European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 12/03/2014 - Interim resolution adopted by Parliament

The European Parliament adopted by 487 votes to 161 with 30 abstentions, a resolution on the proposal for a Council regulation on the establishment of the European Public Prosecutor's Office.

The resolution aims to draw up a number of suggestions and provide specific details of a political nature relating to the text proposed by the Commission, which will be considered by the Council.

Parliament stressed that the proposal to establish a European Public Prosecutor's Office represented **a further step towards the establishment of a European area of criminal justice** and that its main objective was to contribute to strengthening protection for the financial interests of the Union, while respecting the Charter of Fundamental Rights of the European Union.

Trcalling that 14 national parliamentary chambers from 11 Member States have triggered the 'yellow card' in relation to the Commission proposal, Parliament considered that the establishment of a European Public Prosecutor's Office could give a particular added value to the Area of Freedom, Security and Justice, assuming that **all Member States participate**.

Given that the establishment of a European Public Prosecutor's Office (EPPO) was the only act under the criminal justice system for which the ordinary legislative procedure would not be applicable, Parliament called on the Council to **extensively involve Parliament in its legislative work** and ensure that the latter' s position is duly taken into account at all stages of the procedure. It called on the Council to take due account of the following recommendations:

- clearly establish in advance the **non-discretionary criteria** determining which competent court is to exert jurisdiction, take into account the rights of the suspect and ensure that the determination of competence be subject to judicial review;
- give the European Public Prosecutor's Office **full independence** both from national governments and from EU institutions;
- precisely determine the **scope of the competence of the EPPO** to enable the criminal acts that fall within that scope to be identified beforehand and for definitions set out in the Commission proposal, concerning ancillary competence to be carefully reviewed;
- specify that the European Public Prosecutor cannot prosecute offences which are not yet set out in the relevant Member States' law at the time of the offence;
- define in a detailed manner the criteria for the use of investigative measures should be spelled out in more detail in order to ensure that 'forum shopping' is excluded;
- ensure that the **conditions for admissibility of evidence** should be such as to respect all rights guaranteed by the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights, and the European Court of Human Rights case law;
- maintain the right to an **effective judicial remedy** at all times in respect of the European Public Prosecutor's activity throughout the Union;
- specify that **after the dismissal** by the European Public Prosecutor of a case relating to minor offences, the national prosecution authorities are not prevented from further investigating and prosecuting the case should they be allowed to under their national laws and that the where a lack of relevant evidence cannot foreseeably be remedied by further proportionate investigative steps dismissal is mandatory.

Parliament also recommended that the Council should: (i) take account of the fact that all activities of the European Public Prosecutor's Office should ensure a degree of high protection of the rights of defence;

(ii) comply with the ne bis in idem principle; (iii) pay particular attention to the rights of the data subject where personal data are transferred to third countries or international organisations; (iv) ensure that the organisational model of the EPPO should ensure at central level the appropriate skills, experience and knowledge of the legal systems of the Member States.

Members asked the Council to clarify the competence of each existing body in charge of protecting the Union's financial interests. They pointed out that it was of the utmost importance **that the relationship between the EPPO and other existing bodies, such as Eurojust and OLAF, be further defined** and clearly demarcated.

Lastly, considering that the consistency of overall EU action in the field of justice was vital Members called on the European legislator to deal with this proposal in the light of others that were closely linked to it, such as the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law, the proposal for a regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust) and other relevant instruments in the field of criminal justice and procedural rights.