



EUROPEAN PARLIAMENT

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Committee on Civil Liberties, Justice and Home Affairs

2013/0255(APP)

19.2.2014

AMENDMENTS

1 - 129

Draft report
Salvatore Iacolino
(PE519.809v01-00)

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))

AM_Com_NonLegReport

Amendment 1
Renate Weber

Motion for a resolution
Citation 5 a (new)

Motion for a resolution

Amendment

– having regard to other instruments in the area of criminal justice which have been adopted in co-decision by the European Parliament together with the Council, such as Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest, the Directive regarding the European Investigation Order in criminal matters etc.,

Or. en

Amendment 2
Birgit Sippel

Motion for a resolution
Citation 5 a (new)

Motion for a resolution

Amendment

– having regard to Articles 2, 6 and 7 of the Treaty on European Union and the Charter of Fundamental Rights of the European Union,

Or. en

Amendment 3
Renate Weber

Motion for a resolution
Citation 6 a (new)

Motion for a resolution

Amendment

– having regard to Articles 263, 265, 267,

**268 and 340 of the Treaty on the
Functioning of the European Union,**

Or. en

Amendment 4
Renate Weber

Motion for a resolution
Citation 6 b (new)

Motion for a resolution

Amendment

**– having regard to the Charter of
Fundamental Rights of the European
Union,**

Or. en

Amendment 5
Birgit Sippel

Motion for a resolution
Citation 6 b (new)

Motion for a resolution

Amendment

**– having regard to the European
Convention on Human Rights,**

Or. en

Amendment 6
Renate Weber

Motion for a resolution
Citation 7 a (new)

Motion for a resolution

Amendment

**– having regard to the opinion of
European Parliament’s Legal Service,**

Or. en

Amendment 7
Birgit Sippel

Motion for a resolution
Citation 7 a (new)

Motion for a resolution

Amendment

– having regard to the opinion of the European Parliament Legal Service on the establishment of a European Public Prosecutor (D(2013)64737),

Or. en

Amendment 8
Axel Voss

Motion for a resolution
Citation 7 a (new)

Motion for a resolution

Amendment

- having regard to the opinion of the Legal Service of the European Parliament and to the opinion by the European Union Agency for Fundamental Rights,

Or. en

Justification

It must be recalled that several LIBE Members requested the opinion from the Legal Service and from the European Union Agency for Fundamental Rights, with a view to a successful intra-institutional cooperation it is of utmost importance that these legal opinions are duly taken into account.

Amendment 9
Birgit Sippel

Motion for a resolution

Citation 7 b (new)

Motion for a resolution

Amendment

– having regard to the letter of Morten Kjaerum, Director of the Fundamental Rights Agency, to President Martin Schulz on the request for opinion on fundamental rights aspects in relation to proposed European Public Prosecutor’s Office of 14 January 2014,

Or. en

**Amendment 10
Renate Weber**

**Motion for a resolution
Citation 7 b (new)**

Motion for a resolution

Amendment

– having regard to the 14 reasoned opinions expressed by the Member States’ national parliaments,

Or. en

**Amendment 11
Renate Weber**

**Motion for a resolution
Recital –A (new)**

Motion for a resolution

Amendment

– A. whereas the Treaty on the Functioning of the European Union expressly provides in its Article 86 the possibility of establishing a European Public Prosecutor’s Office;

Or. en

Amendment 12
Renate Weber

Motion for a resolution
Recital –A a (new)

Motion for a resolution

Amendment

-Aa. whereas the main objectives of establishing the European Public Prosecutor's Office is to contribute to the strengthening of the protection of the Union's financial interests, to enhance the trust of EU businesses and citizens in the Union's institutions and to ensure a more efficient and effective investigation and prosecution of offences affecting the EU financial interest, while fully respecting the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union;

Or. en

Amendment 13
Birgit Sippel

Motion for a resolution
Recital A

Motion for a resolution

Amendment

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;

A. whereas ***the EU has set itself the task of developing an area of freedom, security and justice, and whereas, pursuant to Article 6 of the Treaty on European Union, it respects human rights and fundamental freedoms, thereby taking on positive obligations which it must meet in order to honour that commitment and whereas in the case of fraud against the financial interests of the EU*** the only effective response can come from the EU, giving added value to the joint efforts of all

the Member States;

Or. en

Amendment 14
Jan Philipp Albrecht

Motion for a resolution
Recital A

Motion for a resolution

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

Amendment

A. whereas *crimes against the Union's financial interests generate significant financial damages every year* and *an* effective response *is needed* from the EU giving added value to the joint efforts of all the Member States

Or. en

Amendment 15
Sarah Ludford

Motion for a resolution
Recital A

Motion for a resolution

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;

Amendment

A. whereas crime – in particular organised crime – is increasingly taking on a cross-border dimension and *the EU must give its response*, giving added value to the joint efforts of all the Member States;

Or. en

Amendment 16
Anna Maria Corazza Bildt, Axel Voss

Motion for a resolution

Recital A

Motion for a resolution

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;

Amendment

A. whereas crime – in particular organised crime – is increasingly taking on a cross-border dimension and **a more** effective response **comes from increased cooperation at** the EU level, giving added value to the joint efforts of all the Member States;

Or. en

Amendment 17
Birgit Sippel

Motion for a resolution
Recital A a (new)

Motion for a resolution

Amendment

Aa. whereas no harmonized European criminal law exists yet;

