

Handling of files: participation tasks

1. Personal experience

(to be used as an icebreaker at the beginning of the seminar)

(implies getting to know other participants in pairs: the participants should think about their personal experience for 2-3 minutes and then get together with a random partner to whom he/ she explains his/ her experience and what could have been improved – and vice versa, 5 minutes per person > total of about 15 minutes)

a) own reflexion (2-3 minutes):

- What was the most complex file you have ever come across in your career?
- Do you think the file was well organised?
- What could have been improved?

b) two-way conversation (5 minutes per person)

- Tell your partner about the case and how it was handled in the respective file
- Do you have suggestions for improvement concerning the file your partner tells you about?

2. Case Study: the firm

Company A company is specialised in the production of mobile phone displays. It is based in Sofia/ Bulgaria where more than 3000 people are employed. Mr. X., a Maltese national who has been living in Sofia since 2014 and who became the managing director of company A in 2013, is the sole managing director of company A. Company A has two subsidiaries that also produce mobile phone displays: company B and company C. Company B, which fully belongs to company A, is based in Barcelona/ Spain. Company B has about 1400 employees and is lead by two managing directors: Mr. X. and Mr. Y. Mr. Y. is of Greek nationality and lives in Valletta/ Malta, but has had a flat in Spain since 2019 when he became the co-director of company B. Before 2019, Mr. X. was the sole managing director in company B from 2017 on. The wife and 2 children of Mr. Y. live in Valletta/ Malta, as Mrs. Y. is Maltese national. Company C fully belongs to company A, too. It is based in Valletta/ Malta and has 500 employees. The managing director of company C is Mr. Y. who has been working there as sole managing director since 2018.

Companies A, B and C are suspected of having committed subsidy fraud against the European Union. Each of the companies A, B and C has faked documents for each other for receiving subsidies by the EU.

The telephones of company A have been wiretapped and the headoffice in Sofia has been searched by the Bulgarian authorities. The computers and networks of company B have been kept under surveillance by the Spanish authorities. The office of company C has been searched by the Maltese police.

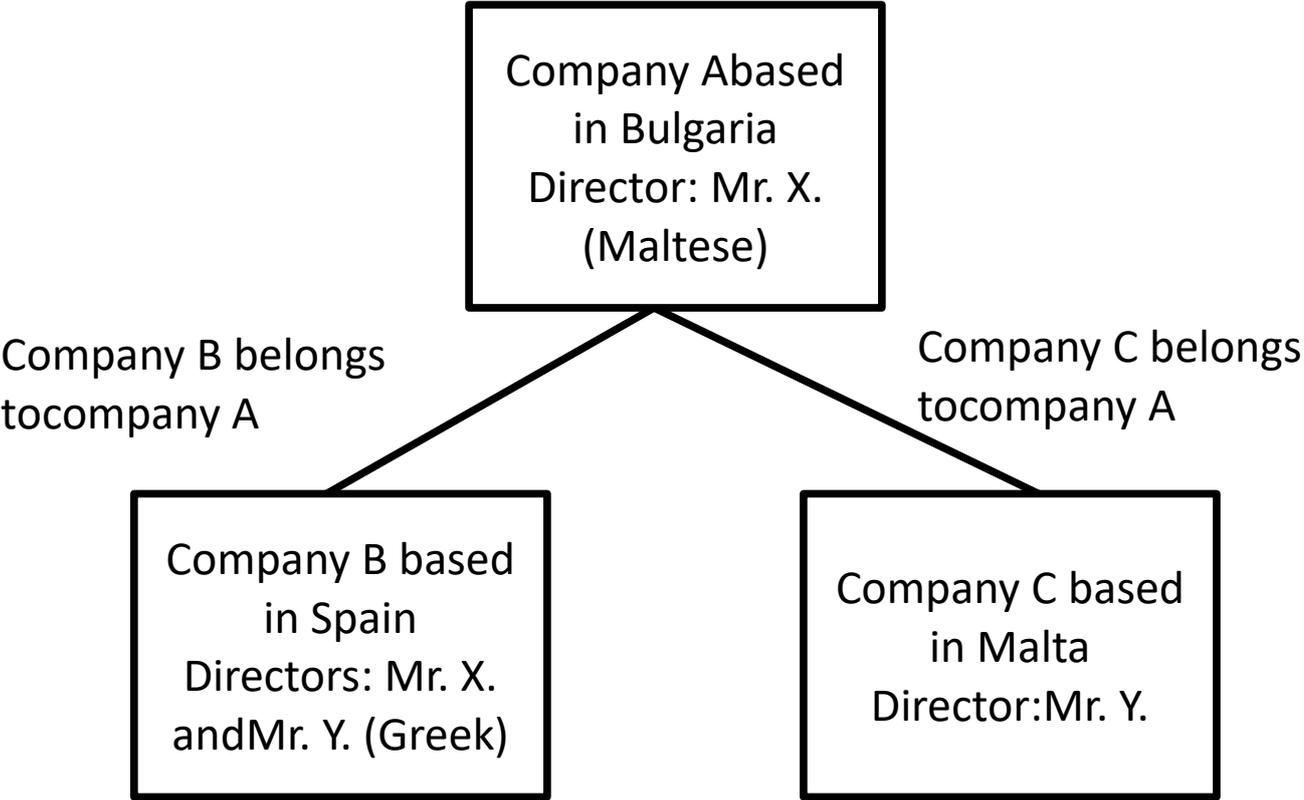
At this stage, the Maltese EDP is entrusted with the proceedings by the competent Permanent Chamber.

Questions/ Discussion (Case study: the firm)

- What structure would you give to the file as the EDP in charge?
- What are the guiding questions you would ask yourself?
- What are the regulatory aspects you would favour?

(Considerations:

a) Structural overview:



- b) Investigative tools applied in the case:
- Company A: telephone wiretapping and searching
 - Company B: computer and network surveillance
 - Company C: searching

3. Case Study: the special record

The Maltese police, when searching company C in Valletta, found a folder in Mr. Y.'s office with documents concerning his wife. The police subsequently put all the information concerning Mrs. Y together, and the EDP in charge of the case made of this material one special record which was not included into the main file. The legal counsel (L) of Mr. X wants to have access to this special file, claiming that the information contained in the special record might influence the way the court will have to evaluate the relation between Mr. X and Mr. Y and that the special record will show that his client is not the main suspect but that Mr. Y is initiator and the head of the subsidy fraud.

Questions/ Discussion 3:

- How can criminal files be structured under your national law? Are there any regulations/ guidelines? Is it possible to have "special records" with restricted rights of access?
- Does L have a right to have access to the special record under your national law?
- What arguments can be used in favour of granting access?
- What arguments can be used for denying access?