



EPPO and the CSDP

Proff.ssa Ubertazzi

Jean Monnet Course Coordinator



EUROPEAN
PUBLIC
PROSECUTOR'S
OFFICE

EU internal and
external security are
closely related.

**But how does EPPO play
into this relationship?**



European
Commission

**Quick Recap of EPPO's Mandate: DIRECTIVE (EU)
2017/1371**

Article 3: Fraud

Article 4: Money laundering, corruption,
misappropriation

Article 5: Ancillary offences

But only in relation to the 'Union's financial interests' defined as 1) the Union budget or 2) the budgets of the Union institutions, bodies, offices and agencies established pursuant to the Treaties or budgets directly or indirectly managed and monitored by them.

List of forms of serious crime with which Eurojust is competent to deal in accordance with Article 3(1):

- terrorism,
- organised crime,
- drug trafficking,
- money-laundering activities,
- crime connected with nuclear and radioactive substances,
- immigrant smuggling,
- trafficking in human beings,
- motor vehicle crime,
- murder and grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage taking,
- racism and xenophobia,
- robbery and aggravated theft,
- illicit trafficking in cultural goods, including antiquities and works of art,
- swindling and fraud,
- crime against the financial interests of the Union,
- insider dealing and financial market manipulation,
- racketeering and extortion,
- counterfeiting and product piracy,
- forgery of administrative documents and trafficking therein,
- forgery of money and means of payment,
- computer crime,
- corruption,
- illicit trafficking in arms, ammunition and explosives,
- illicit trafficking in endangered animal species,
- illicit trafficking in endangered plant species and varieties,
- environmental crime, including ship source pollution,
- illicit trafficking in hormonal substances and other growth promoters,
- sexual abuse and sexual exploitation, including child abuse material and solicitation of children for sexual purposes,
- genocide, crimes against humanity and war crimes.

EPPO's Mandate therefore gives it competence in crimes affecting the financial interests of the EU. This is not to be confused with the mandate of Eurojust, which covers a broader set of crimes.

So far, this course has explored how Enhanced Cooperation was used to establish EPPO and therefore strengthen the **internal security** of the EU between participating Member States, regarding crimes affecting the financial interests of the EU, as laid down in EPPO's Mandate.

Article 2

Definitions and scope

1. For the purposes of this Directive, the following definitions apply:
 - (a) 'Union's financial interests' means all revenues, expenditure and assets covered by, acquired through, or due to:
 - (i) the Union budget;
 - (ii) the budgets of the Union institutions, bodies, offices and agencies established pursuant to the Treaties or budgets directly or indirectly managed and monitored by them;
 - (b) 'legal person' means an entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations.
2. In respect of revenue arising from VAT own resources, this Directive shall apply only in cases of serious offences against the common VAT system. For the purposes of this Directive, offences against the common VAT system shall be considered to be serious where the intentional acts or omissions defined in point (d) of Article 3(2) are connected with the territory of two or more Member States of the Union and involve a total damage of at least EUR 10 000 000.
3. The structure and functioning of the tax administration of the Member States are not affected by this Directive.

TITLE II

CRIMINAL OFFENCES WITH REGARD TO FRAUD AFFECTING THE UNION'S FINANCIAL INTERESTS

Article 3

Fraud affecting the Union's financial interests

1. Member States shall take the necessary measures to ensure that fraud affecting the Union's financial interests constitutes a criminal offence when committed intentionally.
2. For the purposes of this Directive, the following shall be regarded as fraud affecting the Union's financial interests:



How then does EPPO
interact with the
external security of
the EU?



‘Crimes affecting the financial interests of the EU’ fit within the EU’s CFSP and CSDP.

Remember Article 42(1) TEU:

The Union may use them (civilian and military assets) on missions outside the Union for **peace-keeping, conflict prevention and strengthening international security** in accordance with the principles of the United Nations Charter.



**Drawing these concepts
together between the internal
and external security nexus ...**

*EPPO comes into play in the EU's CSDP when
CSDP missions involve addressing **crimes**
affecting the financial interests of the EU.*

An aerial photograph of a city with various buildings and green spaces. Overlaid on the image are two text boxes: a dark blue one on the left and a light blue one on the right. There are also decorative curved lines in the top-left and bottom-right corners.

But how?

EPPO's role remember is focused on enhancing **judicial cooperation in criminal matters** affecting the financial interests of the EU.

Therefore, judicial cooperation in criminal matters is also a general aspect of the EU's 'Area of Freedom, Security and Justice (AFSJ)'.

General Aspects include:

- Asylum policy
- Immigration policy
- Management of the external borders
- Judicial cooperation in civil matters
- Judicial cooperation in criminal matters
- Police cooperation
- Personal data protection





What is the legal basis for the AFSJ?

Article 3(2) of the Treaty on European Union (TEU):

*'The Union shall offer its citizens an **area of freedom, security and justice** without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.'*

Legal basis continued:

Title V of the Treaty on the Functioning of the European Union (TFEU) – Articles 67 to 89

Contains specific chapters on:

- Policies on border checks, asylum and immigration;
- Judicial cooperation in civil matters;
- Judicial cooperation in criminal matters;
- Police cooperation

Article 67

(ex Article 61 TEC and ex Article 29 TEU)

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

What are the objectives of the AFSJ?