Or. en

Amendment 18
Axel Voss

Motion for a resolution
Recital A a (new)

Motion for a resolution

Amendment

Aa. whereas protection of the EU budget against fraud can be better achieved at EU level by reason of its scale and effects than on Member State level;

Or. en

Amendment 19
Monica Luisa Macovei

Motion for a resolution
Recital A a (new)

Motion for a resolution

Amendment

Aa. whereas the principle of zero tolerance against the EU budget should be applied in order to address fraud against the financial interests of the European Union in a coherent and efficient manner;

Or. en

Amendment 20
Véronique Mathieu Houillon

Motion for a resolution
Recital Aa (new)

Motion for a resolution

Amendment

Aa. whereas 10% of OLAF's investigations involve cross-border organised crime, and whereas these investigations nevertheless account for 40% of the total financial impact in terms of the EU's financial interests;

Or. fr

Amendment 21
Birgit Sippel

Motion for a resolution
Recital D

Motion for a resolution

Amendment

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

D. whereas respect for the rule of law ***as enshrined in the Treaties*** must be ***the*** guiding principle for all European legislation, especially in matters relating to

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

justice and protection of fundamental human rights, and without prejudice to the principles of proportionality and subsidiarity;

Or. en

Amendment 22

Axel Voss

Motion for a resolution

Recital D

Motion for a resolution

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

Amendment

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 rights,

Or. en

Amendment 23

Birgit Sippel

Motion for a resolution

Recital D a (new)

Motion for a resolution

Amendment

Da. whereas 14 national parliamentary chambers from 11 Member States have triggered the yellow card mechanism in relation to the Commission proposal and whereas the Commission has decided to maintain the proposal on 27 November 2013, nevertheless stating that it would take due account of the reasoned opinions of the national parliamentary chambers during the legislative process;

Amendment 24
Anna Maria Corazza Bildt

Motion for a resolution
Recital D a (new)

Motion for a resolution

Amendment

Da. Whereas 14 National Parliaments in 11 Member States have given reasoned opinions expressing their concerns on the basis of the principle of subsidiarity; whereas the Commission has decided to maintain the proposal as it stands;

Amendment 25
Birgit Sippel

Motion for a resolution
Recital D b (new)

Motion for a resolution

Amendment

Db. whereas Article 86 (1) TFEU requires unanimity within the Council in order to establish a European Public Prosecutor and whereas it seems very unlikely that this unanimity will be reached and that therefore it seems more likely that some Member States will establish a European Public Prosecutor by means of enhanced cooperation which would require the Commission to present a new proposal;

Amendment 26
Birgit Sippel

Motion for a resolution

Subheading after recitals (new)

Motion for a resolution

Amendment

I. General principles

Or. en

Amendment 27 Cornelis de Jong

Motion for a resolution Paragraph -1 (new)

Motion for a resolution

Amendment

-1. States that it is determined to decline its consent and reject the proposal for a Regulation and calls on the Council to do the same,

Or. en

Justification

At this moment, only a rejection of the Commission proposal is possible, as the European Parliament does not have at its disposal all necessary information to properly appraise the Commission proposal.

Considering the many difficulties OLAF is experiencing and the complaints from Member States about the quality of OLAF's work, it cannot automatically be assumed, as the Commission does, that the lack of follow-up given by Member States to OLAF-investigations reflects problems within Member States. It could just as well be explained by a lack of quality of OLAF, in which case the first priority ought to be the improvement of OLAF's functioning. The European Parliament, through its CONT Committee, is still in the process of examining OLAF's functioning, in particular in relation to the Dalli-case, and so far CONT has not yet been satisfied by OLAF's presentations in this regard. It is therefore important that, before taking any decisions with regard to the Commission proposal, the European Parliament receives an additional, more detailed, impact assessment from the Commission. .

This holds even more so, considering, the fact that so many national parliaments supported the yellow card procedure. Some parliaments complain that in its Communication following the yellow card, the Commission did not address all objections of these parliaments against the Commission proposal and request additional clarifications from the Commission.

Even if the Commission accepts that the EPPO will only be implemented through an enhanced co-operation procedure, this does not take away the above objections. Moreover, it complicates matters further, as the roles of OLAF and EUROJUST may vary for different Member States, depending on the question of whether they have accepted EPPO or not. At this moment, there is not even a proper analysis of these complications.

Lastly, The Legal Opinion from the EP's Legal Service has confirmed our serious doubts on the inception of the structure and powers of the EPPO. Again, without proper time for an in-depth debate with all relevant stakeholders, it seems premature to be setting up the EPPO altogether.

Amendment 28

Anna Maria Corazza Bildt

Motion for a resolution

Paragraph 1

Motion for a resolution

Amendment

1. Considers the Commission proposal to be a further step towards the establishment of a European criminal justice area; **deleted**

Or. en

Amendment 29

Birgit Sippel

Motion for a resolution

Paragraph 1

Motion for a resolution

Amendment

1. Considers the Commission proposal to be a further step towards the establishment of a European criminal justice area;

1. Very much acknowledges the general intention of the Commission proposal to be a further step towards the establishment of a European criminal justice area; *finds it however inconsistent to establish harmonised rules on a European Public Prosecutor's Office and to have differing rules on procedural and defence rights in the Member States;*

Or. en

Amendment 30
Jan Mulder

Motion for a resolution
Paragraph 1

Motion for a resolution

1. Considers the Commission proposal to be a further step towards *the establishment of a European criminal justice area*;

