

→ Question 1

I applied to the position of European Chief Prosecutor because I am convinced that I have the necessary skills, experience, strength and enthusiasm to lead successfully the EPPO.

My CV describes in detail my 30 years professional career dedicated almost entirely to the fight against complex economic crime and high-level corruption, in positions of responsibility that culminated in my current position, where I lead a nationwide unit. In addition, I have deep knowledge of the EPPO framework and the Union's institutional environment, acquired during my time as Justice Counsellor at the Permanent Representation of Spain to the EU.

I am convinced that, after its successful setting, the EPPO is entering a new phase in which, although building on the existing achievements, the new Chief Prosecutor should promote new perspectives. I can bring a fresh and objective approach that, free from acquired habits, provide strong leadership in the face of EPPO's new challenges.

→ Question 2

In the immediate future, the main challenge for the EPPO will be adjusting EPPO's performance to the Union's new anti-fraud structure, which is currently being defined. The new architecture will include new actors, consider new fields of fraud (new resources to protect and new public funds management modes), reflect on new tools and, consequently, redefine priorities. My aims for this process will be:

- Strengthen the EPPO's lawful access to administrative and financial data in MS (without losing sight of the wider reflection currently ongoing in the Union) and reinforce data sharing channels with other European agencies and bodies.
- Improve complementarity between criminal proceedings and administrative actions.

It goes without saying that existing challenges remain, such as the integration of the two MS that have recently joined the EPPO (and another MS that has announced its intention to do so soon), as well as continuing the analysis of possible shortcomings in the implementation of the EPPO by MS. In this respect, I will promote a pragmatic approach where, setting aside sterile dogmatism, interpretation of national laws and institutional settings in the sense most favourable to their compatibility with the EPPO Regulation may, in most cases, ease apparent conflicts. Though, rest assured that I will strongly denounce any kind of deliberate obstructionism at an institutional level.

I acknowledge that problems would also derive of possible dysfunctions in the EPPO Regulation itself. Although this is something that it is up to the legislator to consider, the Chief Prosecutor can raise awareness about the need to consider possible reforms, where appropriate. There already exist valuable internal and external insights on this. Dysfunctions in exercise of EPPO's competence have been highlighted in two areas: one, the concept, not always obvious, of "*inextricable link*" to a PIF offence; the other, the fragmented situation resulting from the different penalty thresholds in force in MS for non-PIF offences. The complexity of the innovative cross-border cooperation mechanism set out in Art. 31 of the Regulation has been emphasised as a practical matter of concern as well. Finally, a recent ECJ Judgment on judicial review of acts of EDPs also gives food for thought on art. 42 of the EPPO Regulation.

In strict terms of criminal policy priorities, I think that public procurement funded or co-funded by EU resources should be a strategic priority for EPPO, as it is highly vulnerable to corruption. The low percentage of offences investigated by the EPPO in this area (only 9% in 2024) leads me to believe that there is a significant number of undisclosed cases.

I am asked how to envisage the EPPO addressing criminal activities such as laundering of money from VAT fraud, or the involvement of organised crime groups. This question covers interrelated realities: on one hand, organised crime has become heavily involved in VAT fraud schemes, particularly in “carousel fraud” and fraud linked to imports through simplified customs procedures, namely customs procedure 42 and the import one stop shop; on the other hand, VAT fraud and organised crime not only generate profits that need to be laundered, but the VAT fraud itself is becoming a method of laundering by taking advantage of the fact that sometimes honest companies are inadvertently participating in the carousel.

I am sorry to say that there are no magic recipes for combating this plague. However, the EPPO must take full advantage of its supranational character and centralised structure by processing information concerning offences under its competence and exchanging information with other European agencies, as OLAF, EUROJUST and EUROPOL, and with national authorities as well (e. g. FIUs, tax and customs agencies). Crossing of information is crucial in the case of carousel fraud, where intermediaries proliferate in different Member States and third countries. However, do not misunderstand me: I do not want the EPPO to become a kind of intelligence service, in my opinion, this would be worrying. A public prosecutor's office is solely responsible for investigating, in a specific criminal procedure, specific conduct that may be criminal. It is in this exclusive context that the EPPO can obtain information and make use of its centralised processing.

→ Question 3

I see possible actions to enhance the effectiveness of EPPO on two different levels, internal and external.

