

Setting up the European Public Prosecutor's Office

Although Parliament set out its views on the European Public Prosecutor's Office (EPPO) proposal in the previous legislative term, agreement in the Council is as yet far from seeing the light of day. A new interim report is scheduled to be voted in plenary at the end of April.

Seeking better protection of the EU's financial interests

Risks from fraud against the EU's financial interests are [estimated](#) by the Commission at about €3 billion per year. This represents around 2% of the EU's annual budget. Currently, criminal prosecutions for offences against the EU budget fall under exclusive competence of the Member States, which has [reportedly](#) led to an uneven level of protection of the EU's financial interests. Hence the idea of setting up the EPPO to combat crimes affecting the EU's financial interests, such as fraud in EU regional or agricultural funds. It would thus complement the role of existing EU bodies active in the field of the protection of the EU's financial interests which, though gradually strengthened over time, remains limited to administrative investigations run by the European Anti-Fraud Office (OLAF), coordination, and exchange of information.

The Commission's proposal

Against this background, in July 2013, the Commission adopted its [proposal](#) for the establishment of the EPPO, based on [Article 86 TFEU](#). This legal basis provides for its creation through a special legislative procedure requiring unanimity in the Council and the Parliament's consent.

The proposed Office would be a decentralised EU body with a hierarchical structure. It would be composed of the European Public Prosecutor and the European Delegated Prosecutors. The latter would be an integral part of the EPPO, but located in the Member States. Whilst they would also be national prosecutors, when acting for the EPPO, they would be fully independent from the national authorities. Their actions would be supervised and coordinated by the European Public Prosecutor.

Safeguards would be in place to protect the rights of individuals involved in the EPPO's investigations. Particularly invasive measures – such as surveillance of telecommunications – would need a prior authorisation by national courts exercising judicial review of the EPPO's actions.

Debates in the Council and the Parliament

The orientation debates in the Council have focused on developing the idea of the Office's collegiate structure (involving college members from all participating Member States) and of a concurrent (rather than exclusive) competence of the Office and national prosecution services. The related problem of the Office's independence in terms of decision-making has also been discussed.

Parliament's latest [interim report](#) (rapporteur: Monica Macovei, EPP, Romania) – by the Civil Liberties, Justice and Home Affairs (LIBE) Committee – reiterates the points of the 2014 [resolution](#) while considering the discussions in the Council. It reaffirms Parliament's will to set up a strong and independent EPPO – which will require open and transparent selection and appointment procedures for the European Prosecutors, involving the Parliament. It also advocates clear division of jurisdiction between the EPPO and national authorities.

Possible ways forward

Unanimity in the Council seems unlikely at this stage. Furthermore, 14 national parliamentary chambers have questioned the proposal's compliance with the principle of subsidiarity by issuing 'yellow cards'. Many commentators expect that enhanced cooperation – with Article 86 TFEU providing explicitly for this possibility for a group of at least nine Member States – will be required to bring an EPPO into existence, with the number of Member States participating being the key question.