Amendment

1. Considers the Commission proposal to be a further step towards *a better coordination of Member States efforts to fight fraud with the EU Budget* ;

Or. en

Amendment 31
Monica Luisa Macovei, Véronique Mathieu Houillon

Motion for a resolution
Paragraph 1

Motion for a resolution

1. Considers the Commission proposal to be a further step towards the establishment of a European criminal justice area;

Amendment

1. Considers the Commission proposal to be a further step towards the establishment of a European criminal justice area *and in strengthening the tax payers' confidence in the EU*;

Or. en

Amendment 32
Birgit Sippel

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. notes, moreover, that the added value of establishing a European Public

Prosecutor's Office will be greatest if all Member States take part rather than only some, since the financial interests of the Union and thus the interests of the European tax payers must be protected in all Member States without exception;

Or. en

Amendment 33
Jan Mulder

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. Considers that the powers of the European Public Prosecutor's Office should be limited to crimes affecting the financial interest of the Union, as set out in Article 86(1) TFEU, and its competences should remain in the remit of fight against fraud to the EU budget.

Or. en

Amendment 34
Renate Weber

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. Considers that the proposal of the Commission exceeds the limits envisaged by Article 86 of the Treaty on the Functioning of the European Union, which is the legal basis of the proposal. Therefore, considers that the European Commission should have used this proposal in order to initiate the creation

of the European Public Prosecutor's Office; believes that a different proposal should be issued later, on the scope of competences, powers and procedures according to which the European Public Prosecutor and its delegates will act, based on legal provisions which according to the Treaty on the Functioning of the European Union involve the European Parliament as co-legislator;

Or. en

Amendment 35
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. Regrets that the Commission has decided to maintain its proposal unchanged, despite the triggering of the yellow card procedure by 14 National Parliaments; asks the Commission to reconsider its position and present a new proposal with the view to better respect the principle of subsidiarity;

Or. en

Amendment 36
Axel Voss

Motion for a resolution
Paragraph 1 a (new)

Motion for a resolution

Amendment

1a. Considers the establishment of a European Public Prosecutors Office as a truly added value for the Area of Freedom Security and Justice, if preferably all Members States participate. If unanimity

cannot be achieved on the proposal, enhanced cooperation might be possible. However, in this case the European Parliament calls on the Commission to present a new proposal;

Or. en

Amendment 37
Renate Weber

Motion for a resolution
Paragraph 2

Motion for a resolution

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;

Amendment

2. Calls on the Council to ***extensively*** 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 ***in line with the changes brought to the Treaty on the Functioning of the European Union after the Lisbon process and which is*** essentially welcomed by both parties;

Or. en

Amendment 38
Renate Weber

Motion for a resolution
Paragraph 3

Motion for a resolution

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

Amendment

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;

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 which already have been adopted in the field of criminal justice**, in order to be able to ensure that it is fully compatible and consistently implemented;

Or. en

Amendment 39
Birgit Sippel

Motion for a resolution
Paragraph 3

Motion for a resolution

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;

Amendment

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), **as well as the on-going legislative work in the field of procedural rights** in order to be able to ensure that it is fully compatible and consistently implemented;

Or. en

Amendment 40
Birgit Sippel

Motion for a resolution
Paragraph 4 – introductory part

Motion for a resolution

4. Calls on the Council, ***emphasising the greatest respect for the rule of law***, to take account of the following recommendations:

Amendment

4. ***Emphasises that the powers and practice of the European Public Prosecutors Office must respect the body of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights and the constitutional traditions of the Member States; therefore*** calls on the Council to take ***due*** account of the following ***general*** recommendations:

Or. en

Amendment 41
Sarah Ludford

Motion for a resolution
Paragraph 4 – point i

Motion for a resolution

(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;

Amendment

(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. ***As the current formulation of Article 27 (4) grants the European Public Prosecutor’s Office excessive discretion in applying the various jurisdiction criteria, which fails to ensure foreseeability in the choice of jurisdiction, constituting a disproportionate interference with defence rights under Article 48 (2) of the Charter of Fundamental Rights of the European Union, a hierarchy should be created between the listed criteria in order to ensure foreseeability and to render them binding on the European Public Prosecutor’s Office;***

Amendment 42
Jan Philipp Albrecht

Motion for a resolution
Paragraph 4 – point i

Motion for a resolution

(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;

Amendment

(i) The European Public Prosecutor's Office should operate in ***strict observance of the right to a fair trial and the rule against bias***, which requires ***binding and hierarchical*** criteria determining which competent court is to exert jurisdiction ***in accordance with Article 27*** should be clear and known in advance; ***In particular, there should be sufficient objective links between the case and the chosen jurisdiction and the rights of the suspect should be taken into account;***

Amendment 43
Salvatore Iacolino

Motion for a resolution
Paragraph 4 – point i

Motion for a resolution

(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;

Amendment

(i) the European Public Prosecutor's Office should operate in the strictest compliance with the principle of the natural court, which requires that the criteria determining which competent court is to exert jurisdiction should be ***clearly established*** in advance, ***have a binding nature and be hierarchically categorised;*** ***furthermore, the determination of competence in accordance with those***

criteria should be subject to judicial review;

Or. en

Amendment 44
Monica Luisa Macovei, Véronique Mathieu Houillon

Motion for a resolution
Paragraph 4 – point i a (new)

