Basic information

2013/0255(APP) APP - Consent procedure Regulation	Procedure completed
European Public Prosecutor's Office (EPPO) See also 2013/0256(COD) **Subject** 7.40.04 Judicial cooperation in criminal matters 8.40.08 Agencies and bodies of the EU 8.70.04 Protecting financial interests of the EU against fraud	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	MATERA Barbara (PPE)	10/11/2015
	Shadow rapporteur KAUFMANN Sylvia-Yvonne (S&D) MACOVEI Monica (ECR) MICHEL Louis (ALDE) DE JONG Dennis (GUE/NGL) ALBRECHT Jan Philipp (Verts/ALE)	

Former committee responsible	Former rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	MACOVEI Monica (PPE)	21/01/2015
LIBE Civil Liberties, Justice and Home Affairs		
LIBE Civil Liberties, Justice and Home Affairs	IACOLINO Salvatore (PPE)	30/09/2013

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	The committee decided not to give an opinion.	

CONT Budgetary Control	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	
PETI Petitions	The committee decided not to give an opinion.	

Former committee for opinion	Former rapporteur for opinion	Appointed
BUDG Budgets	LAMASSOURE Alain (PPE)	26/09/2013
BUDG Budgets		
BUDG Budgets	The committee decided not to give an opinion.	
CONT Budgetary Control	The committee decided not to give an opinion.	
CONT Budgetary Control (Associated committee)	GRÄSSLE Ingeborg (PPE)	07/01/2014
CONT Budgetary Control		
JURI Legal Affairs	NEGRESCU Victor (S&D)	23/01/2015
JURI Legal Affairs	REGNER Evelyn (S&D)	19/11/2013
JURI Legal Affairs		
PETI Petitions		
PETI Petitions	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3517	2017-02-07

General Affairs	3564	2017-10-12
Justice and Home Affairs (JHA)	3260	2013-10-07
Justice and Home Affairs (JHA)	3455	2016-03-10
Justice and Home Affairs (JHA)	3490	2016-10-14
Justice and Home Affairs (JHA)	3396	2015-06-15
Justice and Home Affairs (JHA)	3415	2015-10-09
Justice and Home Affairs (JHA)	3433	2015-12-03
Justice and Home Affairs (JHA)	3508	2016-12-09
Justice and Home Affairs (JHA)	3473	2016-06-10
Justice and Home Affairs (JHA)	3546	2017-06-08
Justice and Home Affairs (JHA)	3336	2014-10-10
Justice and Home Affairs (JHA)	3298	2014-03-03
Justice and Home Affairs (JHA)	3354	2014-12-04
Agriculture and Fisheries	3556	2017-07-17

European Commission

Commission DG	Commissioner
European Anti-Fraud Office (OLAF)	JOUROVÁ Věra

Key events

Date	Event	Reference	Summary
17/07/2013	Preparatory document	COM(2013)0534	Summary
07/10/2013	Debate in Council		
20/02/2014	Vote in committee		
24/02/2014	Committee interim report tabled for plenary	A7-0141/2014	Summary
03/03/2014	Debate in Council		
11/03/2014	Debate in Parliament		
12/03/2014	Decision by Parliament	T7-0234/2014	Summary
12/03/2014	Results of vote in Parliament		
10/10/2014	Debate in Council		
04/12/2014	Debate in Council		
09/03/2015	Vote in committee		
19/03/2015	Committee interim report tabled for plenary	A8-0055/2015	Summary
28/04/2015	Debate in Parliament		
29/04/2015	Decision by Parliament	T8-0173/2015	Summary

29/04/2015	Results of vote in Parliament		
15/06/2015	Debate in Council		
09/10/2015	Debate in Council		
03/12/2015	Debate in Council		
10/03/2016	Debate in Council		
10/06/2016	Debate in Council		
14/10/2016	Debate in Council		
09/12/2016	Debate in Council		
30/06/2017	Legislative proposal published	09941/2017	Summary
11/09/2017	Committee referral announced in Parliament		
28/09/2017	Vote in committee		
29/09/2017	Committee report tabled for plenary, 1st reading/single reading	A8-0290/2017	Summary
04/10/2017	Debate in Parliament		
05/10/2017	Decision by Parliament	T8-0384/2017	Summary
05/10/2017	Results of vote in Parliament		
12/10/2017	Act adopted by Council after consultation of Parliament		
12/10/2017	End of procedure in Parliament		
31/10/2017	Final act published in Official Journal		

