

Case Example – Basic Scenario

The 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 national working from the consortium’s joint office in Germany) on his personal account at a bank in Zurich.

Concluding investigations and taking the case to court

The European Delegated Prosecutor (EDP) in Berlin, Germany, was entrusted with the investigations as the handling EDP. The following persons have become suspects:

- Armin A.: the responsible consortium manager (Austrian) working from the consortium's joint office in Hanover,
- Bodo B.: another manager (German) at the consortium's joint office, and closest colleague of A. there, who was introduced to the scheme by A. when it was running, and whose responsibility was to check and co-sign invoices accepted by A.,
- 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.,
- Dirk D.: a third manager (German) at the consortium's joint office, who had been asked by either A. or B. to co-sign invoices a few times, when the other one was not available, and he recognizes he did so although voicing his suspicion that the invoices may be over-charging but acquiesced after A. gave him a 3 000 Euro watch as a gift. D. has cooperated with the investigation, providing some relevant evidence.
 - The results of the investigations show that
- the Paris project was partially financed by the EU (30 % Union/70% French public funds),
- C. was the responsible person within the Italian engineering firm to draft and submit the invoices, which over-charged approx. 100 000 Euros in total,
- C. arranged that 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 not made any tax declarations regarding the funds received by him in his Swiss bank account.
 - Furthermore, a lawyer for D. has approached the handling EDP: D. is offering to testify against the other suspects and to compensate a part of the damage caused, i.e. at least the damage relating to the invoices co-signed by him. In return, he asks that no case is brought against him in court.

Questions:

- How should the handling EDP conclude his/her case against the four suspects?
- What would the exact charges be?
- What would be the competent court?
- What steps would the handling EDP have to take internally within EPPO?