

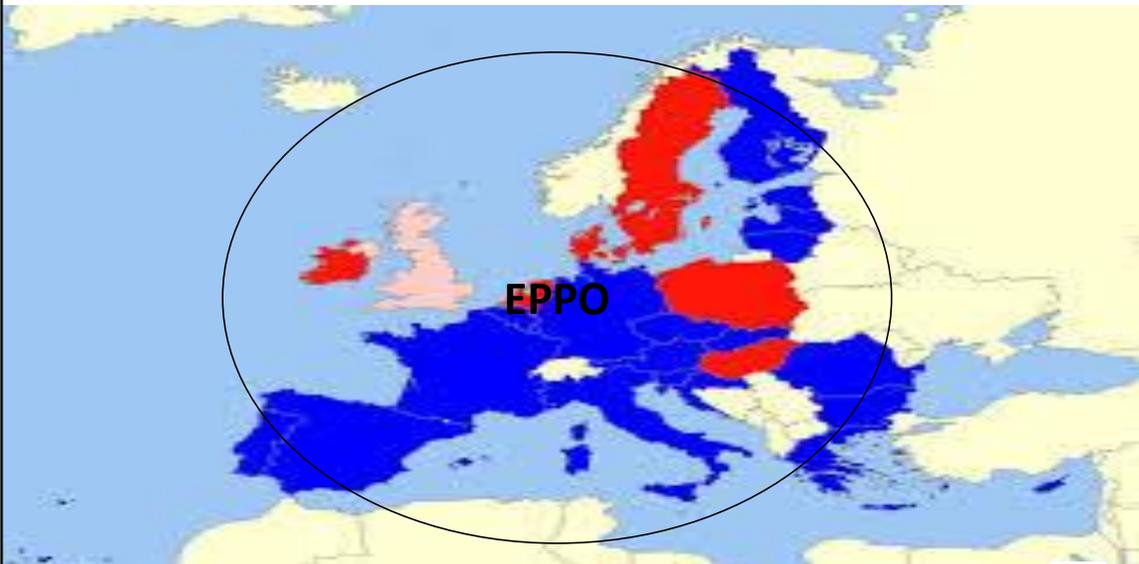
Termination of the investigation and prosecution before national courts, admissibility of evidence, rules on dismissal and transfer of proceedings

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THE EPPO MAP



Key points

Scope + Inextricability

- Until the conclusion of the proceeding...execution...civil liability?
When the EU offence is preponderant in terms of seriousness (55)
- When is not preponderant but the other offence is ancillary in nature and are at stake Union's interest (56)

EPPO Vs MS: forum choice

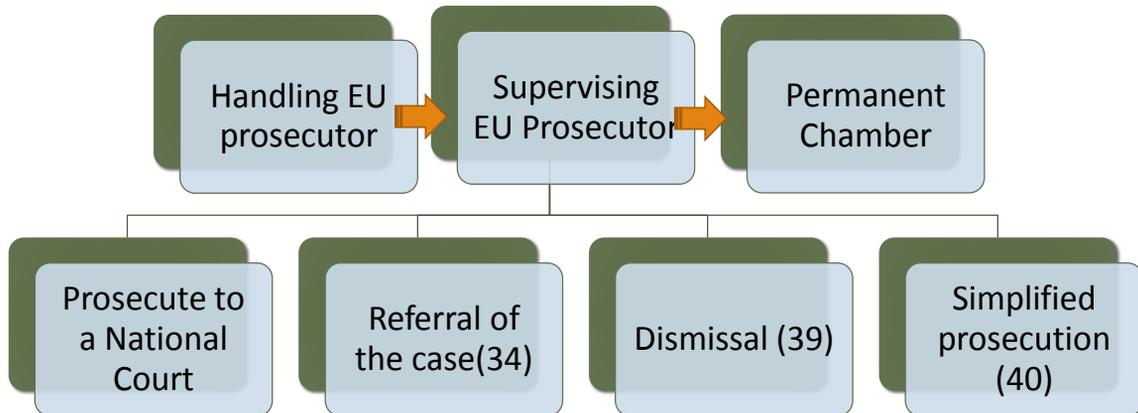
- EPPO competence regarding crimes against Union's financial interests take priority over national claims of competence (58)
- EPPO should act in interest of the Union as a whole. No instructions from externals (17)