Technical information

Procedure reference	2013/0255(APP)
Procedure type	APP - Consent procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	See also 2013/0256(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 086-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/02536 LIBE/8/00203 LIBE/7/14618

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE519.809	29/11/2013	

Committee opinion	BUDG	PE524.830	22/01/2014	
Committee opinion	CONT	PE528.013	18/02/2014	
Amendments tabled in committee		PE527.922	19/02/2014	
Committee interim report tabled for plenary		A7-0141/2014	24/02/2014	Summary
Committee opinion	JURI	PE526.192	03/03/2014	
Interim resolution adopted by Parliament		T7-0234/2014	12/03/2014	Summary
Committee draft report		PE546.675	16/01/2015	
Amendments tabled in committee		PE546.850	03/02/2015	
Committee opinion	JURI	PE549.131	26/02/2015	
Committee interim report tabled for plenary		A8-0055/2015	19/03/2015	Summary
Interim resolution adopted by Parliament		T8-0173/2015	29/04/2015	Summary
Committee draft report		PE609.373	12/09/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0290/2017	29/09/2017	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0384/2017	05/10/2017	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	09941/2017	30/06/2017	Summary

European Commission

Document type	Reference	Date	Summary
Preparatory document	COM(2013)0534	17/07/2013	Summary
Document attached to the procedure	SWD(2013)0274	17/07/2013	
Document attached to the procedure	SWD(2013)0275	17/07/2013	
Document attached to the procedure	COM(2013)0851	27/11/2013	Summary
Commission response to text adopted in plenary	SP(2015)461	22/09/2015	
Commission document (COM)	COM(2026)0491	18/09/2026	
Follow-up document	SWD(2026)0278	18/09/2026	

National parliaments

Document type	Parliament/Chamber	Reference	Date	Summary
Contribution	PL_SENATE	COM(2013)0534	17/10/2013	

Contribution	DE_BUNDESRAT	COM(2013)0534	22/10/2013	
Contribution	PT_PARLIAMENT	COM(2013)0534	24/10/2013	
Contribution	RO_SENATE	COM(2013)0534	28/10/2013	
Contribution	IT_SENATE	COM(2013)0534	05/12/2013	
Contribution	ES_PARLIAMENT	COM(2013)0534	31/12/2013	
Contribution	FI_PARLIAMENT	COM(2013)0534	07/01/2014	
Contribution	FR_ASSEMBLY	COM(2013)0534	04/02/2014	
Contribution	UK_HOUSE-OF-LORDS	COM(2013)0851	07/03/2014	
Contribution	HR_PARLIAMENT	COM(2013)0534	01/04/2014	
Contribution	UK_HOUSE-OF-COMMONS	COM(2013)0851	13/06/2014	
Contribution	DE_BUNDESTAG	COM(2013)0534	23/06/2014	
Contribution	FR_SENATE	COM(2013)0534	06/06/2019	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES6311/2013	11/12/2013	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2017/1939
OJ L 283 31.10.2017, p. 0001 Summary

Delegated acts

Reference	Subject
2020/2832(DEA)	Examen d'un acte délégué

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 05/10/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 456 votes to 115, with 60 abstentions, a legislative resolution on the draft Council regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office.

In line with the recommendation of its Committee on Civil Liberties, Justice and Home Affairs, Parliament **gave its consent to the draft Council Regulation**.

The draft Regulation seeks to implement enhanced cooperation between 20 Member States regarding the creation of the European Public Prosecutor's Office. The EPPO will be responsible for investigating, prosecuting and bringing to judgment the perpetrators of offences against the Union's financial interests.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 29/09/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Barbara MATERA (EPP, IT) on the draft Council Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office.

The committee recommended Parliament to **give its consent** to the draft Council Regulation.

In the explanatory memorandum accompanying the recommendation, it is recalled that Parliament adopted three interim reports (2014, 2015 and 2016) on the European Public Prosecutor's Office (EPPO). These reports raised a number of concerns regarding the competences of the EPPO, PIF directive and VAT fraud, structure, investigations, procedural rights, judicial review and relations with other relevant EU agencies.

