

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 19/03/2015 - Committee interim report tabled for plenary

The Committee on Civil Liberties, Justice and Home Affairs adopted the interim report by Monica MACOVEI (PPE, RO) on the proposal for a Council regulation on the establishment of the European Public Prosecutor's Office (EPPO).

In its resolution of 12 March 2014, the Parliament called on the Council to be extensively involved in its work and made a number of political suggestions addressing some of the most crucial aspects at stake: structure, independence, decision making process, competence, investigation tools, admissibility of evidence, judicial review, legal protection.

This new interim report is intended to complement the resolution of 12 March. Members reaffirmed their strong willingness to address the priorities for the establishment of the EPPO and to identify the principles and conditions under which it may give its consent.

The report calls on the Council to **ensure transparency and democratic legitimacy** by keeping Parliament fully informed and regularly consulting it. It deems it crucial to ensure the establishment of a **single, strong, independent EPPO** that is able to investigate, prosecute and bring to court the perpetrators of criminal offences affecting the Union's financial interests.

Members recalled that the relevant criminal offences are to be set out in the proposed directive on the fight against fraud to the Union's financial interests by means of criminal law (PFI [Directive](#)). It calls on the Council to renew its efforts to find agreement on the latter for the establishment of the EPPO.

The main recommendations presented to the Council are as follows:

An independent European Public Prosecutor's Office:

- the EPPO should be fully independent of national governments and the EU institutions; the selection and appointment procedures for the European Chief Prosecutor, his/her deputies, the European Prosecutors and the European Delegated Prosecutors should be open, objective and transparent;
- the European Prosecutors should be appointed by the Council and Parliament by common accord on the basis of a shortlist drawn up by the Commission, following an evaluation by an independent panel of experts chosen from among judges, prosecutors and lawyers of recognised competence.

A clear division of jurisdiction between the EPPO and national authorities:

- the EPPO should first decide whether it has competence and before national authorities initiate their own investigations, in order to avoid parallel investigations which are inefficient;
- the national authorities that carry out investigations of offences which may fall under the competence of the EPPO should be obliged to inform it of any such investigations;
- the powers of the European Public Prosecutor's Office should extend to offences other than those affecting the Union's financial interests on certain conditions.

An efficient structure for the effective management of cases:

- Members find it regrettable that the option of a collegiate structure is being considered by the Member States, instead of the hierarchical one initially proposed by the Commission;
- the Chambers should play a leading role in investigations and prosecutions and supervise the work of the European Delegated Prosecutors in the field.

Investigative measures and admissibility of evidence:

- the legislator should guarantee streamlined procedures for the EPPO to obtain authorisation for investigative measures in cross-border cases;
- the Council should ensure the admissibility of the evidence gathered by the EPPO with full respect for the relevant European and national legislation across the Union;
- EPPO should seek out all relevant evidence, whether inculpatory or exculpatory; suspects or accused persons in any investigation undertaken by the EPPO should be granted certain rights concerning evidence;
- the principle of *ne bis in idem* should be respected with regard to prosecutions involving offences which fall under the competence of the EPPO.

Coherent legal protection for suspects or accused persons:

- the new Office should carry out its activities with full respect for the rights of suspects or accused persons which are enshrined in Article 6 TEU, Article 16 TFEU and the Charter of Fundamental Rights of the European Union;
- effective access to legal aid in accordance with the relevant national laws;
- any specific provisions on data protection contained in the Council regulation on the establishment of the EPPO may only complement and further elaborate the provisions contained in Regulation 2001/45, and only to the extent that it is necessary.

The report urges the Council to follow these recommendations and underlines the fact that the aforementioned conditions are essential for Parliament to give its consent to the Council's draft regulation.