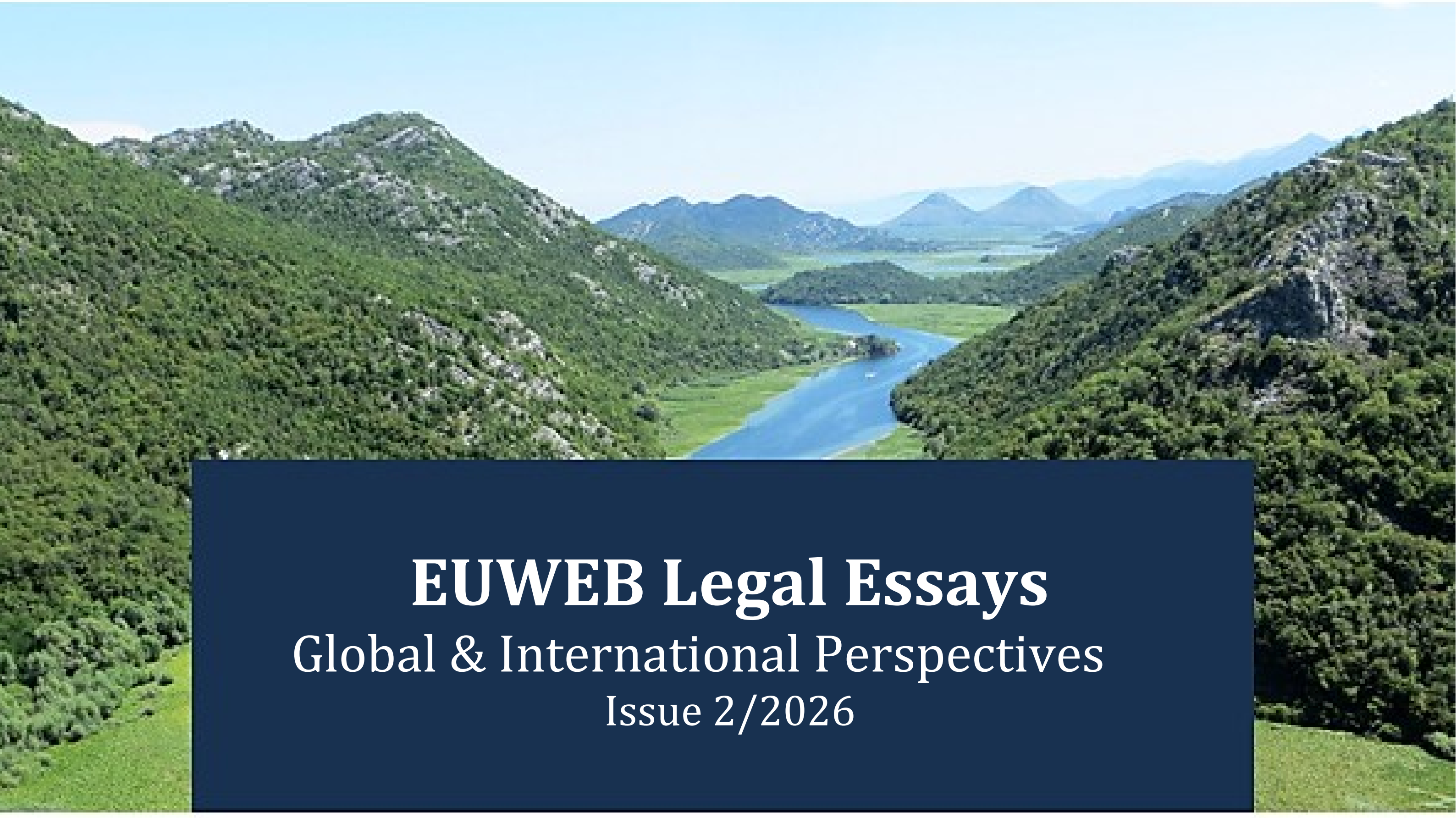

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PROTECTING EU FINANCIAL INTERESTS BEYOND EU BORDERS:
THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE, CANDIDATE COUNTRIES
AND THE LIMITS OF SUPRANATIONAL CRIMINAL ENFORCEMENT

by Nina Madjovska Naumovska[*]

1. Introduction

Following the genesis of establishing the European Public Prosecutor's Office (EPPO), in accordance with Art. 86 TFEU (introduced by the Lisbon Treaty)[1], the Council – by a unanimous decision after obtaining the consent of the European Parliament – established the EPPO "from Eurojust"[2]. The analysis of this provision has represented the consent of at least nine Member States to establish the EPPO through enhanced cooperation in the absence of unanimity within the Council. Despite ongoing debates following the entry into force of the Lisbon Treaty in 2009, the EPPO project has been supported through expert consultations and further academic research, on the side of the Commission. The concept of the EPPO regarding its place in the European Criminal Policy follows a biphasic model of criminal proceedings in which investigative and prosecutorial competences concerning offences affecting the financial interests of the European Union are exercised at the supranational level by the EPPO, whereas adjudicative authority remains vested in national courts.

The EPPO is an independent public prosecution office of the European Union with competence to investigate and prosecute perpetrators and accomplices of criminal offences affecting the financial interests of the Union, as provided for in Directive (EU)

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[1] Consolidated Version of the Treaty on the Functioning of the European Union, in OJ C 202, of 7 June 2016, art. 86.
[2] *Cfr.*, K. LIGETI (ed.), *Toward a Prosecutor for the European Union – A Comparative Analysis*, Oxford-Portland, 2013; P. ASP (ed.), *The European Public Prosecutor's Office: Legal and Criminal Policy Perspectives*, 2015; L. BACHMAIER WINTER, *The European Public Prosecutor's Office. The Challenges Ahead*, Cham, 2018; F. DE ANGELIS, *The European Public Prosecutor's Office (EPPO). Past, Present, and Future*, in *Eucrim*, No. 4, 2019, p. 1 ff.; K. LIGETI, M.J. ANTUNES, F. GIUFFRIDA, *The European Public Prosecutor's Office at Launch*, Padua, 2020.

