



Ministry of Justice

Department for Justice Affairs

Directorate General of International Affairs and Judicial Cooperation

Declarations pursuant to Art. 117 of Regulation (EU) 2017/1939 concerning: a) the notification of the authorities that are competent for the purposes of implementing the Regulation; b) an extensive list of the national substantive criminal law provisions that apply to the offences defined in Directive (EU) 2017/1371 and any other relevant national law; c) the list of specific serious offences limiting the application of points (e) and (f) of Art. 30 (1).

Art. 117 first part of Regulation (EU) 2017/1939 concerning the notifications of the Italian authorities that are competent for the purposes of implementing the EPPO regulation.

- I)** In accordance with artt. 5(6), 28(1)–(2)/(4), 31(4), 91(6) of Regulation (EU) 2017/1939 the national authorities, including police authorities, on which the EPPO can rely for its investigations, notably for the execution of coercive measures are **all authorities with general judicial police functions according to art. 57 of the Italian criminal procedure code, that is, mainly, State Police (*Polizia di Stato*), Carabineer's (*Arma dei Carabinieri*), Financial Police (*Guardia di Finanza*) and Prison Police (*Polizia Penitenziaria*). In addition, authorities to which other Italian laws confer special judicial police functions, including, for example, the Revenue Agency (*Agenzia delle Entrate*) and the Customs Agency (*Agenzia delle Dogane*).**

- II) In accordance with artt. 10(3)(d), 24(2)–(3), 25(1) to (5), 26(7), 27(2) to (8), 34(1) to (3)/(5) to (7) of Regulation (EU) 2017/1939 the national judicial and law enforcement authorities that are competent to initiate and conduct a criminal investigation concerning criminal offences for which the EPPO is competent are **all Prosecutor’s offices and authorities with general judicial police functions according to art. 57 of the Italian criminal procedure code, that is, mainly, State Police (*Polizia di Stato*), Carabinieri’s (*Arma dei Carabinieri*), Financial Police (*Guardia di Finanza*) and Prison Police (*Polizia Penitenziaria*). In addition, authorities to which other Italian laws confer special judicial police functions, including, for example, the Revenue Agency (*Agenzia delle Entrate*) and the Customs Agency (*Agenzia delle Dogane*).**
- III) In accordance with art. 24 (1) of Regulation (EU) 2017/1939 the national authorities that are obliged to report to the EPPO any criminal conduct in respect of which the EPPO could exercise its competence are **all authorities with general judicial police functions according to art. 57 of the Italian criminal procedure code, that is, mainly, State Police (*Polizia di Stato*), Carabinieri’s (*Arma dei Carabinieri*), Financial Police (*Guardia di Finanza*) and Prison Police (*Polizia Penitenziaria*). In addition, authorities to which other Italian laws confer special judicial police functions, including, for example, the Revenue Agency (*Agenzia delle Entrate*) and the Customs Agency (*Agenzia delle Dogane*).**
- IV) In accordance with art. 24(8) of Regulation (EU) 2017/1939 the national authorities to which the EPPO should report criminal offences outside the scope of its competence are **Prosecutor’s offices.**
- V) In accordance with 25(6) (cross-referenced in Art. 39(3)) of Regulation (EU) 2017/1939 the national judicial authorities that are competent to decide on the attribution of competence among different public prosecutor’s offices (see Recital 62) is **the Attorney General at the Court of Cassation pursuant to art. 54 and following the code of criminal procedure.**
- VI) In accordance with art. 33 (2) of Regulation (EU) 2017/1939 the national authorities that are competent to issue a European Arrest Warrant upon the request of the handling European Delegated Prosecutor (during investigation and trial phase) are **the judges or courts with criminal proceedings pending before them.**
At the stage at which a custodial sentence or detention order is being enforced (stage where European Delegated Prosecutors are not involved in any way), the authority competent to issue a European arrest warrant is the public prosecutor's office for the judge supervising enforcement.
- VII) In accordance with art. 36 (6) of Regulation (EU) 2017/1939 the national au-

thorities to which the EPPO Central Office shall notify the decision to prosecute, where necessary for the purposes of recovery, administrative follow-up or monitoring are the following:

if the decision to prosecute is against a public employee, the national authority is the public authority on which the suspect depends;

if the crime has caused damage to the Treasury, the public authority is the Attorney General at the Court of Auditors;

if the decision to prosecute relates to some crimes against the public administration, the public authority is the President of the National Anti-Corruption Authority (ANAC).