MS Vs EPPO: rules for prosecution and trial

- "without prejudice to MS" national systems concerning the way in which criminal investigations are organised (15)
- Final decision about allocation of competence, simplified prosecution , some cases of dismissal... EPPO decisions under MS judicial review

MS + EPPO

- All the national system and traditions are represented in EPPO. Prosecutors are nationals (20), mixed structure (22...)



Termination of the investigation, art 35

Prosecution before national courts. Art 36

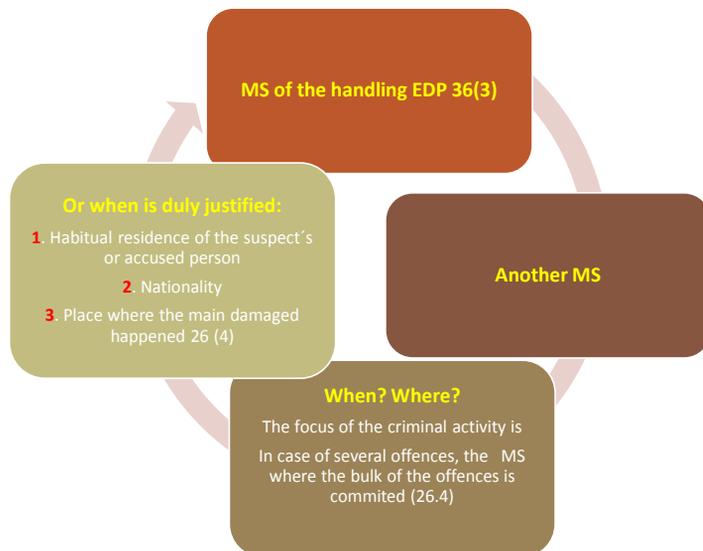
WHEN EDP SUBMITS A DRAFT THE CHAMBRE WILL DECIDE WITHIN 21 DAYS

THE CHAMBER WILL DECIDE WHERE TO PROSECUTE AND TO JOINT SEVERAL CASES

THE ELECTION OF THE MS JURISDICTION

THE NATIONAL COURT WILL BE DETERMINED UPON NATIONAL LAW

APPEAL: EDP REPORT TO THE CHAMBER AND AWAIT. IN CASE OF DEADLINE, THE EDP WILL LODGE THE APPEAL AND THE CHAMBER WILL INSTRUCT EITHER TO UPHOLD OR WITHDRAW



Choosing the National forum



Permanent Chamber

Report DEP to SEP
art 35(1)

01

- No criminal offences, art 22 23:

02

When specific conditions for the exercise of competences set in 25 (2) are no longer met

03

Principle of opportunity

Referral art 34

No EPPO competence

1. MS has not implemented criminal offences
2. revenue arising VAT own resource is not connected with two/more MS, damage less E 10M
3. Offences not extrinscably linked with those in Directive 2017/1371
4. Crimes against national taxes