Motion for a resolution

Amendment

(ia) the European Public Prosecutor's Office should be given full independence both from national governments and from EU institutions and be protected from any political pressure;

Or. en

Amendment 45
Renate Weber

Motion for a resolution
Paragraph 4 – point i a (new)

Motion for a resolution

Amendment

(ia) the European Public Prosecutor's Office should fully respect the principle of the right to a fair trial, as provided for by the Charter of Fundamental Rights of the European Union. In this respect, when deciding the national competent court, it should be guaranteed that binding and foreseeable criteria are considered, in order to avoid discretionary powers to be given to the European Public Prosecutor. Consequently, Article 27 (4) of the proposal should be redrafted with this aim;

Amendment 46
Birgit Sippel

Motion for a resolution
Paragraph 4 – point ii

Motion for a resolution

(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;

Amendment

(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 *as they exceed in its current drafting the limits of the scope of Article 86(1) to (3) TFEU; this should be done in a way to ensure that the powers of the European Public Prosecutor's Office extend to offences other than those affecting the Union's financial interests only where cumulatively:*

- *One particular set of facts simultaneously constitutes both offences affecting the Union's financial interests and other offence(s); and*
- *the offence(s) affecting the Union's financial interest is/ are predominant and the other(s) is/are merely ancillary; and*
- *the further prosecution and punishment of the other offence(s) would no longer be possible if they were not prosecuted and brought to judgment together with the offence(s) affecting the Union's financial interests;*

Or. en

Amendment 47
Sarah Ludford

Motion for a resolution
Paragraph 4 – point ii

Motion for a resolution

(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;

Amendment

(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 ***so that such competence applies where:***

1) the particular conduct simultaneously constitutes offences affecting the Union's financial interests and other offence(s); and

2) the offence(s) affecting the Union's financial interests is/are predominant and the other(s) is/are merely ancillary; and

3) the other offence(s) would be barred from further trying and punishment if they were not prosecuted and brought to judgment together with the offence(s) affecting the Union's financial interests;

Or. en

Amendment 48
Jan Philipp Albrecht

Motion for a resolution
Paragraph 4 – point ii

Motion for a resolution

(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;***

Amendment

(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 ***demands*** that the definitions set out in Article 13 of the Commission proposal, concerning ancillary competence ***are clarified; in particular to***

ensure that the EPPO does not extend to offences other than those affecting the Union's financial interests crimes should only fall within its competence when the following cumulative conditions have been met:

*-One particular conduct simultaneously constitutes offences affecting the Union's financial interests and other offence(s);
- The offence(s) affecting the Union's financial interests is/are predominant and the other(s) is/are merely ancillary;
- and the other offence(s) would be barred from further trying and punishment if they were not prosecuted and brought to judgment together with the offence(s) affecting the Union's financial interests;*

Or. en

Amendment 49

Axel Voss

Motion for a resolution

Paragraph 4 – point ii

Motion for a resolution

(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;

Amendment

(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 **and to distinguish clearly between the competences of the EPPO and national prosecutors**. The European Parliament suggests that the definitions set out in Article 13 of the Commission proposal, concerning ancillary competence, should be carefully reviewed **in order to avoid dual offence or judicial loopholes**;

Or. en

Amendment 50
Salvatore Iacolino

Motion for a resolution
Paragraph 4 – point ii

Motion for a resolution

(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;**

Amendment

(ii) the scope of the competence of the EPPO should be precisely determined, to enable the **offences** that fall within that scope to be identified beforehand. **As regards the ancillary offences that may be subject to the competence of the EPPO, clear and exhaustive conditions should be established.** The European Parliament **calls in this regard for the careful revision of the provisions** in Article 13 of the Commission proposal;

Or. en

Amendment 51
Sari Essayah

Motion for a resolution
Paragraph 4 – point ii

Motion for a resolution

(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;**

Amendment

(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 **deleted;**

Or. en

Amendment 52
Renate Weber

Motion for a resolution
Paragraph 4 – point ii a (new)

Motion for a resolution

Amendment

(iia) the Directive 2013/xx/EU, as provided for in Article 12 of the proposal, according to which the offences for which the European Public Prosecutor will be competent is not yet adopted. Therefore, the text of the proposal should specifically mention that the European Public Prosecutor cannot prosecute offences which are not yet set out in the relevant Member States' law, already at the time of the offence;

Or. en

Amendment 53
Renate Weber

Motion for a resolution
Paragraph 4 – point ii b (new)

Motion for a resolution

Amendment

(iib) The change by the trial court of the legal classification of the incriminated conduct to an offence not listed in the directive should not terminate the competence of the European Public Prosecutor.

Therefore, such a provision, together with a set of cumulative criteria should be added in the text of Article 12 of the proposal.

The criteria should include the following:

- the incriminated factual conduct being tried, i.e. the acts and/or omissions underlying the offence that the court henceforth considers relevant, does not exceed the conduct that was targeted in the initial indictment;

- the Union's financial interests remain affected by the aspects of the incriminated conduct which the trial court henceforth considers to be relevant; and

- the limits of competence of the European Public Prosecutor's Office set out in Article 13 of the proposal continue not to be exceeded.

Or. en

Amendment 54
Renate Weber

Motion for a resolution
Paragraph 4 – point ii c (new)

Motion for a resolution

Amendment

(iic) The drafting of Article 13(1), first sub-paragraph, of the proposal, exceeds the limits of Article 86(1) to (3) TFEU, as interpreted in the light of paragraph 4 thereof. Therefore, it should be redrafted in order to define terms like "ancillary" and "predominant" and ensure respect for the principle of ne bis in idem, by making a reference to the identity of conduct and also requiring unity of offender.