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2017/1371 (PIF Directive)[3] and Regulation (EU) 2017/1939[4]. From the perspective of substantive jurisdiction, the EPPO is competent to act in cases involving criminal offences that have caused or attempted to cause damage to the financial interests of the European Union. More specifically, the EPPO has jurisdiction over the so-called "PIF offences" listed in Directive (EU) 2017/1371. These include: cross-border VAT fraud involving total damages of at least EUR 10 million; expenditure and customs fraud; corruption that damages or is likely to damage the financial interests of the European Union; misappropriation of EU funds or assets by public officials; money laundering and all other criminal offences inextricably linked to one of the aforementioned categories. In practice, EPPO concentrates on serious offences affecting the EU's financial interests, and complex organised crime schemes involving EU expenditure. So, it is also competent to prosecute conduct related to participation in a criminal organisation where such conduct falls within the scope of offences defined under the PIF Directive[5].

In this direction, EPPO is the central judicial pillar of the EU anti-fraud architecture, as it introduces a supranational prosecutorial function that was previously absent in the Union's institutional framework. Unlike the European Anti-Fraud Office (OLAF), which operates as an administrative investigative body focused on detecting irregularities and issuing recommendations, EPPO has the authority to conduct criminal investigations, bring charges, and prosecute cases directly before national courts in participating Member States[6]. Its operational model is based on European Delegated Prosecutors embedded in Member States, who act under EPPO's centralised strategic direction while applying national procedural law. According to the aforementioned Regulation, the EPPO consists of two levels: a central level and a decentralised (national) level. The central level is composed of the European Chief Prosecutor, 22 European Prosecutors (two of whom serve as Deputy Chief Prosecutors), the Administrative Director and supporting staff. In this regard, they jointly decide on strategic matters and adopt the internal rules of procedure[7]. The decentralised level consists of European Delegated Prosecutors in the participating Member States.

To date, 24 Member States of the European Union participate in the mechanism of enhanced cooperation in criminal matters through the framework of the EPPO.

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[3] Directive (EU) 2017/1371 of the European Parliament and of the Council, *on the fight against fraud to the Union's financial interests by means of criminal law*, of 5 July 2017, in OJ L 198, of 28 July 2017.

[4] Council Regulation (EU) 2017/1939, *implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("EPPO")*, of 12 October 2017, in OJ L 283, of 31 October 2017.

[5] As methodically explained by Z. DURDEVIĆ., *Judicial Control in Pre-Trial Criminal Procedure Conducted by the European Public Prosecutor's Office*, in K. LIGETI (ed.), *Toward a Prosecutor for the European Union, I, A Comparative Analysis*, Oxford-Portland, 2013, p. 998 ff. *Cfr*., M. PANZAVOLTA, *Choosing the National Forum in Proceedings Conducted by the EPPO: Who Is to Decide?*, in L. BACHMAIER WINTER (ed.), *The European Public Prosecutor's Office: The Challenges Ahead, Springer*, Cham, 2018, pp. 59-86.

[6] On the differences between the Offices, see J.F.H. INGHELRAM, *Legal and Institutional Aspects of the European Anti-Fraud Office (OLAF). An Analysis with a Look Forward to a European Public Prosecutor's Office*, Groningen, 2011; M. LUCHTMAN, J. VERVAELE (eds.), *Investigatory Powers and Procedural Safeguards: Improving OLAF's Legislative Framework Through Comparison with other EU Law Enforcement Authorities*, Utrecht, 2017; D. CECCARELLI, *The EPPO and Fight against VAT Fraud: a Legal Ostacle in the Regulation?*, in *Eucrim*, No. 1, 2021, pp. 47-48; J. ECHANOVE GONZALEZ DE ANLEO, N. KOLLOCZEK, *The European Anti-Fraud Office and the European Public Prosecutor's Office: A Work in Progress*, in *Eucrim*, No. 3, 2021, pp. 187-190; M. BELLACOSA, M. DE BELLIS, *The Protection of the EU Financial Interests Between Administrative and Criminal Tools: OLAF and EPPO*, in *Common Market Law Review*, Vol. 60, 2023, pp. 15-50.

[7] European Public Prosecutor's Office, 'European Public Prosecutor's Office (EPPO)', available at: https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/european-public-prosecutors-office-eppo_en.

Furthermore, it functions within a coordinated ecosystem of EU agencies. However, the complementarity of EPPO with OLAF[8], Eurojust and Europol has also been subject to critical debate in legal scholarship. It has been argued that despite the establishment of the EPPO as a supranational prosecutorial body, significant doubts remain as to whether the creation of an additional institutional layer was necessary within an already complex enforcement architecture. In particular, the OLAF continues to play an important role in administrative investigations and in the detection of irregularities affecting the EU budget, while Eurojust and Europol remain central actors in judicial coordination and operational intelligence support. From this perspective, the EPPO does not replace existing structures but rather adds a further level of institutional complexity, raising questions about overlap, efficiency, and the practical added value of a "European prosecution service". Some authors therefore emphasise that the effectiveness of the system depends less on institutional multiplication and more on functional cooperation, proportionality and the subsidiarity of EPPO intervention in relation to national authorities[9].