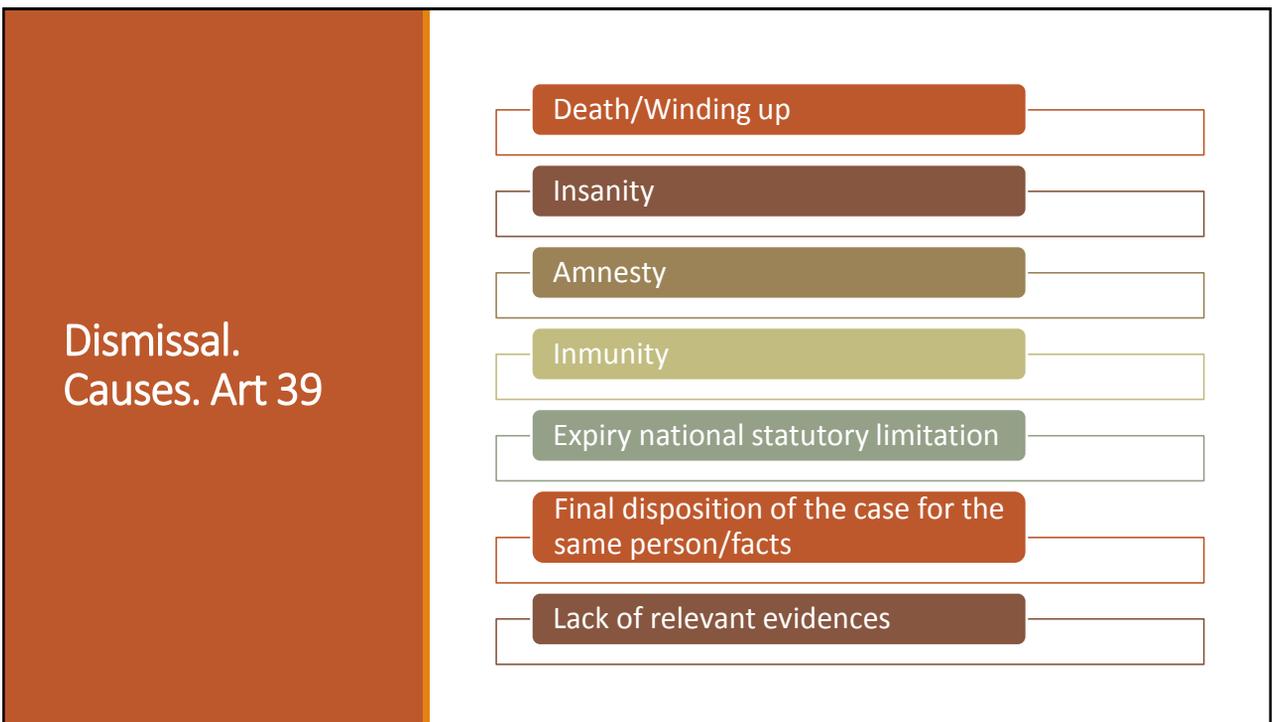
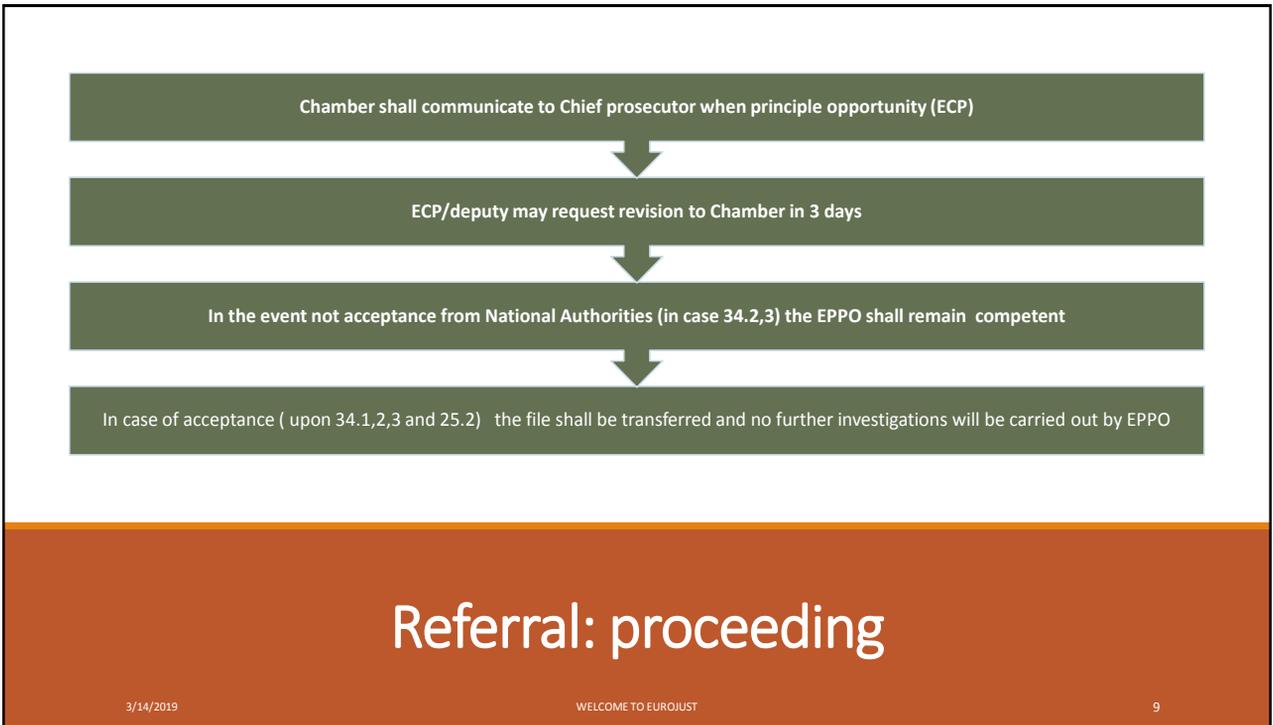
Art 25 (2)