The text of the mentioned article should specifically mention that the powers of the European Public Prosecutor's Office extend to offences other than those affecting the Union's financial interests only where cumulatively:

- one particular conduct simultaneously constitutes offences affecting the Union's financial interests and other offence(s); and

- where the offence(s) affecting the Union's financial interests is/are predominant and the other(s) is/are merely ancillary; and

- where the other offence(s) would be barred from further trying and punishment if they were not prosecuted and brought to judgment together with the offence(s) affecting the Union's financial interests;

Or. en

Amendment 55
Renate Weber

Motion for a resolution
Paragraph 4 – point ii d (new)

Motion for a resolution

Amendment

(iid) the trial court should be able to judicially review the determination of competence in accordance with the above-mentioned criteria. Therefore, Article 13(4) of the proposal should be redrafted accordingly;

Or. en

Amendment 56
Renate Weber

Motion for a resolution
Paragraph 4 – point ii e (new)

Motion for a resolution

Amendment

(ie) the establishment of competence under Article 12 of the proposal and the choice of a jurisdiction, should be checked by the European Public Prosecutor's Office continuously in advance of the initiation, and throughout the investigation, until each participating Member State has implemented the future Directive on the fight against fraud to the Union's financial interests;

Amendment 57
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 4 – point iii

Motion for a resolution

(iii) the *investigative* tools available to the EPPO should *be uniform*, precisely identified and compatible with all the legal systems of the Member States;

Amendment

(iii) the tools available to the EPPO should be precisely identified and compatible with all the legal systems of the Member States;

Amendment 58
Axel Voss

Motion for a resolution
Paragraph 4 – point iii

Motion for a resolution

(iii) the investigative tools available to the EPPO should be uniform, precisely identified and compatible with all the legal systems of the Member States;

Amendment

(iii) the investigative tools *and investigation measures* available to the EPPO should be uniform, precisely identified and compatible with all the legal systems of the Member States *to ensure that ‘forum shopping’ can be excluded*;

Amendment 59
Jan Philipp Albrecht

Motion for a resolution
Paragraph 4 – point iii

Motion for a resolution

(iii) the investigative tools available to the

Amendment

(iii) the investigative tools available to the

EPPO should be uniform, precisely identified and compatible with all the legal systems of the Member States;

EPPO *in accordance with Article 26* should be uniform, precisely identified and compatible with all the legal systems of the Member States, *in addition the investigative tools need to be available in the Member State where they are ordered as well as in the executing Member State and the criteria for the use of investigative measures should be spelled out in more detail*;

Or. en

Amendment 60
Sari Essayah

Motion for a resolution
Paragraph 4 point iii a (new)

Motion for a resolution

Amendment

(iia) conducting of investigations should be adjusted also to the systems of the Member States where prosecutors are not undertaking investigations but the competent law enforcement officials.

Or. en

Amendment 61
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 4 – point iv

Motion for a resolution

Amendment

(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

deleted

safeguards;

Or. en

Amendment 62

Jan Philipp Albrecht

Motion for a resolution

Paragraph 4 – point iv

Motion for a resolution

(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 procedural safeguards;

Amendment

(iv) The admissibility of evidence and its assessment ***in accordance with Article 30*** are key elements in the ***criminal investigation***. 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 procedural safeguards ***and the Charter of Fundamental Rights of the European Union more generally; in addition the evidence gathered should not only comply with the national law of the executing Member States, but also with the law of the Member States where the investigative measure is ordered;***

Or. en

Amendment 63

Sarah Ludford

Motion for a resolution

Paragraph 4 – point iv

Motion for a resolution

(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

Amendment

(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;

should fully comply with personal defence safeguards. ***To ensure such compliance, conditions for admissibility of evidence should be such as to respect all rights guaranteed by the Charter of Fundamental Rights of the European Union, as well as explicitly requiring these rights to be taken into account in the assessment of evidence;***

Or. en

Amendment 64
Salvatore Iacolino

Motion for a resolution
Paragraph 4 – point iv

Motion for a resolution

(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;

Amendment

(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 ***not only*** with personal defence safeguards ***but with all the rights as guaranteed by the Charter both for the admissibility and the assessment of evidence;***

Or. en

Amendment 65
Birgit Sippel

Motion for a resolution
Paragraph 4 – point iv

Motion for a resolution

(iv) the admissibility of evidence and its assessment are key elements in the

Amendment

(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;

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 ***and all the rights guaranteed by the Charter of Fundamental Rights of the European Union;***

Or. en

Amendment 66
Anna Hedh

Motion for a resolution
Paragraph 4 – point iv

Motion for a resolution

(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;

Amendment

(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 ***and be compatible with all the legal systems of the Member States;***

Or. en

Amendment 67
Renate Weber

Motion for a resolution
Paragraph 4 – point iv a (new)

Motion for a resolution

(iva) the admission and assessment of evidence gathered by the European Public Prosecutor, by the competent trial court should be done in the light of the 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 jurisprudence;

Or. en

Amendment 68
Jan Philipp Albrecht

Motion for a resolution
Paragraph 4 – point iv a (new)

