

## Handling of files: participation tasks

### Case Study 1.: 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 led 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 of company B from 2017 on. The wife and 2 children of Mr. Y. live in Valletta/ Malta, as Mrs. Y. is a 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 to receive 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?

### 3. Case Study 2.: 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 one special record of this material which was not included in 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:

- 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?