The Regulation could have been more ambitious. However, Parliament's concerns have largely been taken into account in the text in its present form. The following points are highlighted:

- the EPPO shall be a **body of the Union with a decentralised structure** with the aim of integrating the national law enforcement authorities;
- **the set of competences and proceedings** for the EPPO, include the proposed directive on fighting fraud against the Union's financial interests by means of criminal law (PIF directive);
- **serious cases of cross-border VAT fraud** shall be included in the scope of the directive, setting the threshold value at EUR 10 million;
- the EPPO Regulation shall ensure a **comprehensive system of judicial review** by national courts and allows for possibilities of direct review by the European Court of Justice;
- the EPPO shall have **sufficient investigative measures** available to conduct its investigations. The co-legislators agreed on criteria for Member States to make requests for investigative measures based on the principle of mutual recognition set out in Directive 2014/41/EU regarding the European Investigation Order in criminal matters;
- in full compliance with the rights of suspects and accused persons enshrined in the Charter of Fundamental Rights, the Regulation shall provide for **rights of defence** for EPPO suspects, in particular the right to legal aid, the right to interpretation and translation, the right to information and access to case materials, and the right to present evidence and to ask the EPPO to collect evidence on behalf of the suspect;
- the EPPO shall establish and maintain cooperative relations with existing Union agencies, offices or bodies such as **Eurojust, OLAF and Europol**;
- the Council included in the Regulation the request for **non-participating Member States** to notify the EPPO as a competent authority for the purpose to respect the judicial cooperation in criminal matters.

While regretting that not all EU Member States are involved in the establishment of the European Public Prosecutor Office, the rapporteur nevertheless welcomed the fact that **20 of them** reached a general approach, including fraud against the Union's financial interests, in particular, serious VAT fraud. Non-participating Member States are encouraged to take part in enhanced cooperation in the future.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 30/06/2017 - Legislative proposal

PURPOSE: to implement enhanced cooperation on the establishment of the European Public Prosecutor's Office (the EPPO).

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: the Union and its Member States have an obligation to protect the financial interests of the Union against criminal offences. These offences cause significant financial loss each year. The current situation, in which the authorities of the Member States alone have the power to institute criminal proceedings against infringements affecting the financial interests of the Union, does not always sufficiently achieve that objective.

The European Public Prosecutor's Office would make it possible to remedy these shortcomings and improve the fight against offences affecting the financial interests of the EU, thus contributing to better protection of the Union's budget.

On 17 July 2013, the Commission adopted a proposal for a Council Regulation on the establishment of the EPPO. The possibility of setting up the European Public Prosecutor's Office is foreseen by the Treaty on the Functioning of the European Union (TFEU) in the Title concerning the area of freedom, security and justice.

The enhanced cooperation procedure was launched on 3 April 2017 following the Council's finding that there was no unanimous agreement on the Commission proposal.

So far, **16 Member States have notified their wish to establish closer cooperation** on the creation of the European Public Prosecutor's Office: Belgium, Bulgaria, Croatia, Cyprus, Finland, France, Germany, Greece, Lithuania, Luxembourg, Portugal, the Czech Republic, Romania, Slovakia and Slovenia.

In addition, **4 other Member States**, namely Latvia, Estonia, Austria and Italy, have expressed their intention to join the enhanced cooperation. The other Member States may join the cooperation at any time.

CONTENT: the draft Regulation presented by the Council aims to **establish the European Public Prosecutor's Office** and lay down its operating conditions.

Tasks: the EPPO shall be responsible for **investigating, prosecuting and bringing to judgment** the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union. In that respect the EPPO shall undertake **investigations**, and carry out acts of prosecution and exercise the functions of prosecutor in the competent courts of the Member States, until the case has been finally disposed of. It shall act **independently** and be accountable to the institutions of the Union.

The proposed Regulation provides for a **system of shared competence** between the EPPO and national authorities in combating crimes affecting the financial interests of the Union. In the light of the principle of sincere cooperation, both the EPPO and the competent national authorities should support and inform each other with the aim of efficiently combatting the crimes falling under the competence of the EPPO.

The EPPO shall **cooperate closely with the European Anti-Fraud Office (OLAF) and Eurojust** within the framework of their respective mandates and the exchange of information. In agreement with the competent authorities concerned, it may also designate contact points in the Member States of the European Union who do not participate in enhanced cooperation in order to facilitate cooperation.

Structure and organisation: the EPPO shall be an indivisible Union body operating as one single Office with a decentralised structure:

- **the central level** shall consist of a Central Office at the seat of the EPPO. The Central Office shall consist of the College, the Permanent Chambers, the **European Chief Prosecutor**, the Deputy European Chief Prosecutors, the European Prosecutors and the Administrative Director;
- **the decentralised level** shall consist of **European Delegated Prosecutors** who shall be located in the Member States.

The **Central Office** and the European Delegated Prosecutors shall be assisted by the staff of the EPPO in their duties under this Regulation.

