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DRAFT INTERIM REPORT

on the proposal for a Council regulation on the establishment of the European
Public Prosecutor's Office
(COM(2013)0534 – C7-0000/2013 – 2013/0255(APP))

Committee on Civil Liberties, Justice and Home Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the proposal for a Council regulation on the establishment of the European Public Prosecutor's Office (COM(2013)0534 – C7-0000/2013 – 2013/0255(APP))

The European Parliament,

- having regard to the proposal for a Council regulation (COM(2013)0534),
 - having regard to the proposal for a regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust) (COM(2013)0535),
 - having regard to the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law (COM(2012)0363),
 - having regard to the Resolution of the Council of 30 November 2009 on a roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings,
 - having regard to its resolution of 23 October 2013 on organised crime, corruption, and money laundering: recommendations on action and initiatives to be taken (final report)¹,
 - having regard to Article 86 of the Treaty on the Functioning of the European Union,
 - having regard to Article 218 of the Treaty on the Functioning of the European Union,
 - having regard to Rule 81(3) of its Rules of Procedure,
 - having regard to the interim report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2013),
- A. whereas crime – in particular organised crime – is increasingly taking on a cross-border dimension and the only effective response can come from the EU, giving added value to the joint efforts of all the Member States;
- B. whereas the establishment of a European Public Prosecutor's Office (EPPO) is the only act under the criminal justice system for which the ordinary legislative procedure would not be applicable;
- C. whereas the proposal for a regulation on the establishment of the European Public Prosecutor's Office is intrinsically linked to the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law and to the proposal for a regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust), which are subject to the ordinary legislative procedure;
- D. whereas respect for the rule of law must be a guiding principle for all European legislation, especially in matters relating to justice and protection of fundamental human

¹ Texts adopted, P7_TA(2013)0444.

rights, and without prejudice to the principles of proportionality and subsidiarity;

1. Considers the Commission proposal to be a further step towards the establishment of a European criminal justice area;
2. Calls on the Council to involve the European Parliament in its legislative work through a constant flow of information and ongoing consultation of Parliament to achieve an outcome that is essentially welcomed by both parties;
3. Calls on the European legislator, considering that the consistency of overall EU action in the field of justice is vital for its effectiveness, to deal with this proposal in the light of others that are 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 and the proposal for a regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust), in order to be able to ensure that it is fully compatible and consistently implemented;
4. Calls on the Council, emphasising the greatest respect for the rule of law, to take account of the following recommendations:
 - (i) the European Public Prosecutor's Office should operate in the strictest compliance with the principle of the natural court, which requires that the non-discretionary criteria determining which competent court is to exert jurisdiction should be clear and known in advance;
 - (ii) the scope of the competence of the EPPO should be precisely determined, to enable the criminal acts that fall within that scope to be identified beforehand. The European Parliament suggests that the definitions set out in Article 13 of the Commission proposal, concerning ancillary competence, should be carefully reviewed;
 - (iii) the investigative tools available to the EPPO should be uniform, precisely identified and compatible with all the legal systems of the Member States;
 - (iv) the admissibility of evidence and its assessment are key elements in the ascertainment of guilt. The relevant rules must therefore be clear and uniform throughout the area covered by the European Public Prosecutor's Office and should fully comply with personal defence safeguards;
 - (v) all decisions taken by the European Public Prosecutor should be subject to legal challenge before a superior court. In this regard, decisions taken centrally by the Public Prosecutor, as described in Articles 27, 28 and 29 concerning competence, dismissal of cases or transactions, should logically be subject to appeal before the Court of Justice;
5. Calls on the Council, furthermore, stressing the need for the utmost respect for fundamental principles such as that of a fair trial, to which defence safeguards in criminal trials are directly connected, to take account of the following recommendations and act accordingly:
 - (i) all the activities of the European Public Prosecutor's Office should meet the highest

standards with regard to the rights of defence. It should be noted that the Roadmap concerning safeguards in criminal proceedings, adopted by the Council on 30 November 2009, has not yet been completed and that the proposal merely refers to the national legal systems for all issues relating to the right to remain silent, the principle of innocence, the right to legal aid and to investigations for the defence;

- (ii) compliance with the *ne bis in idem* principle should be ensured;
 - (iii) the prosecution should reconcile legal certainty with the protection of personal data;
6. Calls on the Council to take into account the following recommendations, to ensure that the structure of the European Public Prosecutor's Office is versatile, streamlined and efficient and is able to achieve maximum results;
- (i) in order to ensure a successful outcome for investigations and their coordination, those who are required to conduct them should have in-depth knowledge of the legal systems of the countries concerned. To that end, the organisational model of the EPPO should include, centrally, at least one representative per Member State;
 - (ii) likewise, to ensure that decisions are taken promptly and efficiently, the decision-making process should be able to be expanded by the EPPO, with the assistance of national Delegated Prosecutors responsible for specific cases;
 - (iii) lastly, to ensure that the EPPO is able to guarantee high standards of independence, efficiency, experience and professionalism, its staff should be as highly qualified as possible and should ensure that the objectives set out in this resolution are achieved. In particular, the staff members in question may come from the judiciary or from other sectors in which they have acquired the aforementioned experience and professionalism. In this regard, the Commission's statements in Paragraph 4 of the proposal's Explanatory Memorandum, in relation to overall costs, should match actual requirements relating to the efficiency and functionality of the EPPO;
7. Reminds the Council and the Commission that it is of the utmost importance that the European Parliament, co-legislator in substantive and procedural criminal matters, remains closely involved in the process of the establishment of the European Public Prosecutor's Office and that its position is duly taken into account at all stages of the procedure; to that end, intends to maintain frequent contacts with the Commission and the Council, with a view to successful collaboration; is fully aware of the complexity of the task and of the need for a reasonable time frame within which to fulfil it, and undertakes to express its views, where necessary in further interim reports, on the future developments of the EPPO;
8. Instructs its President to call for continued scrutiny of the proposal with the Council;
9. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

The establishment of a European Public Prosecutor's Office (EPPO) is a step forward in the process of judicial cooperation between Member States in criminal matters. The European Parliament is required to express its views on a legislative proposal which, at a time of fiscal consolidation, interprets the tangible need of citizens to see that the financial interests of the European Union are being protected. Moreover, the fact that EUR 500 million are being taken away from welfare systems and public services each year merits a response from the EU.

The aim of this text – 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. Your rapporteur hopes that Parliament will 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.

Your rapporteur is of the opinion, moreover, that coordination with Eurojust, OLAF and Europol will be of a functional nature and will complement prosecutions, with a view to full judicial cooperation in criminal matters, bringing together key national experiences in a single body, with the participation of all Member States, where possible.

In particular, there is a need to review the judicial remedies for: the determination of the competent court; criminal activities which fall within the ancillary competence of the EPPO; investigative measures; the admissibility of evidence, and the closure of investigations.

In addition, as far as procedural safeguards are concerned, reference is made to a series of principles and rights that strengthen protection for suspects, without weakening the detection and punishment of crimes.

Lastly, your rapporteur suggests that the EPPO should have a versatile and streamlined structure and that it should guarantee high standards of independence, experience and professionalism, balancing the requirement for swift decisions with careful investigations and knowledge of the national systems in which the crimes are committed.