Taking into account both the territorial principle and the personal principle (linked to the nationality of the offender), the jurisdiction of the EPPO under Art. 23 of the Regulation governing its structure and competences is relatively straightforward to apply, as the provision does not refer to other norms, regulations or directives. The Regulation gives priority to the territorial principle over the principle of national jurisdiction. With regard to the personal principle, the jurisdiction of the EPPO extends to the offences listed in Art. 22 of the EPPO Regulation when they are "*committed by a national of a Member State, provided that the relevant Member State has jurisdiction over such offences when committed outside its territory*". This general framework is supplemented by a specific provision concerning EU staff and officials, which incorporates the same procedural requirements[10]. In the context of the provisions contained in Regulation (EU) 2017/1939, particularly regarding the determination of its competences vis-à-vis Member States, it may be concluded that the EPPO enjoys a *sui generis* position with respect to its jurisdiction. The Regulation establishing the EPPO stipulates that European Delegated Prosecutors shall form an integral part of the EPPO and, when investigating and prosecuting offences within its competence, shall act exclusively on behalf of the EPPO within the territory of their respective Member States. This supports the view that prosecutors delegated to the EPPO possess a functionally and legally independent status distinct from any status recognised under national law. At the same time, while exercising their competences on behalf of the EPPO, delegated prosecutors enjoy the same prerogatives and powers as prosecutors within national prosecution services. It is also emphasised that a prosecutor delegated to the EPPO may simultaneously perform duties as a national prosecutor within his or her home State, provided that the performance of such duties is compatible with his or her responsibilities as a European Delegated Prosecutor[11].

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[8] In particular, on the powers of OLAF regarding acceding (third) countries, see C. SCHARF-KRÖNER, J. SEYDERHELM, *OLAF Investigations Outside the European Union*, in *Eucrim*, No. 3, 2019, pp. 209 ff.
[9] D. DAMASKAOU, *The EPPO and the EU System of Protection of Financial Interests*, in K. LIGETI (ed.), *Towards a Prosecutor for the European Union – Volume I*, Cambridge, 2013, pp. 129-131.
[10] M. JIMENO BULNES, *The European Public Prosecutor's Office and Environmental Crime: Further Competence in the Near Future?*, in *Eucrim*, Vol. 19, No. 2, 2024, pp. 146-152.

It may therefore be concluded that the EPPO represents the first supranational body established[12] at the level of the European Union with competence to investigate and prosecute perpetrators of criminal offences. Nevertheless, it faces significant challenges in its cooperation with both participating Member States and candidate countries. These difficulties derive from the hybrid nature of the EPPO itself, which operates at the intersection between supranational authority and national criminal justice systems, as well as from the diversity of legal traditions, procedural frameworks and political sensitivities that characterise the European legal landscape.

2. Cooperation and Fragmentation within the EPPO Framework: Challenges and National Approaches

Although the establishment of the EPPO constitutes the most significant step thus far in the harmonisation of European criminal law, particularly from a procedural perspective, practical experience since it became operational also demonstrates that cooperation in criminal matters among EU Member States through the EPPO framework is itself highly complex. This is evidenced by the fact that, to this day, not all Member States have accepted the concept of the EPPO or joined it. Namely, Hungary remains one of the strongest opponents of the EPPO among EU Member States. Hungary's decision not to participate in the EPPO has largely been motivated by so-called "political concerns" rooted in reluctance to share national sovereignty with the European Union in such a sensitive field[13].

Until recently, Poland and Sweden shared a similar position.[14] However, in December 2024 both States changed their stance and decided to join the enhanced cooperation framework established through the EPPO. With regard to Sweden specifically, the Swedish Parliament was among the national parliaments that opposed the Commission's proposal for a Regulation establishing the EPPO, arguing that the principle of subsidiarity had not been respected. The Swedish Parliament maintained that it was unclear why the Commission believed that only the establishment of the EPPO could ensure effective prosecution of offences affecting the Union's budget. Denmark, meanwhile, remains outside the EU's Area of Freedom, Security and Justice and retains the possibility of joining the EPPO framework at a later stage[15]. Nevertheless, Sweden and Poland are now members of the EPPO pursuant to the Decision adopted on 12 December 2024[16].

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[12] The European Public Prosecutor's Office (EPPO) was established in 2017 and became operational in 2021, thereby marking the beginning of its practical functioning within the European Union's criminal justice framework.

[13] F. GIUFFRIDA, *The Relations between the European Public Prosecutor's Office and the Member States that Do Not Participate in the Enhanced Cooperation*, in *New Journal of European Criminal Law*, Vol. 14, No. 1, 2023, pp. 80-99. *Cfr.*, C. DI FRANCESCO MAESA, *Repercussions of the Establishment of the EPPO via Enhanced Cooperation EPPO's Added Value and the Possibility to Extend Its Competence – EPPO's Added Value and the Possibility to Extend Its Competence*, in *Eucrim*, No. 3, 2017, pp. 156-160.

[14] On the matter, S. CACCIATORE, *A Practical Analysis of EPPO's Operation*, in B. UMBERTAZZI (ed.), *The EPPO and Rule of Law*, Torino, 2024, p. 170, contended that: "*Another aspect that should be emphasised concerns the accession of European countries that currently have not joined the EPPO. It would be appropriate for all EU countries to join the EPPO; the explicit reference is to those Member States such as, Poland, Hungary, Denmark, Ireland and Sweden who do not participate in the EPPO, but this would seem to be more of an assessment on the political rather than judicial*".

