

The EPPO's role and mandate.

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**Council
Regulation
2017/1939 –
12 October
2017**

*This Regulation provides for a system of shared competence between the EPPO and national authorities in **combating crimes affecting the financial interests of the Union**, based on the right of evocation of the EPPO.*

Role

- Tackle fraud by investigating and prosecuting crimes affecting the EU's financial interests.
- Conducts cross-border investigations into fraud involving sums **of over** €10 000 in EU funds or cross-border VAT fraud cases involving damages of above €10 million.
- Works hand in hand with national law enforcement authorities.
- Works closely with other bodies like Eurojust and Europol.



Legal basis
establishing the
mandate

Article 22(1) Regulation 2017/1939:

*‘The EPPO shall be competent in respect of the criminal offences affecting the financial interests of the Union that are provided for in **Directive (EU) 2017/1371**’*


- (a) in respect of non-procurement-related expenditure, any act or omission relating to:
 - (i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget or budgets managed by the Union, or on its behalf;
 - (ii) non-disclosure of information in violation of a specific obligation, with the same effect; or
 - (iii) the misapplication of such funds or assets for purposes other than those for which they were originally granted;
- (b) in respect of procurement-related expenditure, at least when committed in order to make an unlawful gain for the perpetrator or another by causing a loss to the Union's financial interests, any act or omission relating to:
 - (i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget or budgets managed by the Union, or on its behalf;
 - (ii) non-disclosure of information in violation of a specific obligation, with the same effect; or
 - (iii) the misapplication of such funds or assets for purposes other than those for which they were originally granted, which damages the Union's financial interests;
- (c) in respect of revenue other than revenue arising from VAT own resources referred to in point (d), any act or omission relating to:
 - (i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the Union budget or budgets managed by the Union, or on its behalf;
 - (ii) non-disclosure of information in violation of a specific obligation, with the same effect; or
 - (iii) misapplication of a legally obtained benefit, with the same effect;
- (d) in respect of revenue arising from VAT own resources, any act or omission committed in cross-border fraudulent schemes in relation to:
 - (i) the use or presentation of false, incorrect or incomplete VAT-related statements or documents, which has as an effect the diminution of the resources of the Union budget;
 - (ii) non-disclosure of VAT-related information in violation of a specific obligation, with the same effect; or
 - (iii) the presentation of correct VAT-related statements for the purposes of fraudulently disguising the non-payment or wrongful creation of rights to VAT refunds.

Then, we need to turn to the EU Directive 2017/1371....

- Article 3 deals with ‘fraud affecting the Union’s financial interests’.
- There are four main categories of fraud defined under Article 3(2)

Any act or omission relating to:

- (i) The use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget or budgets managed by the Union, or on its behalf;
- (ii) Non-disclosure of information in violation of a specific obligation, with the same effect; or
- (iii) The misapplication of such funds or assets for purposes other than those for which they were originally granted.



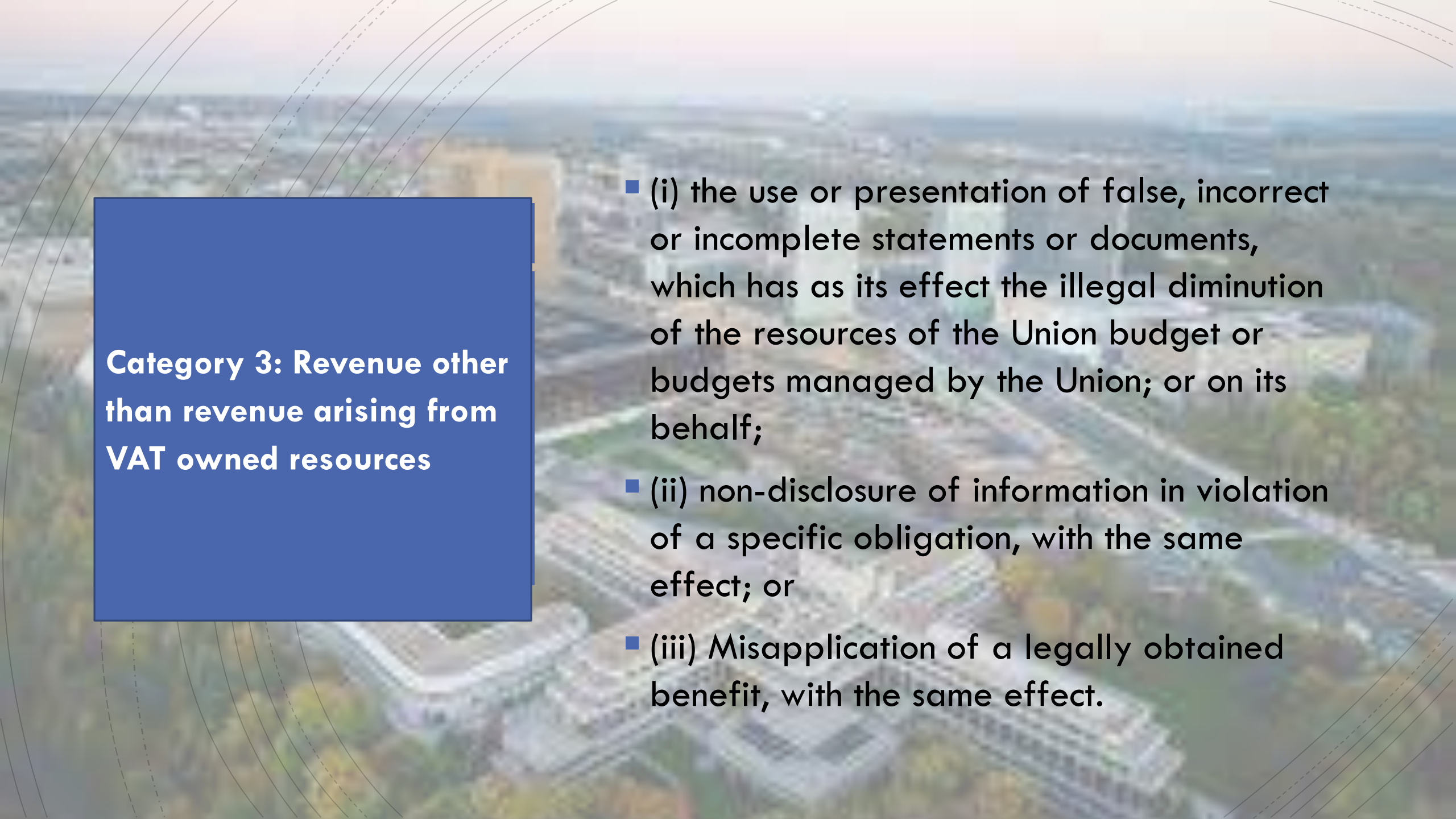
Category 1:
Non-procurement
related
expenditure



