

1 Session: fight against transnational crimes

Toward an expansion of EPPO competencies?

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This paper is intended to focus attention on the future prospects of the European Public Prosecutor's Office (hereinafter also referred to as EPPO, European Public Prosecutor's Office), the leading actor in judicial cooperation in criminal matters, in order to assess whether a possible extension of the currently attributed competences could facilitate the achievement of the set goals and, therefore, improve the fight against crimes to the detriment of the Union budget. Furthermore, if a more substantial extension could concern other offences attributable to 'areas of particularly serious crime having a cross-border dimension resulting from the nature or implications of such offences or from a special need to combat them on a common basis' (Article 83 (1) TFEU).

As is well known, the starting point is Article 86 (4) TFEU. Indeed, this provision provides that the EPPO's objective scope of competence may be extended beyond the perimeter determined by the need to protect only the legal asset 'the Union budget', on the basis of a unanimous decision of the European Council, after obtaining the consent of the European Parliament and after consulting the Commission. However, Article 86 TFEU allows the extension of the European Public Prosecutor's powers only in the case of conduct relating to serious crime with a transnational dimension. Therefore, the rather stringent limits just described, together with an ambiguous, or at any rate very vague, definition provided by the Treaty itself of the cases that could be brought under the jurisdiction of the European Public Prosecutor's Office, especially with reference to the adjective 'serious', would seem to be the reason why the European Council has never yet resorted to this option, although the EPPO has shown itself to be broadly open to the assignment of new competences.

In any case, aware of the advantages that extending the scope of the European Public Prosecutor's Office would bring to judicial cooperation in criminal matters, the Union has already turned the spotlight on certain categories of offences, which have in common the transnational nature of the offences and the capacity to affect, albeit reflexively, the Union budget.

One of the main areas where the need to extend the mandate of the European Public Prosecutor's Office has been felt, is environmental crime. Indeed, the need for an incisive and rigorous response to cases of environmental degradation caused by criminal organisations led the Commission to reflect on the possibility of giving this competence to EPPO. In a prospective view, the EU strategy against environmental crime could combine environmental protection and financial interests in the future, perhaps being more effective than it is today.

Corruption, an area in which the current legal framework already gives the EPPO competence to deal with the implications of this crime for the EU budget, also merits consideration. Nevertheless, it is

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necessary to understand whether, in order to make transnational investigations even more efficient, while respecting the rights and guarantees of suspects, it would be possible to go further and extend the intervention of the European Public Prosecutor's Office to all corruption conducts, regardless of the need to prove a direct link of the same on the integrity of the Union's financial interests.

The intervention aims to explore these categories of offences in more detail, examining in the concluding part also the (other) particularly serious crime spheres with a transnational dimension, such as, for instance, the crime of illicit drug trafficking.