[15] E. HERLIN-KARNELL, *Denmark and the European Area of Freedom, Security and Justice: A Scandinavian Arrangement*, in *Amsterdam Law Forum*, Vol. 5, No. 1, 2013, pp. 95-105.

[16] Council of the European Union, EU Public Prosecutor's Office, *Council appoints European prosecutors for Poland and Sweden*, Press release 982/24, 12 December 2024, available at:

By contrast, Denmark and Hungary have concluded cooperation agreements with the EPPO, committing themselves to strategic and operational cooperation in criminal matters[17]. These agreements indicate that Member States outside the EPPO framework are obliged, through their national authorities, to notify the EPPO of criminal offences falling within its jurisdiction that are being investigated on their territories, particularly offences affecting the EU budget. In practical terms, this means that national authorities in non-participating Member States may still be required to notify the EPPO of criminal offences falling within its jurisdiction, especially in cases involving fraud against the EU budget, corruption linked to Union funds, or cross-border VAT fraud schemes. However, cooperation between the EPPO and non-participating Member States remains significantly more complicated than cooperation within the EPPO framework itself[18]. Since these States are not integrated into the EPPO's internal prosecutorial structure, cooperation depends largely on traditional instruments of mutual legal assistance, bilateral agreements and principles of reciprocity. This may lead to delays in the exchange of information, difficulties in coordinating investigative measures and limitations concerning the direct execution of prosecutorial requests. Furthermore, differences in procedural law and varying standards regarding evidence gathering, judicial review and procedural safeguards may complicate the effective conduct of cross-border investigations[19].

While cooperation with non-participating Member States remains challenging, the experience of participating Member States demonstrates the advantages of full integration into the EPPO structure. Conversely, the cooperation between the EPPO and Italy constitutes one of the most developed and institutionally consolidated partnerships within the EPPO framework. This is largely attributable to Italy's status as a founding participating Member State, as well as its well-established institutional tradition in combating financial and organised economic crime. From an operational perspective, the Italian EPPO framework is characterised by a high degree of functional integration and inter-agency coordination. Italian prosecutorial authorities and specialised law enforcement bodies, particularly the *Guardia di Finanza*, engage in continuous cooperation with EPPO in investigating complex financial crimes affecting the EU's financial interests[20]. These typically include large-scale VAT fraud schemes, the misuse of European structural and cohesion funds, irregularities in agricultural subsidies and corruption in public procurement processes. Operationally, Italy is also frequently involved in EPPO-coordinated cross-border actions, including simultaneous searches, asset freezes and evidence gathering across multiple EU Member States. Italian judicial authorities provide both legal support and enforcement capacity, making Italy one of EPPO's most active and strategically significant partners in executing large-scale financial crime investigations. The effectiveness of the cooperation of the Italian national

https://www.consilium.europa.eu/en/press/press-releases/2024/12/12/eu-public-prosecutor-s-office-eppo-council-appoints-european-prosecutors-for-poland-and-sweden_en/.

[17] T. WAHL, *Working Arrangement with Danish Ministry of Justice*, in *Eucrim*, 9 October 2023.

[18] Even within the EPPO framework, cross-border investigations have generated significant procedural challenges concerning judicial authorisation, applicable national law, and the execution of investigative measures in assisting Member States. During the legislative negotiations, these issues were described as a "sensitive compromise", reflecting the difficulties of reconciling supranational prosecution with national procedural autonomy. See V. RUŽIČKOVÁ, *The Role of Mutual Trust and Mutual Recognition in EPPO Cross-Border Investigations*, in *Časopis pro právní vědu a praxi*, Vol. 1, 2022, pp. 78-80.

[19] On the matter, see S. ALLEGREZZA, A. MOSNA, *Cross-Border Criminal Evidence and the Future European Public Prosecutor. One Step Back on Mutual Recognition?: The Challenges Ahead*, Cham, 2018.

[20] European Public Prosecutor's Office (EPPO), *Italy – Members*, available at: https://www.eppo.europa.eu/en/about/members/italy.

authorities and the EPPO is mostly visible through the statistical data provided by the EPPO, concluding 31st of December 2025[21]. Overall, these findings are not specific only to Italy, but reflect the broader importance of EPPO's operational model across all participating Member States. The ability to manage a high number of investigations, address significant financial damage and advance cases into judicial proceedings demonstrates the general effectiveness of EPPO's cooperative structure in combating fraud affecting the EU budget.

Therefore, the experience of the EPPO illustrates both the achievements and the limitations of the Europeanisation of criminal justice. On the one hand, the EPPO represents an unprecedented step toward supranational criminal enforcement and a stronger protection of the Union's financial interests. On the other hand, the differing positions of Member States reveal that criminal law remains one of the most politically sensitive and legally fragmented areas of European integration[22]. The effectiveness of the EPPO ultimately depends not only on its institutional design, but also on the willingness of Member States to cooperate, to strengthen mutual trust and to progressively accept a shared understanding of criminal justice within the European legal order.

3. The External Dimension of EPPO Cooperation under Article 104: Legal Framework and Practice

According to Art. 4 of the Regulation establishing the EPPO provides that*:* "*The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment the perpetrators of and accomplices in, criminal offences affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 and determined by this Regulation. In that respect, the EPPO shall undertake investigations and carry out acts of prosecution and shall exercise the functions of prosecutor before the competent courts of the Member States until the case has been finally disposed of*"[23]. An analysis of the Regulation establishing the EPPO demonstrates that it imposes obligations on Member States concerning the protection of the Union's financial interests. However, the European Commission maintains that maximum efforts in strengthening the fight against fraud affecting the financial interests of the European Union must also be undertaken by beneficiary countries receiving EU funds. Pursuant to

[21] According to the EPPO 2025 statistics for Italy, the country had 991 active investigations as of the end of 2025, making it the most affected Member State within the EPPO system. During the same period, the EPPO opened 635 new cases in Italy out of 792 incoming reports, indicating a high level of detected and processed fraud-related activity. The total estimated financial damage under investigation in Italy amounted to approximately €28.7 billion, including about €2.66 billion directly affecting the EU budget. In terms of judicial outcomes, the report records 41 court decisions, including 29 convictions. The EPPO also applied preventive measures, with around €370 million in assets frozen in ongoing Italian cases.

