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INTRODUCTION

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SUMMARY: 1. EPPO and the Rule of Law. – 2. EPPO as the new protagonist in defending the Rule of Law. – 3. EPPO's Investigation: between problems and respect for the Rule of Law. – 4. EPPO and other EU institutions: further protecting the Rule of Law. – 5. Conclusion.

1. EPPO and the Rule of Law

This text brings together the contributions of speakers at the Conference 'The EPPO and the Rule of Law' organised on 18 April 2023 by the STEPPO Centre of Excellence. The Conference marks the end of the STEPPO Centre of Excellence's second edition of the module 'The EPPO and EU Law: A Step Forward in EU Integration'.

These pages discuss the protection of the Rule of Law in the work of the European Public Prosecutor's Office, the European Public Prosecutor's Office itself and its commitment to defending the fundamental values of the EU. The aim of this text is to examine, from different angles but with a common focus, how the European Public Prosecutor's Office can embody and promote the Rule of Law in its mission to protect the Union's financial interests. The first section starts with an analysis of EPPO's constitution in order to examine its role in the further protection of the Rule of Law. The second section then examines EPPO's investigative and procedural practice, and the respect for fundamental rights in the exercise of its investigative functions. The third and final section is devoted to the cooperation mechanisms between EPPO and other European actors, analysing EPPO's role in developing best practice in defence of the Rule of Law.

2. EPPO as the New Protagonist in Defending the Rule of Law

This section examines the constitution and the legal basis of EPPO. It emphasises the fundamental importance of respect for the Rule of Law for its effective functioning.

After the general and introductory analysis of Roberto Saviano, who introduces the contents of the Conference, Francesco Testa provides an in-depth examination of EPPO's legal framework and its integration into EU legal traditions. Federica Iorio extends this examination by considering how the Rule of Law acts as a guide for EPPO's operations, highlighting the institution's potential to reinforce this cardinal principle through its role in regulating and overseeing tax matters. Lorenzo Salazar explains EPPO's function as a supranational body operating across different criminal justice systems, ensuring that the Rule of Law is upheld in the different and sometimes divergent legal landscapes of the 22 participating Member States.

This book opens with Roberto Saviano's article, which provides an in-depth examination of the role of EPPO as a transformative mechanism in the fight against transnational financial crime. Saviano's article highlights the potential of EPPO to be an objective and impartial body that acts with the impartiality required of criminal judges as part of the Rule of Law, both by the Italian Constitution and by the European Convention on Human Rights. The article examines the innovative synergy of national prosecutors working within EPPO, going beyond national borders to fight crime in the EU. Saviano also reveals his surprising involvement in an innovative project of the STEPPO Centre of Excellence, which examines the interaction between EPPO and the Italian mainstream media.

Saviano then turns to the practical side, illustrating the money laundering process and how EPPO's intervention can disrupt established criminal strategies. The author notes the significant achievements of EPPO, as outlined by its chief prosecutor, Laura Kövesi, and suggests that EPPO's ability to facilitate joint investigations between Member States is a step forward in European integration. Finally, the author reflects on the principles of the Rule of Law and the independence of the judiciary within the European Union and highlights the importance of EPPO as a beacon of respect for these principles.

An analytical study by Francesco Testa, Italian Deputy Public Prosecutor for EPPO, critically assesses EPPO's founding legal framework and emphasises the Rule of Law as the guiding principle of its proceedings. Testa's narrative begins with the emergence of EPPO as the embodiment of a new model of prosecution within the EU judicial architecture. Testa examines EPPO's unique role and how it operates within a complex set of legal principles and historical traditions in 22 Member States. Addressing profound questions about the role and operation of EPPO, Testa focuses on the central role of the Permanent Chambers in

overseeing cross-border investigations and decision-making, arguing that EPPO's operational model challenges traditional notions of judicial cooperation and can facilitate the protection of the Rule of Law.

In addition, Testa examines the legal status of European Public Prosecutors and their autonomy, reflects on the transformative potential of EPPO's integration into the EU legal framework and its implications for the Italian legal system, and foresees a future of considerable legal debate and development driven by EPPO's innovative approach.

