

European Public Prosecutor's Office (EPPO)

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PURPOSE: to establish the European Public Prosecutor's Office and lay down its competences and procedures.

PROPOSED ACT: Council Regulation.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: prosecuting offences against the EU budget is currently within the exclusive competence of Member States and **no Union authority exists in this area**. National law enforcement efforts remain often fragmented in this area and the cross-border dimension of these offences usually escapes the attention of the authorities.

Despite the intensified efforts of Union bodies, such as Eurojust, Europol and the European Anti-Fraud Office (OLAF), **coordination, cooperation and information exchange face numerous problems** which are a major impediment to the effective investigation and prosecution of offences affecting the Union's financial interests.

As Member States' criminal investigation and prosecution authorities are currently unable to achieve an equivalent level of protection and enforcement, the Union not only has the competence but also the obligation to act. **Article 86 of the Treaty provides the necessary legal basis for such a new Union-level prosecution system**, the purpose of which is to correct the deficiencies of the current enforcement regime exclusively based on national efforts and add consistency and coordination to these efforts.

IMPACT ASSESSMENT: according to the analysis of the Impact Assessment, setting up the European Public Prosecutor's Office as a decentralised integrated office of the Union, which relies on national judicial systems, offers the most benefits and generates the lowest costs.

LEGAL BASIS: Article 86 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: this proposal seeks to **create a European Public Prosecutor's Office, as well as to lay down its competences and procedures**. It complements a [previous legislative proposal](#) which defines which defines the criminal offences as well as the applicable sanctions.

The main elements of the proposed Regulation are the following:

Status, organisation and structure: the proposal provides for the establishment of a European Public Prosecutor's Office in the form of a **Union body with a decentralised structure** and with legal personality and sets out its relationship with Eurojust.

Independence: among the key features of the European Public Prosecutor's Office, the text refers to its independence and accountability to the European Parliament, Council and the European Commission in regard to its activities. In this context, it lays down special rules on the appointment and dismissal of the European Public Prosecutor, his/her Deputies and European Delegated Prosecutors.

Tasks and competence: the task of the European Public Prosecutor will be to combat criminal offences affecting the financial interests of the Union. It shall be responsible for investigating, prosecuting and

bringing to judgment the perpetrators of, and accomplices in the criminal offences and for exercising the functions of prosecutor in the competent courts of the Member States in respect of the offences affecting the Union's financial interests.

The proposal lays down the applicable penalties that fall within the material competence of the European Public Prosecutor. These offences are to be defined by reference to national law implementing Union law.

Basic principles: the proposal describes the main legal principles that will govern the activities of the European Public Prosecutor's Office, including conformity with the **Charter of Fundamental Rights of the European Union**, proportionality, national law being applicable to implement the Regulation, procedural neutrality, legality and celerity of investigations, Member States' duty to assist the investigations and prosecutions of the European Public Prosecutor's Office.

Rules of procedure on investigations, prosecutions and trial proceedings: the proposal covers the essential features of the investigations and prosecutions of the European Public Prosecutor's Office, including provisions on how they should be controlled by national courts, what decisions the European Public Prosecutor's Office could take once the investigation is completed, how it would exercise its prosecution functions and how the evidence collected would be used in trial courts.

Procedural safeguards: the proposal provides safeguards for suspects and other persons involved in the proceedings of the European Public Prosecutor's Office, which will need to comply with the relevant standards, in particular the Charter of Fundamental Rights of the European Union.

With regard to certain rights – [right to interpretation and translation](#); [right to information in criminal proceedings](#); [right of access to a lawyer in criminal proceedings and the right to communicate upon arrest](#) – the rules refer to Union legislation. The proposal also defines autonomously other rights which have not yet been regulated in Union legislation, such as the right to remain silent and the right to be presumed innocent, the right to legal aid, the right to present evidence, appoint experts and hear witnesses.

As such, these rules provide an **additional layer of protection** compared to national law.

The proposal also lays down the rules governing the data protection regime. The supervision of all personal data processing in the context of the activities of the European Public Prosecutor's Office has been entrusted to the European Data Protection Supervisor (EDPS).

BUDGETARY IMPLICATION: the proposal seeks to be cost-efficient for the EU budget: part of OLAF's current resources will be used for setting up the central headquarters of the European Public Prosecutor's Office, which in turn will rely on the administrative support of Eurojust. Limited additional costs will arise in relation to the position of the European Delegated Prosecutors who will be located in the Member States and will be an integral part of the European Public Prosecutor's Office.

As the set-up phase of the European Public Prosecutor's Office will probably take several years, staff members will be gradually transferred from OLAF to the European Public Prosecutor's Office. The European Public Prosecutor's Office will reach cruising speed once the full staff levels are achieved. The full staff level will be achieved in 2023 with 235 staff, of which 180 establishment plan posts and 55 external staff. **The estimated cost for 2023 with this staff level is approximately EUR 35 million.**