The objectives for the AFSJ are laid down in Article 67 of the TFEU:

- 'The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States;
- It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals.

(among other objectives).





Various agencies have been set up to help oversee policies in a number of important areas of the AFSJ...

Eurojust, for example, was established to address judicial cooperation in criminal matters. Eurojust still maintains this role, but EPPO now has competence for, as said already, **‘crimes affecting the financial interests of the EU’**.

**Drawing
everything
together...**



EPPO is the main agency established to address judicial cooperation regarding **'crimes affecting the financial interests of the EU'**. EPPO engages in the EU's external security through CFSP/CSDP when those crimes affect the EU's security.



EUROPEAN COMMISSION

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL,
THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE
REGIONS**

The European Agenda on Security

The European Union aims to ensure that people live in an area of freedom, security and justice, without internal frontiers. Europeans need to feel confident that, wherever they move within Europe, their freedom and their security are well protected, in full compliance with the Union's values, including the rule of law and fundamental rights.

In recent years new and complex threats have emerged highlighting the need for further synergies and closer cooperation at all levels. Many of today's security concerns originate from instability in the EU's immediate neighbourhood and changing forms of radicalisation, violence and terrorism. Threats are becoming more varied and

Commission Communication: 'European Agenda on Security'

Priority areas:

1. Strong and comprehensive EU response to terrorism and foreign terrorist fighters.
2. Serious and organised cross-border crime.
3. Reinforced link between Justice and Home Affairs (JHA) and CSDP.



So then, how
does EPPO
engage with EU
external
security?



In 2021, an Agreement
between the European
Commission and EPPO
was signed.

However...

**Agreement establishing the modalities of cooperation
between the European Commission and the
European Public Prosecutor's Office**



Article 3(4)

‘This agreement does not govern the relations between the European External Action Service (EEAS), including its departments at Headquarters or in EU Delegations, and the EPPO.’



Recalling the EEAS (European External Action Service)

The EEAS was set up in 2010 by Council Decision 2010/427/EU as a functionally autonomous body of the European Union to support the High Representative of the EU for Foreign Affairs and Security Policy, which includes the CFSP and CSDP.

The EEAS supports CSDP Missions.



1) Cooperation between EEAS and EPPO?

EPPO plays an essential role regarding the external dimension of EU internal security in fostering judicial cooperation between the Member States of the EU and Third States.



Potential areas of cooperation

- 1. Opportunity to raise awareness in CSDP Missions on the dynamics of judicial cooperation.**
- 2. Sharing knowledge in particular in the planning phase of future CSDP Missions, through the exchange of strategic and non-operational information.**



**Letter of Understanding
on the
Cooperation between Eurojust and EEAS**

1. Eurojust was set up in 2002 by the Decision of the Council of the European Union 2002/187/JHA and reinforced by the Decision of the Council of the European Union 2009/426/JHA (Eurojust Decision), with a view to support and strengthen coordination and cooperation between national investigating and prosecuting authorities of the Member States in the fight against serious crime, in particular when it is organised.

2. The EEAS was set up in 2010 by Council Decision 2010/427/EU as a functionally autonomous body of the European Union to support the High Representative of the European Union for Foreign Affairs and Security Policy (the High Representative) in fulfilling her mandate, as outlined, notably, in Articles 18 and 27 of the Treaty on European Union, including the Common Foreign and Security Policy (CFSP) of the European Union and the Common Security and Defence Policy (CSDP).

Introduction

Looking to the Eurojust-EEAS Memorandum of Understanding for potential common understandings?

Potential Common Understandings within the EEAS and EPPO Mandates:

- Exchanging expertise and best practices.
- Considering where appropriate, the possibility and feasibility of secondments, expert visits, missions and joint project work on matters of common interest;
- Exploring possibilities to expand trainings dedicated to CSDP Mission's personnel and/or their counterparts in the host country on cross-border judicial cooperation.
- Exchanging, when appropriate, general legal, practical and other relevant information pertaining to serious cross-border crime.



The EPPO's Extraterritorial Competence and its Framework for Judicial Cooperation includes a 'menu' of options under the EPPO Regulation.

2) Mutual Legal Assistance with Third States for Judicial Cooperation

These include...

- An MLA agreement concluded by the EU with a third country, covering co-operation between the EPPO and authorities in that third country.
- Absent a dedicated MLA, participating Member States can seek to make notifications to include the EPPO in the list of authorities able to originate requests under multilateral MLA agreements to which they are parties.
- Participating Member States may make competence authority notifications in relation to other, in particular, bilateral, MLA agreements to which they are parties.



Takeaways

- EPPO is the main agency established to address judicial cooperation regarding ‘crimes affecting the financial interests of the EU’.
- There is yet to be an agreement concluded between the EEAS and EPPO, which will be important in EPPO’s interaction with the EU’s CFSP and CSDP.
- Mutual Legal Agreements are important for establishing judicial cooperation with Third States.