

Case Example – Basic Scenario

A police department in France is contacted by a private person (“whistle-blower“) who reveals to the police information about fraudulent activities carried out by an Austrian-German consortium of construction companies, with a joint office based in Hanover (Germany), that is involved in a major infrastructure project at Charles de Gaulle Airport (new Terminal 4). The whistle-blower believes that the project is partially financed by the European Union (EU). According to the information given by him, the consortium has been cooperating with an Italian engineering firm that has been contracted by the consortium to design the lay-out of the terminal’s sprinkler system. The whistle-blower also claims that the documentation he can provide to the police (several copies of manual files plus a USB stick) will prove the fact that the Italian engineering firm has been grossly overcharging the consortium for services they claim to have provided. The whistle-blower further claims that part of the money received by the Italian company as payments for their services has been paid as “kick-back” to Armin A., the consortium’s manager (an Austrian citizen working from the consortium’s joint office in Germany) to his personal account at a bank in Zurich.

Cross-border investigations within the EPPO, Cooperation between EPPO and other partners (non-participating EU Member States, EU authorities, third states)

The European Delegated Prosecutor (EDP) in Berlin, Germany, was entrusted with the investigations as the handling EDP. Armin A., the responsible consortium manager working from the consortium's joint office in Hanover, and Carlo C., the Milan-based employee (Italian) of the Italian engineering firm, to whom A. seems to have proposed the "kick-back" scheme, to which he then agreed with A., have become suspects. C. was the responsible within the Italian engineering firm to draft up and submit the invoices, which over-charged approx. 100 000 Euros in total. He seems to have arranged that an amount of approx. 50 000 Euros were falsely declared to be fees by a Swiss consulting firm and that they were transferred to A.'s bank account in Zurich.

A. has traveled to his holiday domicile in Hungary. It appears that he has decided not to return to Germany, given the pending investigations against him by the handling EDP in Germany.

The handling EDP is convinced that more documentary evidence needed to prove his/her case can be found on the premises of the Italian engineering firm and C.'s home at Milan.

The Swiss liaison officer at EPPO in Luxembourg has informed the EPPO Central Office that Swiss authorities have been able to trace 20 000 Euros that were transferred from one account of the Italian engineering firm to the Zurich bank account. The Swiss liaison officer mentions as well that the Swiss Public Prosecutor intends to carry out investigation because of money laundering. In the meantime, Irish authorities have confirmed that incriminating e-mail correspondence is stored in an e-mail account on a server held by Microsoft Ireland.

The police investigators tasked with the case have received information about close connections of A. to the USA, where his wife is from. The handling European Delegated Prosecutor (EDP) has reasonable doubts whether A. will stay at his current whereabouts.

What measures are available to the handling EDP in order

- a) to ensure A.'s appearance before court,
- b) to carry out a search of the premises of the Italian engineering firm and C.'s home at Milan,
- c) to freeze the account at the Zurich bank and
- d) to obtain subscriber, transactional and content data from the Microsoft e-mail account?

- e) to trace the current whereabouts and future travels of A.,
- f) to coordinate parallel measures in the other Member States/third countries?

Should the Swiss authorities ask for information about their money laundering investigations, would the handling EDP be able to answer to such a request? If so: What would be the relevant procedures and the applicable conditions?