Internally, I would focus on the activity of the Permanent Chambers, to prevent them from becoming an overloaded bottleneck. Increasing their number will not work, because the number of European Public Prosecutors will remain the same. We would therefore think of more practical solutions using the available resources:

- Increase the number of support staff attached to the Chambers: more legal advisers and officials, and the possibility of specialising legal advisers in specific countries/languages.
- Redistribute workload among the EPs and ensure that those with a heavier caseload do not chair a Chamber.
- Enable written case monitoring: currently, follow-up is done in Chamber meetings. In many cases, this does not make sense, as the developments are irrelevant and overload the meeting agenda. Perhaps a very concise periodic written report could be introduced, and Chamber meetings could be reserved for truly relevant issues. The written procedure of Article 24 of the Internal Rules of Procedure could be used for cases where a non-crucial decision has to be made.

Externally, the EPPO needs to reinforce its interaction with OLAF and national authorities.

- As far as OLAF is concerned, I'm of the opinion that action is needed in two fields:

- More pragmatic approach to reporting: The communication of alleged criminal offences by OLAF must be as profitable as possible in terms of content with a view to subsequent criminal investigation.
 - Reinforced support to EPPO's investigations, in 3 directions: (i) facilitating the cooperation of participating MS 'authorities, e.g. in the field of collecting documentary evidence; (ii) promoting asset tracing and recovery of funds; (iii) promoting administrative / precautionary measures.
- As regards national authorities, institutional action must be primarily oriented in the following directions:
- Overcome the phase of EPPO's integration into national procedural systems, which was not without tensions, to consolidate a collaborative phase. This requires continuous dialogue and particular consideration and understanding of the respective national legal traditions and institutional structure.

However, this does not imply any kind of resignation or passivity in the face of possible deliberate obstructionism. If solid indications of hidden interests exist (e.g. political dimension of corruption cases, or the simple prioritisation of purely national interests over European ones), leading to intentional malfunctions by national authorities, or a clear lack of cooperation, I will deploy all institutional tools at my disposal to neutralise such malfunctions. In this regard, I would like to recall that non-effective or untimely cooperation with the EPPO and OLAF constitutes a ground for action under the Conditionality Regulation.

- Convince participating Member States that have not already done so to make multidisciplinary teams of police officers, auditors and controllers available to European Delegated Prosecutors, capable of conducting complex financial investigations (note that in many cases investigating financial flows is not only a means of asset tracing to recover defrauded funds, but also a core part of the *iter criminis* investigation), in a context where it is also necessary to have a deep understanding of how administrative procedures involving public funds, in this case wholly or partly European, work. I want to insist in the importance of an intense cooperation of administrative inspection authorities and national supervisory bodies also during the investigation (e.g. by helping in gathering additional documentation, assisting in the adoption of precautionary measures or providing expertise).

All this probably doesn't sound particularly innovative, but a prosecutor's office is not a place for extravagances.

As concerns *transnational cases*, I would like to insist in the need to closely follow developments in two areas:

- The interpretation of Articles 31 and 32 of the Regulation by the CJEU, concerning execution of measures in another MS.
- The process of notification by MS of the EPPO as a competent authority for the purpose of the implementation of multilateral international agreements on legal assistance in criminal matters. There is an ongoing process regarding the 1959 Council of Europe Convention on Mutual Legal Assistance, during which serious legal questions arose, which need careful analysis.

On another note, the EPPO has to continue promoting working arrangements with relevant third countries.

To conclude, I will refer to the *protection of procedural rights of individual suspects or accused persons in a “multi-jurisdictional” scenario*.

I start from the premise that the new and unprecedented configuration of the EPPO as a single body of the Union places it in a privileged position to deploy strong, coherent and homogeneous action in terms of fundamental rights and procedural safeguards throughout the territory of the EU. In my view, the EPPO must be a beacon of *guaranteeism* in the Union. Given the significant transnational powers conferred on the EPPO, we cannot allow any tendency to break free from the law. This idea has guided my career, and I intend to let it continue to do so.

Said that, this issue is inserted into a larger challenge inherent to EPPO’s institutional design: the EPPO lacks its own supranational procedural system, what therefore implies the need to combine in the same criminal procedure two different legal systems, and thus two sets of procedural safeguards that have to co-exist during the investigation: minimum standards provided for by Union Law and the respective national procedural laws of participating MS, which may be more stringent than the European minimum standards. This legal reality has a specific and crucial impact on the admissibility of evidence in court proceedings and a very particular case of tension in cross-border investigations.

