

Case scenario Module 2 – competences of the EPPO

X, CEO of a Hungarian Ltd. and representative of a consortium which was participating in a specific bidding/tendering process, contacted two officials of the European Commission in Brussels. In order to optimize the consortium's bids, the EU officials were asked if they would grant access to other bidder's confidential pricing information and other commercially sensitive information.

The officials, citizens of the Member States A and B, situated in Brussels, were willing to provide the requested information for EUR 20 000 each. The conversations with the agents were held in London. During the meetings, A and B provided the requested information by giving X tips that allowed the consortium to marginally underbid the competitor's offer. In the bidding process, X presented incorrect statements and documents.

The case attracted enormous media and public attention across the European Union. The national prosecution services of A and B were informed of the bribery case by national media services. Each of the Member States of A and B launched national investigations against their respective citizens.

Questions:

Q1. Assuming a damage to the EU's financial interests has occurred: what is your legal assessment concerning the actions of X? Can the EPPO initiate investigations against him? Would it make a difference, if there were no damage to the EU's financial interests?

Q2. What is your legal assessment concerning the competences of EPPO seen from the perspective as handling national prosecutor of the Member States A or B, who has to deal with the charges against the EU agents?

Q3. As a national prosecutor, dealing with the charges against A or B, would you inform EPPO of your case? If yes, how? What has to be done in respect of the national investigations in the meantime?

Q4. If an argument arises that EPPO is not competent for the case concerning A and B because

- no financial damage for the EU's financial interests occurred or
- the financial damage is less than EUR 10 000.

How can such disagreements be resolved?

Q5. Can the EDP decide not to evocate the case against A and B if the damage (or likely damage) to the EU's financial interests is less than

a. EUR 100 000?

b. EUR 10 000?

Q6. Given that EPPO has evoked the national investigations from the Member States A and B: In which Member State should EPPO initiate its own investigations?