Category 2: Procurement-related expenditure

at least when committed in order to make an unlawful gain for the perpetrator or another by causing a loss to the Union's financial interests, any act or omission relating to:

- (i) The use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the Union budget or budgets managed by the Union, or on its behalf;
- (ii) Non-disclosure of information in violation of a specific obligation, with the same effect; or
- (iii) The misapplication of such funds or assets for purposes other than those for which they were originally granted, which damages the Union's financial interests.




Category 3: Revenue other than revenue arising from VAT owned resources

- (i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the Union budget or budgets managed by the Union; or on its behalf;
- (ii) non-disclosure of information in violation of a specific obligation, with the same effect; or
- (iii) Misapplication of a legally obtained benefit, with the same effect.

Category 4: In respect of revenue arising from VAT own resources, any act or omission in cross-border fraudulent schemes:


- (i) The use or presentation of false, incorrect or incomplete VAT-related statements or documents, which has as an effect the diminution of the resources of the Union budget;
- (ii) Non-disclosure of VAT-related information in violation of a specific obligation, with the same effect; or
- (iii) The presentation of correct VAT-related statements for the purposes of fraudulently disguising the non-payment or wrongful creation of rights to VAT refunds.



**Article 4 –
Other criminal
offences
affecting the
Union’s financial
interests**

Money Laundering:

Article 4(1) ‘Member States shall take the necessary measures to ensure that money laundering as described in Article 1(3) of Directive (EU) 2015/849 involving property derived from the criminal offences covered by this Directive constitutes a criminal offence.’



**So then, we look to
Article 1(3) of
Directive (EU)
2015/849 for what
constitutes ‘money
laundering’**

3. For the purposes of this Directive, the following conduct, when committed intentionally, shall be regarded as money laundering:

(a) The conversion or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such an activity.

3(b)

the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such an activity;



3(c)

The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such an activity.



3(d)

Participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to in points (a), (b) and (c).

**So then, we go
back to Article 4
of the 2017
Regulation
establishing
EPPO's Mandate**

2(a)- Passive Corruption:

Passive corruption means the action of a public official who, directly or through an intermediary, requests or receives advantages of any kind, for himself or for a third party, or accepts a promise of such an advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests.



2(b) Active Corruption

Active corruption means the action of a person who promises, offers or gives, directly or through an intermediary, an advantage of any kind to a public official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in a way which damages or is likely to damage the Union's financial interests.

3) **Misappropriation**

For the purposes of this Directive, 'misappropriation' means the action of a public official who is directly or indirectly entrusted with the management of funds or assets to commit or disburse funds or appropriate or use assets contrary to the purpose for which they were intended in any way which damages the Union's financial interests.

Ancillary offences



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- **Article 5(1)**

Member States shall take the necessary measures to ensure that inciting and aiding and abetting the commission of any of the criminal offences referred to in Articles 3 and 4 are punishable as criminal offences.

What have we learnt?



- EPPO's mandate focuses on key criminal acts covering:
 1. fraud
 2. money laundering
 3. corruption
 4. misappropriation
- And ancillary offences related to them.