Without losing sight of what the CJEU might decide in the future, I will promote, if elected, a pragmatic approach aimed to bring together all the fundamental interests at stake, in the most effective way to combine the EPPO Regulation with possible stronger procedural safeguards at national level. Far from any sterile dogmatism, I think this is possible without undermining the effectiveness of investigations. This will contribute to the ultimate success of criminal proceedings when the case is brought to the trial Court and a more effective protection of fundamental rights.

→ Question 4

The EPPO Regulation does not provide for the possible adoption of precautionary measures aimed to recovery to the Union's budget of the mismanaged resources, nor does it require civil liability derived from PIF offences to be dealt with in criminal proceedings conducted by the EPPO. This is because in many participating MS claims for compensation or restitution originated from criminal offences are not exercised in criminal proceedings. This explains the EPPO Regulation being limited to freezing of proceeds of crime only when they are expected to be subject to final confiscation by the trial court.

What happens in practice is that, on many occasions, the same assets are both the proceeds of crime subject to confiscation by the State and the object of the crime subject to restitution to the victim who owned them (as it is the case of misappropriated EU funds). In this context, I think there are two tools that the EPPO can use in practice to promote effective recovery of mismanaged resources to the Union's budget, and I intend to promote them vigorously:

- a) The recently adopted Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation. Article 18 of the Directive obliges MS to take appropriate measures to ensure that the rights of victims of crime are taken into account in the context of freezing and confiscation of assets and contains procedural provisions in this regard. Once transposed into MS’ procedural laws, the EPPO will be able to make use of them to guarantee restitution of assets to the EU Budget since, in fact, freezing and confiscation orders would ultimately be used to benefit the Union as well. This is an issue that particularly appeals to me, not only because asset recovery is a strategic line of the Specialised Unit of the General Prosecutor’s Office that I head in Spain,

but also because I chaired the Council's COPEN Working Party during the Spanish Presidency and I succeeded in forging the agreement with the European Parliament on the Directive, where Art. 18 played an important role given the priority accorded by Parliament to the protection of victims' rights.

- b) Asset tracing and freezing in benefit of the EU budget can be facilitated by using OLAF's complementary investigations. This latter concept, which is not explained in the EPPO Regulation, appears in Art. 12 f) of Regulation (EU, Euratom) 2020/2223, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations, being further interpreted in point 6 of the Working Arrangement EPPO-OLAF. It includes an aspect of facilitating the adoption of precautionary measures or financial and administrative actions, even if they are not part of the criminal proceedings in the strict sense. It seems that the use of complementary administrative investigations has remained rather limited so far, although complementarity of criminal and administrative investigations is paramount to prevent or limit damage to EU budget. Thus, the EPPO, relying on the existence of criminal proceedings, can prompt OLAF to act through adequate administrative measures to safeguard the funds already disbursed and to prevent further funds from being unduly spent. In this regard, recent case law of the CJEU related to the PIF Regulation and the Financial Regulation provide legal bases for the development of additional tools for recovery, including from physical persons that are responsible for the fraud, by means of administrative decisions. This could improve actions by OLAF, for instance, in cases where, for whatever reason, the adoption of measures by the EPPO in criminal proceedings is frustrated.

Indeed, in those MS, as Spain, where criminal action is brought jointly with the civil action, the EPPO will also have to pay special attention to its timely exercise in criminal proceedings.

Allow me to conclude by referring to cross-border cases. Although it is not a legally self-evident issue, I believe that the term "*measures*" used in Article 31 of the EPPO Regulation can be interpreted as including freezing measures aimed at securing final confiscation, a scenario which, as I explained above, would ensure indirect protection of the victim's rights (EU, in this case). Similarly, this indirect protection will take effect when Arts. 104 and 105 of the EPPO Regulation apply, respectively, to measures to be taken in third States and in non-participating MS. In the case non-participating MS, let us recall that Regulation 2018/1805 of 14 November 2018, on the mutual recognition of freezing orders and confiscation orders, gives priority to compensation and restitution of property to victims over the disposal of frozen or confiscated property (Arts. 29, 30 and recital 45). In any case, as I said, these are not straightforward issues, but this is not the place to elaborate further, e.g. on the problems arising from the different approach to grounds for refusal in the EPPO Regulation and the Regulation 2018/1805, which can lead to a situation where defendants in EPPO cases would try to invoke the grounds of refusal under the latter Regulation.

I hereby give my consent to publishing my written replies on the EP website.

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