- 1.1. criminal offences that cause or likely causes damage to the Union's financial interest of less than Eur 10000 and the case does not have repercussions ast Union's level, or no officers or staff are involved,
2. 2. the máximum sanction provided for by national law for an offence whitin the scope of 22 (1) is equal to or less severe that the maximun sanction for an inextricably linked offence referred to in art 22 (3) unless it is instrumental to the main one,
- 3.3. is it likely that the damage caused or likely to be caused to the Union does not exceed the damage caused to another victim

Principle of opportunity

- 1.1. offences that caused or are likely l to cause damage less than Eur 100 000 in interest of the efficiency of the investigation. The College should issue general guidellines 34(3)

Referral art 34



Dismissal: proceeding

When?

Impossible prosecution according national law

Who? Permanent Chamber upon EDP Delegation

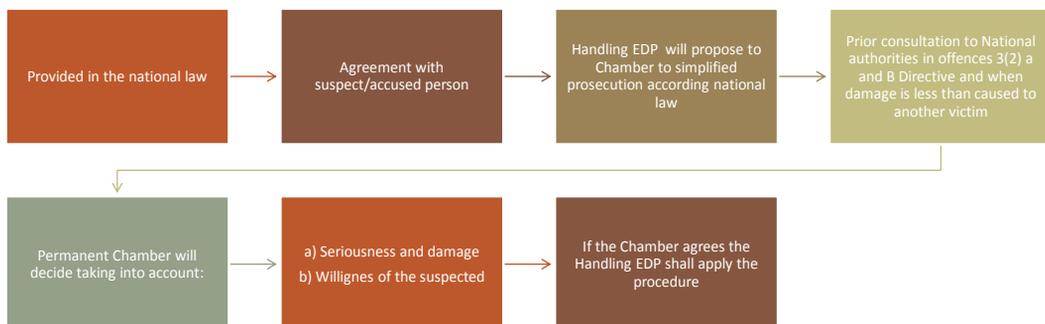
Not forbidden fresh investigations when unknown facts arise after dismissal. Permanent Chamber will reopen the case