The European Parliament and the Council shall appoint by common accord the European Chief Prosecutor for a **non-renewable term of seven years**. The Council shall act by simple majority.

Operating conditions: provisions for the **establishment of the European Public Prosecutor's Office in Luxembourg** would be laid down in a Headquarters Agreement concluded between the EPPO and Luxembourg by the date the EPPO assumes its investigative and prosecutorial tasks determined.

Entry into force: the proposal foresees that the European Public Prosecutor's Office shall exercise its competence with regard to any offence under its remit **after the date of entry into force** of the Regulation.

The EPPO shall assume the investigative and prosecutorial tasks conferred on it by this Regulation on a date to be determined by a decision of the Commission on a proposal of the European Chief Prosecutor once the EPPO is set up. The **date** to be set by the Commission shall **not be earlier than three years after the date of entry into force** of this Regulation.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 17/07/2013 - Preparatory document

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**.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 12/10/2017 - Final act

PURPOSE: to implement enhanced cooperation on the establishment of the European Public Prosecutor's Office.

LEGISLATIVE ACT: Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor' s Office.

CONTENT: the Regulation **establishes the European Public Prosecutor's Office (the EPPO) and sets out rules concerning its functioning**. The possibility of setting up the European Public Prosecutor's Office is foreseen by the Treaty on the Functioning of the European Union (TFEU) in the Title concerning the area of freedom, security and justice.

It is hereby established as a body of the Union and shall have legal personality.

So far, 20 Member States have joined the enhanced cooperation on the establishment of the European Public Prosecutor's Office: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Germany, Greece, Spain, Finland, France, Italy, Latvia, Lithuania, Luxembourg, Portugal, Romania, Slovenia and Slovakia.

Mission: the European Public Prosecutor's Office will be responsible for **investigating, prosecuting and bringing to judgment** the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union. In that respect the EPPO shall undertake investigations, and carry out acts of prosecution and exercise the functions of prosecutor **in the competent courts of the Member States**, until the case has been finally disposed of.

The European Public Prosecutor's Office shall have the power to investigate infringements affecting the EU budget and cases of VAT fraud, such as cases of fraud involving EU funds in excess of EUR 10 000 or cross-border VAT fraud for amounts exceeding EUR 10 million. It shall also be competent when the offences involve a criminal organisation. It shall not be competent for criminal offences in respect of national direct taxes.

Shared competencies: the Regulation provides for a system of shared competence between the EPPO and national authorities in combating crimes affecting the financial interests of the Union, based on the right of evocation of the EPPO.

Both the European Public Prosecutor's Office and the competent national authorities shall **help and inform each other** in order to enhance the fight against the offences falling within the competence of the Public Prosecutor's Office.

As soon as a suspicion of an offence is reported to the European Public Prosecutor's Office, all the national authorities and the competent bodies and bodies of the Union, including **Eurojust, Europol and the European Anti-Fraud Office (OLAF)**, must actively support the investigation and prosecution by the European Public Prosecutor's Office and cooperate with the latter.

The EPPO may designate, in agreement with the competent authorities concerned, **contact points** in third countries in order to facilitate cooperation in line with the operational needs of the EPPO.

Structure and organisation: the European Public Prosecutor's Office shall be organised on two levels: central and decentralised:

- **the central level shall consist of a Central Office** at the seat of the EPPO. The Central Office shall consist of the College, the Permanent Chambers, the European Chief Prosecutor, the Deputy European Chief Prosecutors, the European Prosecutors and the Administrative Director;
- **the decentralised level shall consist of European Delegated Prosecutors who shall be located in the Member States** who shall also continue to serve as national prosecutors and shall be responsible for the day-to-day conduct of investigations and criminal proceedings in accordance with the Regulation and the legislation of the Member State concerned.

The Central Office will supervise, direct and supervise all investigations and prosecutions conducted at national level by the European Delegated Prosecutors.

The European Parliament and the Council will appoint the Head of the European Public Prosecutor's Office for a **seven-year non-renewable term of office**. The Council will act by a simple majority. European Prosecutors shall be chosen by the Council from among three candidatures submitted by each Member State. They will be appointed for a non-renewable term of six years.

Reports: each year, the European Public Prosecutor's Office shall report on its general activities to the European Parliament and national parliaments, as well as to the Council and the Commission. The head of the European Public Prosecutor's Office shall report once a year to the European Parliament to report on the general activities of the European Public Prosecutor's Office.