Motion for a resolution

Amendment

(iva) Article 28 on dismissal grounds which are available unilaterally to the European Public Prosecutor’s Office requires the clarification that, where a lack of relevant evidence (Article 28(2)(b) of the proposal) cannot foreseeably be remedied by further proportionate investigative steps, dismissal is mandatory; As regards dismissal after transaction under Article 29 of the proposal, the condition of “proper administration of justice” should be replaced by more specific criteria to avoid arbitrary choices;

Or. en

Amendment 69
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 4 – point v

Motion for a resolution

Amendment

(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

deleted

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;

Or. en

Amendment 70
Sarah Ludford

Motion for a resolution
Paragraph 4 – point v

Motion for a resolution

(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;

Amendment

(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. ***Given the serious risk that Article 29 could be interpreted so as to allow arbitrary administration of justice, it should be redrafted. By seeking to re-label acts and omissions of the European Public Prosecutor's Office as being those of a national authority in order to prevent direct actions as well as preliminary ruling procedures before the Union's courts, Article 36 circumvents the Treaty provisions on the jurisdiction of the Union's courts and disproportionately interferes with the right to an effective judicial remedy under Article 47(1) of the Charter of Fundamental Rights of the European Union, and should be carefully reviewed;***

Or. en

Amendment 71
Jan Philipp Albrecht

Motion for a resolution
Paragraph 4 – point v

Motion for a resolution

(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.

Amendment

(v) All decisions taken by the European Public Prosecutor should be subject to legal challenge before a superior court. In this regard not only decisions taken centrally by the Public Prosecutor, as described in Articles 13, 27, 28 and 29 concerning *ancillary* competence *to prosecute, the jurisdiction of trial and the competent national court*, dismissal of cases or transactions, should logically be subject to appeal before the Court of Justice; *Considers that the provisions on judicial review contained in Article 36 of the proposal seek to re-label acts and omissions of the European Public Prosecutor's Office as being those of a national authority in order to prevent direct actions as well as preliminary ruling procedures before the Union's courts; considers that thereby Article 36 of the proposal disproportionately interferes with the right to an effective remedy under Article 47 (1) of the Charter by not allowing for review by the Court of Justice;*

Or. en

Amendment 72
Axel Voss

Motion for a resolution
Paragraph 4 – point v

Motion for a resolution

(v) all decisions taken by the European Public Prosecutor should be subject to

Amendment

(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;]

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. ***It is of utmost importance to examine and define precisely, if the General Court has jurisdiction to hear legal redress, if not a change of the treaties might be considered as a necessary step in order to ensure the efficiency of the European criminal justice area in its entirety;***

Or. en

Amendment 73
Salvatore Iacolino

Motion for a resolution
Paragraph 4 – point v

Motion for a resolution

(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;

Amendment

(v) decisions taken by the European Public Prosecutor should be subject to ***judicial review*** before ***the competent*** 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 be subject to appeal before the Court of Justice ***in order to fully respect the right to an effective judicial remedy under Article 47(2) of the Charter;***

Or. en

Amendment 74
Sari Essayah

Motion for a resolution

Paragraph 4 – point v

Motion for a resolution

(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;

Amendment

(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 ***and especially Article 29 is problematic as it infringes with many of the very different national systems;***

Or. en

**Amendment 75
Birgit Sippel**

**Motion for a resolution
Paragraph 4 – point v**

Motion for a resolution

(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;

Amendment

(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; ***notes that Article 27(4) of the proposal represents a disproportionate interference with defence rights under Article 48(2) of the Charter;***

Or. en

**Amendment 76
Birgit Sippel**

Motion for a resolution
Paragraph 4 – point v a (new)

Motion for a resolution

Amendment

(va) the provisions as set out in Article 36(1) of the proposal raise serious concerns about legality in respect of the circumvention of the Union courts' jurisdiction as defined in Articles 263, 265 and 268 TFEU and disproportionately interfere with the right to an effective judicial remedy under Article 47(1) of the Charter;

Or. en

Amendment 77
Birgit Sippel

Motion for a resolution
Paragraph 4 – point v b (new)

Motion for a resolution

Amendment

(vb) the dismissal grounds as set out in Article 28 of the proposal would profit from further specification, in particular that after the dismissal 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 laws; and that, where a lack of relevant evidence cannot be foreseeably be remedied by further proportionate investigative steps, dismissal is mandatory;

Or. en

Amendment 78
Birgit Sippel

Motion for a resolution
Paragraph 4 – point v c (new)

Motion for a resolution

Amendment

(vc) arbitrary administration of justice has to be avoided under all circumstances; thus, the condition of “proper administration of justice” as a ground for transaction as set out in Article 29(1) of the proposal should be replaced by more specific criteria. Transaction should in particular be excluded as of the time of the indictment, and in any event in cases which can be dismissed under Article 28 of the proposal as well as in serious cases;

Or. en

Amendment 79
Renate Weber

Motion for a resolution
Paragraph 4 – point v a (new)

Motion for a resolution

Amendment

(va) The right to an effective judicial remedy should be upheld at any time during the Public Prosecutor’s activity throughout the Union. Therefore, the provisions of Article 36 (1) should be redrafted because the Commissions’ current text, by denying the European Public Prosecutor’s Office the status of Union body interferes with the provisions of Article 263, 265 and 268 of the TFEU.

In the same time, Article 36 (2) raises serious concerns about legality. It should, therefore, be redrafted, to the extent it seeks to withhold judicial review questions on the validity of acts and omissions of the European Public Prosecutor’s Office, as foreseen in Article 267(1)(b) TFEU, and to the extent it potentially withholds judicial review questions on the

interpretation of the Treaties and of the Regulation in legal situations arising from the application of provisions of national law.