VIII) In accordance with art. 39 (4) of Regulation (EU) 2017/1939 the national authorities that shall be officially notified when the EPPO dismisses a case, as well as the national administrative or judicial authorities to which the dismissed case may be referred by the EPPO for recovery or other administrative follow-up are as follows: **Prefect (*Prefetto*) for the imposition of administrative penalties; the public authority to which the public employee belongs for the application of disciplinary sanctions; the Attorney General at the Court of Auditors (*Procuratore Generale della Corte dei Conti*) for recovery to Public Treasury. Moreover, any other authority to which the judge decides to refer the dismissed case according to the Italian laws.**

IX) In accordance with art. 96 (6) of Regulation (EU) 2017/1939 the national authorities that are competent to decide on the resources, equipment, and working conditions of the European Delegated Prosecutors are **the High Judicial Council, the Ministry of the Justice and the Chief Prosecutors of the Prosecutor's offices where European Delegated Prosecutors will be performing their duties.**

X) In accordance with art. 104 (7) of Regulation (EU) 2017/1939 the national authorities that can issue an extradition request upon a request of the handling European Delegated Prosecutor made in accordance with the national law is **the Minister of the Justice.**

Article 117 second part - extensive list of the national substantive criminal law provisions that apply to the offences defined in Directive (EU) 2017/1371 and any other relevant national law;).

1. Any offence, committed or attempted, resulting in the misappropriation or diversion of funds or property from the budget of the Union or budgets managed by it, or on its behalf:

articles 316-bis, 316-ter, 356, 640, par. 2 n. 1), 640-bis, 640-ter, 2nd paragraph;
article 2 of Law no. 898 of 23 December 1986;
articles 282 et seq. of the decree no. 43 of the President of the Republic of 23 January 1973,
n. 43.

2. Any offence, committed or attempted, affecting VAT revenue and resulting in a reduction in the resources of the Union budget or budgets managed by it or on its behalf, provided that the act or omission is committed in cross border fraudulent schemes (hence, also in part on the territory of another Member State of the European Union) and the overall damage caused to the financial interests of the Member States concerned and the Union, excluding interests and penalties, amounting to at least ten million euros:

articles 2, 3, 4, 5, 8, 10, 10-*quarter*, 11 of legislative decree no. 74, 10 of March 2000.

3. any offence, committed or attempted, by a public official or a person entrusted with a public service who, directly or indirectly, requests or receives advantages of any kind, or accepts the promise thereof, with a view to performing or refraining from performing an official act or service which has the effect of prejudicing or endangering the European Union's financial interests:

articles 317, 318, 319, 319-*ter*, 319-*quarter*, 320, 322, 322-*bis* of the criminal code.

4. any offence, committed or attempted, by a person promising, offering or procuring for a public official or a person in charge of a public service, any advantage whatsoever to perform or refrain from performing the acts mentioned in the previous paragraph:

articles 319-*quater*, par. 2, 321, 322 and 322-*bis* of the criminal code.

5. any offence, committed or attempted, by a public official or a person entrusted with a public service who, directly or indirectly tasked with the management of funds or assets, appropriates them or allocates them for purposes other than those intended, where this causes damage to the Union's financial interests:

articles 314, 316, 323 of the criminal code.

6. articles 379, 512-*bis*, 648, 648-*bis*, 648-*ter* and 648-*ter*. 1 of the criminal code in cases where the conduct referred therein is detrimental to the financial interests of the European Union or is related to money and properties that are the proceeds of the offences referred to above.

7. association offences aimed at the commission of offences mentioned in the previous paragraphs.

Article 117 last part - the list of specific serious offences limiting the application of points (e) and (f) of Art. 30 (1)

The use of investigation measures laid down in article 30 (1) lett. e) (interception of electronic communications) and letter f) (controlled deliveries of goods) is restricted to the following specific serious offences.

As to interception, article 266 of the code of criminal procedure provides its admissibility for intentional offences punishable by life imprisonment or imprisonment for a maximum of at least five years and for offences against the public administration punishable by imprisonment for a maximum of at least five years, as well as for a series of identified offences including, where relevant for this Regulation, smuggling offences.

In relation to the controlled deliveries of goods, article 9 of Law no. 146 of March 2006 (undercover operations) provides for the non-punishability of the members of the law enforcement corps engaged in operations aimed at obtaining evidence in relation to the offences referred to, where relevant for this Regulation, in articles 317, 318, 319, 319-ter, 319-quater, 320, 321, 322, 322-bis, 648-bis and 648-ter of the criminal code.

A separate attachment includes all law provisions mentioned above duly translated into English.