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# THE EUROPEAN PUBLIC PROSECUTOR’S OFFICE AND THE CONSENSUAL PROCEDURES

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# The EPPO

- Regulation on 12 October 2017.
- With respect to the set of offences established as under the EPPO's material competence, Arts 4 and 22 of the EPPO regulation refer to the relevant provisions of the PIF Directive adopted in 2017
- the EPPO relies on national investigative measures without automatic European admissibility of the judicial decision and measures taken
- The EPPO Regulation is binding and directly applicable only to those MSs which participate in enhanced cooperation

# Simplified prosecution procedures

- If the case is not dismissed or referred the EPPO can decide to use simplified prosecution procedures if they are provided under applicable national law
- The final disposal of a case on the basis of terms agreed with the suspect
- The procedure has to follow the conditions provided for in the national law
  - they could be an exception from the legality principle (Rec. 81 and 82 EPPO Regulation)
- In case of offences referred to in Art 3(2) (a) and (b) of the PIF Directive the handling EDP has to consult national prosecution authorities before proposing to apply a simplified prosecution procedure

# Criteria for the use of simplified procedures

- Art 40(2) of the EPPO Regulation sets the criteria for the decision. The PC has to take into account the following grounds:
  - (a) the seriousness of the offence, based on, in particular, the damage caused;
  - (b) the willingness of the suspected offender to repair the damage caused by the illegal conduct;
  - (c) the use of the procedure would be in accordance with the general objectives and basic principles of the EPPO as set out in the Regulation.

# Guideliness (1)

- Decision of the College of the European Public Prosecutor's Office of 2 December 2020 Laying Down Guidelines on Simplified Procedures and on the Delegation of Powers of the Permanent Chambers Respectively, College Decision 023/2020.
- The guiding principles: legality, proportionality and opportunity.
- The handling EDP has to explain the motives for using a simplified procedure and has to specify at least the following elements:
  - a) information on the legal qualification and minimum and maximum penalty according to the respective national law;
  - b) evaluation of the seriousness of the offence(s);

# Guideliness (2)

- c) estimation of the damage caused or likely to be caused and of the overall gain sought by the perpetrator;
- d) assessment of the complexity of the case;
- e) information on the transnational character of the criminal activity;
- f) information on the nature and background of the defendant(s), namely if they are natural or legal persons and if they have a criminal record;
- g) assessment on the suspect's willingness and his/her possibility to repair the damage caused or to compensate it in any other manner;
- h) relevant information on the existing victims other than the EU;
- i) where applicable, the outcome of the consultation with the national prosecution authorities, carried out in application of the second subparagraph of Art 40(1) of the EPPO Regulation;
- j) a reasoned opinion on the proposed penalty.

# Consensual forms in Croatian Criminal Procedure

- Conditional deferral (or withdrawal) of criminal prosecution (article 206.d CPA)
- Penal order
- Judgment after confession at the main hearing
- Judgment based on agreement of the parties
- Crown witness
- Witness immunity

# Final Remarks

## ● Risks

- Different application in different MSs due to differences in their legislation
- Different application in the same MS due to different criteria

## ● Opportunities

- Standardization of the application of alternative procedures in different countries
- Legislative harmonization

Thank you for your  
attention!