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 Prosecutors 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 Councils 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 Prosecutors 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.