Or. en

Amendment 80
Renate Weber

Motion for a resolution
Paragraph 4 – point v b (new)

Motion for a resolution

Amendment

(vb) the existence of mandatory dismissal grounds should be checked as soon as possible in the course of the investigation, and dismissal should follow without undue delay upon the finding that one of the mandatory grounds applies;

Or. en

Amendment 81
Renate Weber

Motion for a resolution
Paragraph 4 – point v c (new)

Motion for a resolution

Amendment

(vc) before dismissing a case for lack of relevant evidence, the European Public Prosecutor's Office must carry out proportionate investigative steps to gather evidence, in accordance with its investigative powers and applicable procedural rights;

Or. en

Amendment 82
Renate Weber

Motion for a resolution
Paragraph 4 – point v d (new)

Motion for a resolution

Amendment

(vd) if the European Public Prosecutor decides to dismiss a case, on the basis of Article 28 (2) of the proposal, the national prosecution authorities should not be prevented from further investigating and prosecuting the case if they deem it necessary and the national law allows it;

Or. en

Amendment 83
Renate Weber

Motion for a resolution
Paragraph 4 – point v e (new)

Motion for a resolution

Amendment

(ve) in order to fully uphold the right to a fair trial and the defence rights, dismissal of a case upon transaction should be limited to the phase of criminal proceedings, before indictment;

Or. en

Amendment 84
Renate Weber

Motion for a resolution
Paragraph 4 – point v f (new)

Motion for a resolution

Amendment

(vf) transaction under Article 29 should not be possible in cases where mandatory

dismissal is also required or otherwise possible under Article 28 of the proposal and when the conduct or offence at stake are lacking in seriousness;

Or. en

Amendment 85
Jan Philipp Albrecht

Motion for a resolution
Paragraph 4 – point v a (new)

Motion for a resolution

Amendment

(va) As the European Public Prosecutor's powers require not just judicial review by the Court of Justice, but also oversight by the European Parliament and national parliaments, relevant provisions need to be included in particular to ensure effective and coherent practices among Member States and compatibility with the rule of law;

Or. en

Amendment 86
Jan Philipp Albrecht

Motion for a resolution
Paragraph 4 – point v b (new)

Motion for a resolution

Amendment

(vb) as regards Article 59 (IV), the EPPO must be fully integrated in the system of judicial assistance which is in place between the EU member states on the one hand and the EU member states and third countries on the other hand; concerning the Council Framework Decision on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA), this integration

should take place in the course of the revision of the framework decision or a horizontal measure applying to all mutual recognition measures, as demanded by the European Parliament on 13 January 2014 (Recommendations to the Commission on the Review of the European Arrest Warrant);

Or. en

Amendment 87
Birgit Sippel

Motion for a resolution
Paragraph 5 – point i

Motion for a resolution

(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;

Amendment

(i) all the activities of the European Public Prosecutor's Office should meet the highest standards with regard to the rights of defence ***which means that mere minimum standards are not offering an adequate level of protection given that the establishment of a European Public Prosecutor will mean the Europeanization of law enforcement in the field of fight against crimes against the interests of the European Union and that, respecting the principle of the rule of law, such a proposal does only make sense if there is a subsequent harmonisation of defence rights at the highest level.*** It should be noted that ***not even*** the Roadmap concerning safeguards in criminal proceedings, adopted by the Council on 30 November 2009, has ***[...]*** 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;

Or. en

Amendment 88
Sarah Ludford

Motion for a resolution
Paragraph 5 – point i

Motion for a resolution

(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;

Amendment

(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 for strengthening procedural rights of suspected or accused persons 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. ***It should be clarified however, that after the expiry of the relevant transposition period, non-transposition or wrong transposition into national law of one of the procedural rights acts of Union law pursuant to the Roadmap shall not prevent the application of these acts in accordance with the case-law of the Court of Justice of the European Union;***

Or. en

Amendment 89
Jan Philipp Albrecht

Motion for a resolution
Paragraph 5 – point i

Motion for a resolution

(i) all the activities of the European Public Prosecutor's Office should meet the highest standards with regard to the rights

Amendment

(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;

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; ***recalls that proper implementation of the measures adopted under the Roadmap concerning interpretation and translation, the right to information and access to a lawyer as well as the adoption of common minimum standards relating to the presumption of innocence, legal aid and minimum standards for pre-trial detention are important pre-conditions for the establishment of a European Public Prosecutor's Office; recalls that the Roadmap concerning safeguards in criminal proceeding was not adopted with the establishment of a European Public Prosecutor's Office in mind and therefore calls on the Council to reflect on possible additional safeguards necessary in this context;***

Or. en

Amendment 90
Renate Weber

Motion for a resolution
Paragraph 5 – point i a (new)

Motion for a resolution

Amendment

(ia) after expiry of the relevant transposition period, non-transposition, or wrong transposition, into national law of one of the procedural rights acts of Union law shall never be interpreted against an individual subject to investigation or prosecution and their application will

always be in accordance with the case-law of the Court of Justice and the European Court of Human Rights;

Or. en

Amendment 91
Renate Weber

Motion for a resolution
Paragraph 5 – point i b (new)