Operating conditions: the provisions relating to the establishment of the European Public Prosecutor's Office in Luxembourg shall be laid down in a Headquarters Agreement concluded between the European Public Prosecutor's Office and Luxembourg no later than the date on which the European Public Prosecutor's Office assumes its investigative and prosecutorial tasks.

ENTRY INTO FORCE: 20.11.2017.

The EPPO shall exercise its competence with regard to any offence within its competence committed after the date on which this Regulation has entered into force.

The EPPO shall assume the investigative and prosecutorial tasks conferred on it by this Regulation on a date to be determined by a decision of the Commission on a proposal of the European Chief Prosecutor once the EPPO is set up. The decision of the Commission shall be published in the Official Journal of the European Union.

The date to be set by the Commission shall not be **earlier than 3 years after the date of entry into force of this Regulation**.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 17/07/2013

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**.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 27/11/2013 - Document attached to the procedure

On 17 July 2013, the Commission adopted a proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office, based on Article 86 of the Treaty on the Functioning of the European Union (TFEU), which empowers the Council to establish that Office in order to combat crimes affecting the financial interests of the Union.

Within the deadline laid down in Article 6 of Protocol No 2, fourteen chambers of national Parliaments sent reasoned opinions to the Commission, **thus triggering the subsidiarity control mechanism** provided for in Article 7(2) of Protocol No 2, which the Commission confirmed on 6 November 2013.

In this paper, it reviews the proposal, carefully analysing the reasoned opinions submitted by national Parliaments from the perspective of the principle of subsidiarity.

The subsidiarity test involves two closely interrelated questions:

- whether the proposed action can or cannot be sufficiently achieved by the Member States acting on their own;
- whether the action can be, by reason of its scale or effects, better achieved at Union level.

The paper examines whether the insufficiency of Member State action and the added-value of Union action justify the establishment of the European Public Prosecutor's Office. That issue is judged in light of the different aspects of the proposal, i.e. the way in which the Office would be established and the rules and procedural powers that would frame it.

The Commission **concludes that its proposal complies with the principle of subsidiarity** enshrined in Article 5(3) TEU and that a withdrawal or an amendment of that proposal is not required. The Commission therefore maintains it. During the legislative process the Commission will, however, take due account of the reasoned opinions of the national Parliaments.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 24/02/2014 - Committee interim report tabled for plenary

The Committee on Civil Liberties, Justice and Home Affairs adopted an **interim report** by Salvatore IACOLINO (EPP, IT) on the proposal for a Council regulation on the establishment of the European Public Prosecutor's Office.

The aim of this report – in line with the provisions of the Lisbon Treaty – is to draw up a number of suggestions and provide specific details of a political nature relating to the text proposed by the Commission, which may be carefully considered by the Council.

The Committee on Budgetary Control, exercising its prerogatives as an associated committee under Parliament's Rule 50 of the Rules of Procedure, also gave an opinion on the report.

Members considered that the European Parliament should be extensively involved in the discussion and in the framing of the proposal under consideration, and that the co-legislator will carefully consider the remarks made and solutions identified. They 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,
- 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.

The report recommended that the Council should: take account of the fact that all activities of the European Public Prosecutor's Office should ensure a **high protection of the rights of defence**; (ii) comply with the ne bis in idem principle should be ensured; (iii) 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.

Lastly, the Council is called upon to **clarify the competence of each existing body** in charge of protecting the Union's financial interests; points out that it is 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.

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.

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 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.

European Public Prosecutor's Office (EPPO)

2013/0255(APP) - 29/04/2015 - Interim resolution adopted by Parliament

The European Parliament adopted by 487 votes to 165, with 33 abstentions, a resolution on the proposal for a Council regulation on the establishment of the European Public Prosecutor's Office (EPPO).

Parliament **confirmed the content of its previous interim report**, adopted in its resolution of 12 March 2014 while reaffirming its determination to achieve the priorities necessary to the establishment of the European Prosecutor, as well as to set the principles and the conditions that determine its approval. It called on the Council **to ensure transparency and democratic legitimacy** by keeping the Parliament fully informed and consulting it regularly. Members called on the Council to **ensure transparency and democratic legitimacy** by keeping Parliament fully informed and regularly consulting it.

Members endorsed 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. They recalled that 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. The Council was invited 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 institution and protected from political influence and pressures; the selection and appointment procedures should be **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 EPPO 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; the system for allocating cases among the Chambers should follow predetermined and objective criteria.

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, in accordance with the law of the Member States comcerned;
- 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.

Parliament urged the Council to follow these recommendations and underlined the fact that the aforementioned conditions are essential for Parliament to give its consent to the Council's draft regulation.