[22] According to Mitsilegas, the negotiations on the EPPO demonstrated the tension between supranational and intergovernmental visions of European criminal justice, particularly regarding the allocation of prosecutorial competence and the preservation of Member States' sovereignty in criminal matters. See V. MITSILEGAS, *The European Public Prosecutor's Office and the Rule of Law*, in *Maastricht Journal of European and Comparative Law*, Vol. 28, No. 2, 2021, pp. 248-250.

[23] For commentaries on the whole Regulation, see DI C. DI FRANCESCO MAESA, *Directive (EU) 2017/1371 on the Fight Against Fraud to the Union's Financial Interests by Means of Criminal Law: A Missed Goal?*, in *European Papers*, No. 3, 2018, p. 1 ff.; A. ȘANDRU, M. MORAR, D. HERINEAN, O. PREDESCU, *European Public Prosecutors' Office. Regulation. Disputes. Explanations*, Bucharest, 2021; P. HAUK, *The EPPO Regulation*, Cheltenham, 2026; H. HERRNFELD, D. BRODOWSKI, C. BURCHARD, *European Public Prosecutor's Office Article-by-Article Commentary*, 2026.

Regulation (EU) 2017/1939, the activities and jurisdiction of the EPPO are limited to the legal systems of EU Member States.

Nevertheless, Art. 104 of the EPPO Regulation provides in detail for the EPPO's cooperation with third countries. Such cooperation is generally determined in terms of the exchange of strategic information and the designation of contact points for cooperation with the EPPO. Furthermore, the EPPO may appoint, in agreement with the competent authorities concerned, contact points in third countries in order to facilitate cooperation in accordance with the operational needs of the Office. The provision establishes that cooperation with third countries is primarily based on existing international instruments, such as mutual legal assistance treaties, bilateral agreements between States and applicable multilateral conventions. In the absence of specific EPPO-wide external enforcement powers, this means that the Office cannot act autonomously within third-country territories, but must rely on traditional channels of international judicial cooperation, mediated through the national competent authorities of the Member States.

As a result, EPPO investigations that require evidence, asset recovery or suspect apprehension in third countries are structurally dependent on external cooperation frameworks. Importantly, Art. 104 also allows EPPO, in agreement with the relevant authorities of third countries, to establish more formalised contact arrangements where necessary. This reflects an attempt to move beyond purely ad hoc cooperation towards a more institutionalised network of cooperation partners. However, such arrangements remain dependent on the consent of third countries and do not alter the fundamental limitation that EPPO lacks direct jurisdiction outside the Union[24]. Therefore, from a functional perspective, Art. 104 reflects a compromise between the need for effective protection of EU financial interests and the constraints of State sovereignty in criminal law enforcement. While it enables a degree of operational coordination in transnational investigations, it does not provide a fully integrated enforcement mechanism comparable to that existing within the EU through the network of European Delegated Prosecutors. Consequently, the effectiveness of EPPO investigations involving third countries remains uneven and heavily reliant on the efficiency of external cooperation mechanisms.

By signing the Framework Agreement[25] on Financial Partnership between the European Commission and the Republic of North Macedonia, as a beneficiary of funds under the Instrument for Pre-Accession Assistance (IPA), North Macedonia has undertaken obligations to establish an effective system aimed at protecting the financial interests of the European Union. An effective system for the protection of the Union's financial interests, not only in the Republic of North Macedonia but also in other candidate countries and EU Member States requires coordinated and coherent action by the competent authorities in the prevention, detection, treatment, reporting and monitoring of irregularities and suspected fraud cases, including the prosecution of fraud-related offences, the application of sanctions and the recovery of improperly spent EU funds[26].

In this regard, it may be argued that such a system represents a complex framework composed of both administrative bodies and criminal prosecution authorities within the

[24] V. MITSILEGAS, *op. cit.*, pp. 248-250.
[25] *Framework Partnership Agreement between the European Commission and the Republic of North Macedonia for the implementation of the Instrument for Pre-Accession Assistance (IPA III) for the period 2021–2027*, in Official Gazette of the Republic of North Macedonia No. 235, of 4 November 2022.
[26] *Strategy for Combating Fraud and Protecting the Financial Interests of the European Union in the Republic of North Macedonia for the period 2022–2025*, adopted by the Government of the Republic of North Macedonia, of 14 June 2022.

State. Although the administrative bodies responsible for reporting irregularities involving IPA funds, pursuant to the Framework Agreement and the established IPA structures are obliged to directly report cases of irregularities involving suspicion of criminal fraud affecting the financial interests of the European Union[27] to the competent Basic Public Prosecutor's Offices or to the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, the establishment of the European Public Prosecutor's Office has also imposed obligations upon candidate countries with regard to cooperation with this Office in matters concerning fraud affecting the financial interests of the Union.