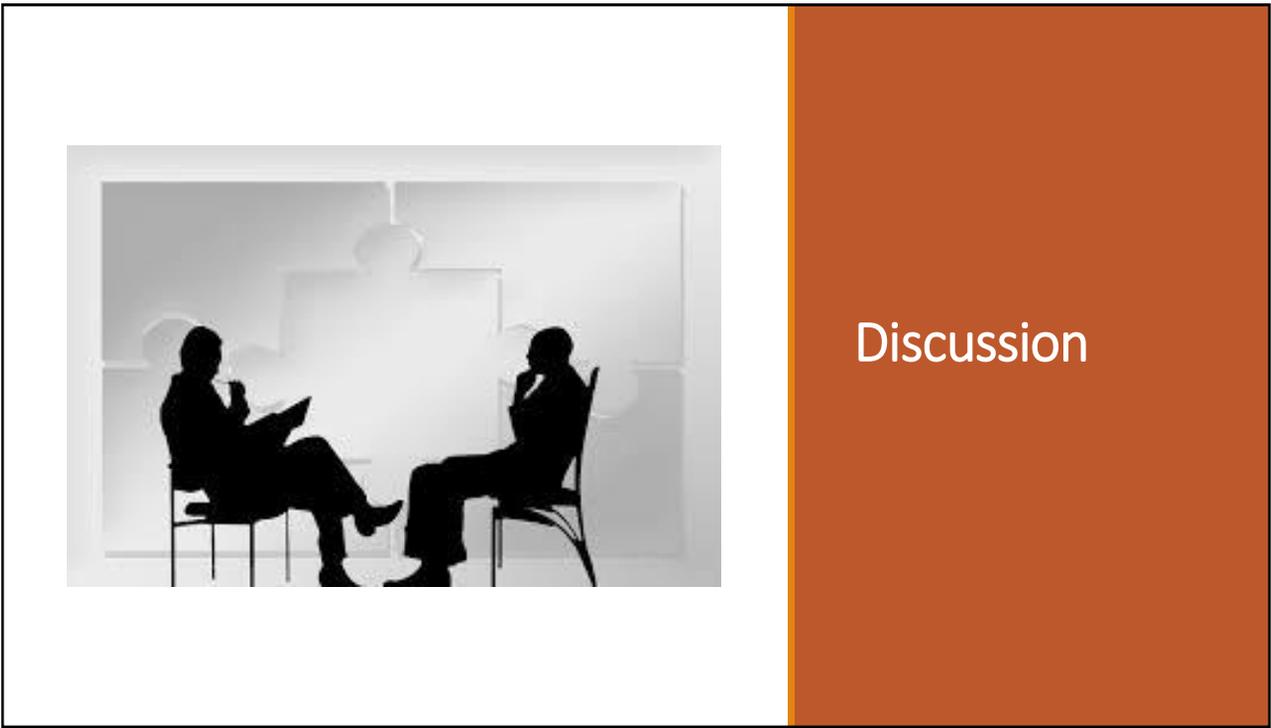
Mandatory consultation to MS prior dismissal: when inextricable offences (22.3), crimes about non procurement and procurement-related expenditure (according Directive 2017/1371) and when the damage does not exceed to the caused to another victim.

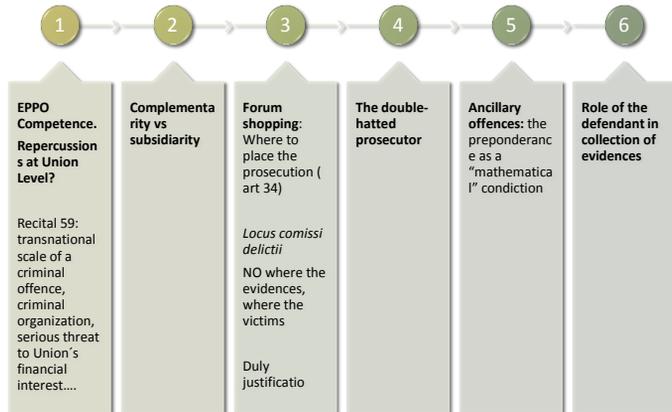
Final decision: national authorities (25.6)

Postmortem proceeding: notification to national authorities, information to relevant bodies, suspects/accused person and victims

Simplified prosecution art 40







Muchas gracias!!

Merci beacoup

Mile grazie

Hvala puno

Diky

Danke sehr

D'akuhem

Ευχαριστώ

Dank u wel

Köszönöm

