

Establishing the European Public Prosecutor

The European Parliament is expected to vote during the October I plenary session on giving its consent to the proposed regulation on the European Public Prosecutor's Office (EPPO), agreed by 20 Member States under enhanced cooperation in June 2017.

Background

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 and agricultural funds. It would thus complement the role of existing competent EU bodies that, though gradually strengthened over time, remains limited to administrative investigations run by the European Anti-Fraud Office (OLAF), coordination, and exchange of information (e.g. through Eurojust).

European Commission proposal

In July 2013, the Commission adopted a [proposal](#) for the establishment of the EPPO, based on [Article 86](#) of the Treaty on the Functioning of the EU (TFEU) providing for a special legislative procedure that requires unanimity in the Council and the Parliament's consent. Under the proposal, the Office would be a decentralised EU body with a hierarchical structure, composed of the European Public Prosecutor and the European Delegated Prosecutors, the latter being an integral part of the EPPO, but located in the Member States.

Enhanced cooperation

Under Article 86 TFEU, the lack of unanimous agreement in Council opened the way for a group of at least nine Member States to establish enhanced cooperation. In April 2017, 16 Member States notified their intention to launch such cooperation and four more joined later. On 8 June, the Member States involved reached agreement on the regulation, which requires the consent of Parliament. Under the [agreement](#), the EPPO would operate as one single office with a decentralised structure organised at two levels. The Central Office would be composed of the European Chief Prosecutor, the College (with one European Prosecutor per participating Member State), the Permanent Chambers, and the Administrative Director. The decentralised level would consist of the European Delegated Prosecutors located in the Member States and with a double role, acting on behalf of the EPPO and exercising functions as national prosecutors. In order to ensure effective coordination and a uniform approach throughout the EU, their work would be supervised by the central level. In general, the tasks of the EPPO would be to investigate, prosecute and bring to judgment by national courts the perpetrators of offences against the Union's financial interests defined under the '[PIF Directive](#)' adopted in July 2017 – including cross-border VAT fraud involving total damage of at least €10 million – as well as other offences inextricably linked to them. Any extension of this competence to cover serious crimes having a cross-border dimension (as allowed by Article 86(4) TFEU) requires a unanimous decision of the European Council.

European Parliament position

Parliament's interim reports ([2014](#), [2015](#)) advocated a strong and independent EPPO with jurisdiction distinct from that of national authorities, and supported the hierarchical structure proposed by the Commission. By contrast, the Council developed the idea of the Office's collegiate structure (involving college members from all participating Member States) and of concurrent (rather than exclusive) competence of the Office and national prosecution services, enshrined by the agreement under enhanced cooperation. The EP's [2016](#) interim report sought clarification on this new approach, and in September 2017, the EP Committee on Civil Liberties, Justice and Home Affairs (LIBE) [recommended](#) giving consent to the draft Council regulation.

Consent procedure: [2013/0255\(APP\)](#). Committee responsible: LIBE, Rapporteur: Barbara Matera, EPP, Italy.