The need to strengthen cooperation between the Republic of North Macedonia and the EPPO as part of the EU accession process was also highlighted in the European Union's 2021 Progress Report for the country[28]. The Public Prosecutor's Office of the Republic of North Macedonia concluded a working arrangement with the EPPO in October 2022[29]. This arrangement defines joint obligations concerning the organisation of meetings at operational and technical levels between the parties, the organisation of training activities in relevant areas and the exchange of best practices and experience in the investigation and prosecution of financial crime and corruption. It also establishes a contact point within the Public Prosecutor's Office of the Republic of North Macedonia.

The remaining provisions of the working arrangement regulate methods of communication, as well as issues relating to data processing, security and liability concerning the protection of personal data.

It may therefore be concluded that, in this respect as well, the Republic of North Macedonia has approached the establishment of effective cooperation with the EPPO with considerable seriousness, within the limits available to it as a candidate country. Notably, only one year after the EPPO became operational, North Macedonia had already concluded a working arrangement and designated a contact point to facilitate cooperation and communication in the field of protecting the Union's financial interests. Nevertheless, from the perspective of criminal-law protection of the financial interests of the European Union, it should be emphasised that, alongside strengthening cooperation between the EPPO and the Public Prosecutor's Office of the Republic of North Macedonia, there is also a need to establish effective operational cooperation in accordance with the applicable legal framework. Given that the EPPO's competence is limited to Member States, consideration should be given to the possibility of cooperation through Eurojust. From the perspective of strengthening effective cooperation between national authorities and the EPPO, it is also of great importance to regulate issues concerning the EPPO's gathering of evidence and its evidentiary value before national courts, as well as judicial review of the measures undertaken.

In the context of regulating cooperation with candidate countries for EU accession, Art. 104 of Regulation (EU) 2017/1939 further provides that the EPPO may request mutual legal assistance in criminal matters from authorities of third countries in specific

[27] Art. 249-a of the Criminal Code of the Republic of North Macedonia, Consolidated Text, in Official Gazette of the Republic of North Macedonia, 2023.

[28] European Commission, *North Macedonia 2021 Report*, SWD(2021) 294 final, accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*, 2021 Communication on EU Enlargement Policy*, of 19 October 2021, COM/2021/644 final.

[29] Public Prosecutor's Office of the Republic of North Macedonia, *Working Arrangement between the European Public Prosecutor's Office and the Public Prosecutor's Office of the Republic of North Macedonia*, Skopje, 2022, available at: https://jorm.gov.mk/wp-content/uploads/2022/10/dogovor-evropsko-obvinitelstvo-sken.pdf.

cases falling within its material competence[30]. It is also explicitly stated that, where necessary to request the extradition of a person, the handling European Delegated Prosecutor may ask the competent authority of his or her Member State to issue an extradition request in accordance with applicable treaties and/or national legislation. Moreover, experience from the internal functioning of the EPPO demonstrates that even among participating Member States, cross-border investigations may raise procedural difficulties concerning judicial authorisation, the execution of investigative measures and the interaction between EU and national procedural rules[31]. These challenges may become even more pronounced in cooperation with third countries, where the EPPO cannot rely on its internal system of European Delegated Prosecutors and must instead operate through traditional instruments of international cooperation[32].

However, it is important to emphasise that cooperation in this field must always be conducted in accordance with national rules governing international cooperation in criminal matters. Viewed from this perspective and in accordance with the provisions of the Regulation determining the structure and competences of the EPPO, it is undisputed that the EPPO enjoys limited jurisdiction with regard to offences falling under the PIF Directive in relation to candidate countries for EU accession[33].

4. The Paradox of EPPO External Jurisdiction: Sovereignty Constraints and Enforcement Limits

This finding is paradoxical in itself, considering that, on the one hand, the European Union provides financial assistance to third countries that are not Member States, while on the other hand, if misuse or embezzlement occurs in relation to those funds, the EPPO, the body competent for the criminal-law protection of the Union's financial interests, cannot act outside the borders of the Union. Starting from the premise that, regardless of the measures undertaken by the EPPO within the territory of a candidate country, the outcome will largely depend on the consent and cooperation of the third country concerned, it follows that candidate countries are not parties to the EPPO Regulation. Consequently, if the EPPO seeks to establish even partial jurisdiction within the territory of a candidate country, this could only be achieved through the conclusion of a mutual agreement, which would in turn need to be accepted by all Member States.

The paradox lies in the fact that not all Member States themselves support the concept of the EPPO or participate in the Regulation establishing it[34]. As a result, establishing

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[30] This mirrors EPPO internal competences and capacity to "address" rule of law misbehaviours by Member States according to M. FISCARO, *Rule of Law Conditionality in EU Funds: The Value of Money in the Crisis of European Values*, in *European Papers*, Vol. 4, No. 3, 2019, pp. 695-722; J. ŁACNY, *The Rule of Law Conditionality Under Regulation No 2092/2020 – Is it all About the Money?*, in *Hague Journal on the Rule of Law*, Vol. 13, 2021, pp. 79-105.

[31] To the point of raising compatibility issues between the EU legal system and the national ones according to K. LIGETI, A. WEYEMBERGH, *The European Public Prosecutor's Office: Certain Constitutional Issues*, in L.H. ERKELENS, A.W.H. MEIJ, M. PAWLIK (eds.), *The European Public Prosecutor's Office – An Extended Arm or a Two-Headed Dragon?*, The Hague, 2014, pp. 55-77.

[32] V. RUŽIČKOVÁ, *op. cit.*, pp. 78-80.