Federica Iorio's article examines the intertwining of the Rule of Law in EU jurisprudence and the role of the European Public Prosecutor's Office in tax governance. The exploration begins with an account of the historical and functional significance of the Rule of Law as a cornerstone of EU governance. From this basic understanding, Iorio argues that EPPO's work in protecting the Union's fiscal interests is inextricably linked to the preservation and promotion of the Rule of Law. In the course of the article, Iorio critically examines the "conditionality regulation" (Regulation 2020/2092), explaining its salient features and how they dovetail with the statutes that guide EPPO, while also constructively criticising the European Public Prosecutor's Office itself. The examination includes reflections on the future role of EPPO and how it fits into the broader fabric of the evolving EU legal and political landscape. Iorio presents an informed perspective on how EPPO can have a significant impact on strengthening the Rule of Law, particularly through its potential synergies with the European Commission in the application of the conditionality regulation in both Member States and non-Member States.

Concluding this section, Lorenzo Salazar addresses the crucial relationship between EPPO and the Rule of Law within the Union's legal framework. His article affirms EPPO's vital role in upholding the Rule of Law, prosecuting crimes against the European Community and protecting the financial interests of its citizens, thus safeguarding the Rule of Law itself. Salazar underlines the unique position of EPPO as the first supranational judicial body to harmonise the different criminal justice systems of the 22 participating Member States. Using Article 5 of the EPPO Regulation as a guide, he shows how the work of EPPO is inextricably linked to the Charter of Fundamental Rights of the European Union, as well as to the principles of the Rule of Law and proportionality. Salazar also examines the so-called "fourth layer" of protection of the Court of Justice in Luxembourg, which can provide decisive solutions to conflicts of jurisdiction through preliminary rulings or direct intervention, thus strengthening the Rule of Law.

The article also proposes innovative mechanisms at European level to protect the rights of individuals, including the creation of a "Euro Defender" office and a 24/7 legal aid service to facilitate a swift and effective defence against EPPO actions. According to Salazar, EPPO demonstrates the balance between integra-

tion and cooperation in the EU, strengthening the Rule of Law through its independence and interaction with national legal systems.

3. *EPPO's Investigations: Between Problems and Respect for the Rule of Law*

The articles in this section focus on upholding the Rule of Law in EPPO-led investigations. Ludovica Tavassi analyses EPPO's legal framework, its compliance with the Rule of Law and potential risks to the fairness of prosecutions. Oliviero Mazza discusses the impact of EPPO rules on the rights of defendants and offers suggestions for better protection of these rights, while Herinean focuses on the delicate balance between European and national law and its impact on the administration of justice. Alejandro Hernández López provides an in-depth examination of EPPO in Spanish jurisprudence, focusing on procedural fairness and the Rule of Law. Their collective reflections emphasise the importance of maintaining judicial integrity and the Rule of Law in the face of EPPO's extensive procedural powers. A common feature of both authors is their critical analysis of EPPO's work, offering criticisms and possible solutions to ensure that EPPO is indeed a guardian of the Rule of Law and does not violate guarantees in the course of its activities.

In her academic critique, Ludovica Tavassi, Postdoctoral Researcher at the University of Milan-Bicocca, rigorously assesses the EPPO legal framework and sheds light on its potentially precarious foundations. The author identifies fundamental gaps in the clarity of the law and the fairness of the judicial process, which could undermine the equality of arms that is integral to due process and thus to the Rule of Law. Tavassi examines the indiscriminate acceptance of evidence within EPPO's procedural dictates, highlighting concerns about safeguarding the presumption of innocence and the integrity of the adversarial process. The author warns of the dangers of "forum shopping", where procedural leeway could lead to cases being dealt with in jurisdictions that are favourable to the interests of the prosecution, thus calling into question the principle of the pre-established natural judge as enshrined in Article 47 of the Nice Charter. Her analysis also touches on the rules of attribution of jurisdiction, the importance of chronological factors in judicial proceedings and possible obstacles to the right of defence. Tavassi warns that the current legal environment may reinforce inequalities and hamper the ability of the defence to operate effectively in transnational settings, with access to evidence and financial resources playing a disproportionate role.

In his article, Professor Oliviero Mazza of the University of Milan-Bicocca presents a critical analysis of the EPPO Regulation, focusing on its implications for the rights of defendants and the proper administration of justice. Mazza as-