

## Cooperation with national authorities – case study

Company A, based in Italy, is a missing-trader involved in an international fraudulent VAT scheme.

In the year 2018 it has not submitted a VAT statement in Italy and has not transferred any VAT amount in connection with the operations that appear on the invoices to the Italian authorities.

The defrauded amount that year is 30 000 euros.

When the Italian administrative authorities realise that company A has never submitted a tax statement, they are not aware of the general fraudulent scheme.

As the evasion subsequent to the omission of tax statement is not a criminal offence under Italian law, when the evaded amount is less than 50 000 euros, only the Italian tax authorities open a file with respect to the company, they do not inform the national judicial authorities, nor the EPPO, on the basis of the interpretation of article 27 para 8.

Further verifications at administrative level suggest that the omission of the VAT statement by the company A is part of a larger fraudulent scheme, with a cross-border dimension.

At this point, the administrative authorities inform the competent national prosecution office.

The national judicial authorities realise that the facts might fall into the EPPO competence and inform the EPPO, under article 24 para 2.

During the time at the EPPO's disposal to decide whether to exercise the right of evocation, the national authority should refrain from any action that may have an impact on the EPPO right of evocation, but they become aware that company A is going to be closed.

Therefore, the national authorities decide to carry out a search of the premises of company A and seize relevant evidence, as a matter of urgency under article 27 para 2.

As only part of the VAT of the omitted declaration shall be transferred to the Union budget, the effective damage to the Union financial interests in this case could be less than 10 000 euros, and therefore the EPPO could decide not to evoke the case under article 25 para 2.

However, as this criminal offence looks to be only a small part of a bigger scheme, the EPPO could be better placed to conduct the investigation, and therefore it decides to exercise its competence, under article 27 para 4, with the consent of the national authorities.

The national authorities transfer the file to the EPPO with the evidence acquired so far, including the outcome of the search carried out due to the urgency,

The EPPO confirms the urgent measures adopted by the national authorities and plans to undertake other investigative measures: in particular other searches in Italy and in other EPPO States.

As for the measures in Italy, the Italian EDP delegates the same tax authority that opened the administrative investigation, by instructing them on the goal of the search and on the objects he expects to find, under article 28.

The EDP also wants to interview some people involved in the scheme, and he proceeds personally to the measures, under article 28 para 1.

During the searches it turns out that some of the suspects are involved in an illicit traffic of objects of artistic value (paintings, jewelery), as relevant documents are found in the searches.

Such a criminal offence does not fall into the EPPO competence and is not inextricably linked to the PFI offences.

The EPPO (Permanent Chamber) decides to separate the investigation concerning such offences and to forward it to the national authorities for its continuation, under article 34.

In the investigation on the tax fraudulent scheme, the EPPO files the indictment.

An issue is whether he can use the evidence transmitted by the national authorities.