[33] Hence entailing a reduced impact on the external conditionality envisaged by D. KOCHENOV, *EU Enlargement and the Failure of Conditionality: Pre-accession Conditionality in the Field of Democracy and the Rule of Law*, The Hague, 2008. *Cfr.*, A. ŁAZOWSKI, *Strengthening the rule of law and the EU pre-accession policy:* Repubblika v. Il-Prim Ministru: *case C-896/19*, in *Common Market Law Review*, No. 6, 2022, pp. 1803-1822.

[34] N. FRANSSEN, *Judicial Cooperation Between the European Public Prosecutor's Office and Third Countries: Chances and Challenges*, in *Eucrim*, Vol. 14, No. 3, 2019, pp. 198-205.

direct operational cooperation between the EPPO and national authorities through bilateral or multilateral agreements remains highly difficult and almost impossible in practice.

Regarding the nature of the powers of the EPPO, according to the EPPO Regulation, it is clearly stated that the EPPO exercises exclusive authority over the investigation and prosecution of offences affecting the EU budget. Although Art. 86, para. 1, TFEU limits the EPPO's competence to offences affecting the Union's financial interests, the EPPO Regulation extends its jurisdiction to offences that are "inextricably linked" to PIF offences[35]. This expansion has been controversial because such ancillary competence is not expressly provided for in the Treaty. It has been justified through the doctrine of implied powers. The doctrine of implied powers is a principle developed through the case law of the Court of Justice of the European Union[36], according to which the European Union may exercise powers that are not expressly conferred by the Treaties where such powers are necessary to ensure the effective exercise of its explicit competences. The doctrine was first articulated in *Commission v Council (ERTA/AETR)*, where the Court held that the existence of internal Union powers may imply the existence of corresponding powers necessary to achieve the objectives of the Treaties.

In the context of the EPPO, this doctrine has been invoked to justify the Office's competence over offences inextricably linked to PIF offences, despite the absence of an explicit Treaty provision granting such ancillary jurisdiction and the need to ensure effective prosecution, particularly in light of the principle of ne bis in idem.

The development of the EPPO reveals a notable asymmetry between the expansion of its substantive jurisdiction and the limitations of its territorial reach. While the EPPO Regulation has been interpreted broadly to include offences inextricably linked to crimes affecting the Union's financial interests, thereby extending the Office's material competence beyond the explicit wording of Art. 86 TFEU, its ability to act outside the territory of participating Member States remains heavily constrained. This creates a paradox whereby the European Union finances projects and programmes in candidate and third countries, yet the EPPO lacks the legal and operational tools necessary to directly protect those financial interests through criminal enforcement. As a result, the effectiveness of the EPPO increasingly depends not only on the breadth of its legal mandate, but also on the willingness of third countries to cooperate, exposing a gap between the Union's financial exposure and its capacity for criminal-law protection.

The provision therefore reflects the tension between effective protection of the EU's financial interests and the principle that EU institutions may act only within the competences conferred by the Treaties. The establishment of the EPPO itself reflects a profound transformation of the EU criminal enforcement model, shifting from a system based on national implementation to a more integrated supranational prosecutorial structure. As the literature notes, "*the EPPO will constitute an indivisible EU body, operating as one single office with a central and decentralized level*"[37], thereby removing internal borders between participating Member States in the prosecution of offences affecting the Union's financial interests. This internal integration is further reinforced by extensive investigative and prosecutorial powers, including the ability to direct national authorities and initiate coercive measures, albeit through domestic enforcement mechanisms. However, this highly integrated model remains territorially confined and

[35] J. ÖBERG, *The European Public Prosecutor: Quintessential Supranational Criminal Law?*, in *Maastricht Journal of European and Comparative Law*, Vol. 28, No. 2, 2021, pp. 164-181.
[36] Court of Justice of the European Union, Judgment of 31 March 1971, Case 22/70, *Commission v. Council (ERTA/AETR)*, para. 22.
[37] J. ÖBERG, *op. cit.*, p. 170.

cannot be easily projected beyond the Union's legal order. While the EPPO operates as a unified enforcement authority within participating Member States, its dependence on national implementation structures and the absence of direct jurisdiction over third countries expose a structural limitation in cases involving EU funds administered outside the Union. Consequently, the effectiveness of the EPPO becomes contingent upon international cooperation rather than direct supranational authority, creating a clear asymmetry between its strong internal integration and weak external reach.

This tension highlights a broader constitutional paradox: although the EPPO is designed as a "single office" with quasi-national prosecutorial powers within the EU, its inability to operate autonomously in candidate or third countries underscores the persistence of territorial sovereignty as a decisive constraint on the external projection of EU criminal law.

5. Concluding Observations

The establishment of the European Public Prosecutor's Office represents one of the most significant developments in the evolution of European criminal justice. By introducing, for the first time, a supranational prosecutorial authority empowered to investigate and prosecute offences affecting the financial interests of the European Union, the EPPO has fundamentally transformed the traditional model of enforcement that relied almost exclusively on national authorities. Its hybrid structure, combining centralised strategic direction with decentralised implementation through European Delegated Prosecutors, has created a unique mechanism capable of addressing complex cross-border financial crime more effectively than previous forms of intergovernmental cooperation.

The cooperation between the EPPO and national authorities has significantly strengthened the effectiveness of protecting the European Union's financial interests. Through its decentralised structure and the network of European Delegated Prosecutors, the EPPO ensures closer coordination between EU-level oversight and national prosecutorial systems, contributing to more consistent investigation and prosecution of fraud affecting EU funds. The practical experience of participating Member States demonstrates that the EPPO has enhanced information sharing, reduced jurisdictional fragmentation and improved the capacity to address sophisticated transnational fraud schemes, particularly in areas such as VAT fraud, corruption and the misuse of European funds.

At the same time, the analysis confirms that the EPPO remains a product of compromise between supranational integration and the preservation of national sovereignty. The continued non-participation of certain Member States illustrates that criminal law remains among the most sensitive areas of European integration.

Furthermore, the external dimension of EPPO cooperation reveals a structural limitation inherent in the current legal framework. Although both EU Member States and candidate countries formally share the objective of protecting the financial interests of the Union, their practical enforcement capacities differ substantially. Member States participating in the EPPO framework benefit from direct investigative and prosecutorial mechanisms, whereas candidate countries remain outside the Office's territorial jurisdiction and cooperate primarily through working arrangements and traditional forms of international judicial cooperation.

This asymmetry becomes particularly visible in the context of EU financial assistance provided to candidate countries. While substantial Union funds are allocated outside the territory of the European Union, the EPPO lacks direct powers to investigate and prosecute offences committed in those jurisdictions. As a result, the effectiveness of criminal-law protection of EU financial interests increasingly depends on the quality of cooperation between the EPPO and third countries. The case of North Macedonia demonstrates that meaningful cooperation can be established through working arrangements and designated contact points; however, such mechanisms remain limited when compared with the operational capacities available within the EPPO system itself.

The study therefore highlights a broader constitutional and institutional paradox. The European Union has progressively expanded the substantive scope of the EPPO's mandate in order to ensure effective protection of its financial interests, including jurisdiction over offences inextricably linked to PIF offences. Nevertheless, the Office's territorial reach remains confined to participating Member States. This discrepancy creates a gap between the Union's financial exposure beyond its borders and its capacity to ensure effective criminal enforcement in relation to those funds. In practice, the stronger the Union's financial engagement with candidate and third countries becomes, the more apparent the limitations of the EPPO's external jurisdiction are likely to be.

For this reason, future developments should focus not only on strengthening cooperation among participating Member States, but also on creating more operational forms of cooperation with candidate countries and strategic partners. Existing working arrangements could be supplemented by enhanced mechanisms for information exchange, evidence gathering, joint investigative activities and cooperation through Eurojust and Joint Investigation Teams. In the longer term, consideration may also be given to possible normative developments of the EPPO framework that would facilitate a more effective external dimension of its activities while remaining consistent with the principles of State sovereignty and the limits imposed by the EU Treaties.

Ultimately, the EPPO should be understood not merely as a new prosecutorial body, but as a manifestation of the broader process of Europeanisation of criminal justice. Its successes and limitations illustrate both the possibilities and the constraints of supranational criminal enforcement within the European legal order.

While the EPPO has already made a substantial contribution to the protection of the Union's financial interests, its future effectiveness will largely depend on the further development of mutual trust, institutional cooperation and innovative legal mechanisms capable of bridging the divide between the internal and external dimensions of EU criminal justice.

ABSTRACT

This article analyses the European Public Prosecutor's Office (EPPO) as a key development in the protection of the financial interests of the European Union, highlighting its hybrid structure combining supranational authority with decentralised implementation through European Delegated Prosecutors. The study focuses on the EPPO's jurisdiction over PIF offences and its role within the EU anti-fraud framework alongside OLAF, Europol, and Eurojust. It further addresses the challenges arising from fragmented participation of Member States, reflecting tensions between integration and national sovereignty in criminal law. Special attention is given to cooperation with third countries and candidate states under Article 104 of the EPPO Regulation, with reference to practical arrangements such as those with North Macedonia. The analysis identifies structural limitations linked to the EPPO's lack of external jurisdiction beyond the EU. It concludes that, despite its significant contribution to supranational criminal enforcement, the EPPO's effectiveness depends on strengthened cooperation mechanisms and greater mutual trust among participating and non-participating States.

KEYWORDS
European Public Prosecutor's Office (EPPO), Financial interests of the European Union, PIF Directive, International judicial cooperation.

LA PROTEZIONE DEGLI INTERESSI FINANZIARI DELL'UE OLTRE CONFINE: PROCURA EUROPEA, PAESI CANDIDATI E LIMITI APPLICATIVI DELLA LEGGE PENALE SOVRANAZIONALE

ABSTRACT
Il presente articolo considera l'Ufficio della Procura europea (EPPO) come passaggio chiave nella tutela degli interessi finanziari dell'Unione europea, evidenziandone la struttura ibrida che unisce elementi di autorità sovranazionale all'attuazione decentralizzata tramite i Procuratori delegati europei. Lo studio si concentra sulla giurisdizione dell'EPPO sui reati PIF e sul suo ruolo, insieme a OLAF, Europol ed Eurojust, all'interno del quadro antifrode dell'UE. Fa inoltre riferimento alle sfide derivanti dalla partecipazione frammentata degli Stati membri, riflettendo sulla tensione tra integrazione e sovranità nazionale nel diritto penale. Peculiare attenzione è dedicata alla cooperazione con i paesi terzi e gli stati candidati ai sensi dell'art. 104 del Regolamento EPPO, con riferimento agli accordi operativi, come quelli con la Macedonia del Nord. In particolare, l'analisi individua alcune limitazioni strutturali dovute alla mancanza di giurisdizione esterna dell'EPPO al di fuori dell'UE. La disamina arriva alla conclusione che, nonostante il suo significativo contributo all'applicazione della legge penale sovranazionale, l'efficacia dell'EPPO dipende da meccanismi di cooperazione rafforzati e da una maggiore fiducia reciproca tra gli Stati partecipanti e non partecipanti.

KEYWORDS
Cooperazione giudiziaria internazionale, Direttiva PIF, Interessi finanziari dell'Unione europea, Procura europea.