Motion for a resolution

Amendment

(ib) with a view to respecting the principle of equality of arms, the national law applicable to a suspect or accused person to which this regulation applies, should be the one which also applies to the investigative or prosecutorial acts of the European Public Prosecutor;

Or. en

Amendment 92
Jan Philipp Albrecht

Motion for a resolution
Paragraph 5 – point ii

Motion for a resolution

Amendment

(ii) compliance with the ne bis in idem principle should be ensured;

(ii) compliance with the ne bis in idem principle should be **explicitly** ensured **in the wording of the regulation.**

Or. en

Amendment 93
Birgit Sippel

Motion for a resolution

Paragraph 5 – point iii

Motion for a resolution

(iii) *the prosecution should reconcile legal certainty with* the protection of personal data;

Amendment

(iii) the protection of personal data *has to be duly taken into account at all stages of the prosecution, which means that the following general principles have to be respected. Data has to be:*

(a) processed lawfully, fairly and in a transparent and verifiable manner in relation to the data subject;

(b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes;

(c) adequate, relevant, and limited to the minimum necessary in relation to the purposes for which they are processed; they shall only be processed if, and as long as, the purposes could not be fulfilled by processing information that does not involve personal data;

(d) accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;

(e) kept in a form which permits identification of data subjects for no longer than it is necessary for the purposes for which the personal data are processed;

(f) processed under the responsibility and liability of the controller, who shall ensure and be able to demonstrate compliance with all data protection provisions;

(g) processed in a way that effectively allows the data subject to exercise his or her rights;

(h) processed in a way that protects against unauthorised or unlawful

processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures;

(i) processed by only those duly authorised staff of the competent authorities who need them for the performance of their tasks;

Or. en

Amendment 94
Salvatore Iacolino

Motion for a resolution
Paragraph 5 – point iii

Motion for a resolution

(iii) the prosecution should reconcile legal certainty with the protection of personal data;

Amendment

(iii) the prosecution should reconcile legal certainty with the protection of personal data, *to this end the three-year storage period could be revised to better take into account the needs of the work of the European Public Prosecutor and the delegated prosecutors;*

Or. en

Amendment 95
Jan Philipp Albrecht

Motion for a resolution
Paragraph 5 – point iii

Motion for a resolution

(iii) the prosecution should *reconcile legal certainty with* the protection of personal data;

Amendment

(iii) The prosecution should *comply with Article 6 of the Treaty on the European Union and the Charter of Fundamental Rights of the European Union and the applicable EU legislation on* the protection of personal data;

Or. en

Amendment 96
Renate Weber

Motion for a resolution
Paragraph 5 – point iii a (new)

Motion for a resolution

Amendment

(iiia) Articles 56(2) and 60 of the proposed Regulation should be redrafted in order to ensure specification and foreseeability when personal data is further transmitted to the entities mentioned in those articles, thus ensuring compliance with the principle of purpose limitation;

Or. en

Amendment 97
Renate Weber

Motion for a resolution
Paragraph 5 – point iii b (new)

Motion for a resolution

Amendment

(iiib) Article 61(2) of the proposed Regulation should be redrafted in order to ensure transparency and foreseeability, according to the provisions of Article 8(1) and (2) of the European Convention on Human Rights, in cases when personal data is transferred by the European Public Prosecutor to third countries or international organisations;

Or. en

Amendment 98
Renate Weber

Motion for a resolution

Paragraph 5 – point iii c (new)

Motion for a resolution

Amendment

(iiic) Article 61(3) of the proposed Regulation should be entirely redrafted in order to avoid discretionary powers to the European Public Prosecutor with respect to the entities where the transfer of data is envisaged, the need for the transfer etc. under the provisions of this article. The European Data Protection Supervisor and/or the European Commission should be fully involved in the decision making process;

Or. en

Amendment 99

Renate Weber

Motion for a resolution

Paragraph 5 – point iii d (new)

Motion for a resolution

Amendment

(iiid) any individual should have the possibility to address a national competent court or authority within the Member State in which the individual is resident whenever his or her rights are infringed by data processing or decision making within the scope of this Regulation;

Or. en

Amendment 100

Renate Weber

Motion for a resolution

Paragraph 5 – point iii e (new)

Motion for a resolution

Amendment

(iii) when personal data are transferred to third countries or international organisations, according to Article 61 of the proposal, the concerned individuals should be informed and should have access to remedies like the possibility to bring an action before the courts or the authority competent under the law of any Member State to access, correct, delete or obtain information or to obtain compensation in connection with an investigation or any other procedure under this Regulation relating to him;

Or. en

Amendment 101
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 6 – introductory part

Motion for a resolution

Amendment

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;***

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 respects the principle of subsidiarity;***

Or. en

Amendment 102
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 6 – point i

Motion for a resolution

(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;***

Amendment

(i) in order to ensure a successful outcome for investigations and their coordination, ***investigations should continue to be carried out by the competent authorities of the Member States because they*** have in-depth knowledge of the legal systems of their countries concerned;

Or. en

Amendment 103
Salvatore Iacolino

Motion for a resolution
Paragraph 6 – point i

Motion for a resolution

(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;

Amendment

(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 ***ensure at central level the appropriate skills, experience and knowledge of the legal systems of the Member States;***

Or. en

Amendment 104
Monica Luisa Macovei, Véronique Mathieu Houillon

Motion for a resolution
Paragraph 6 – point i

Motion for a resolution

(i) in order to ensure a successful outcome

Amendment

(i) in order to ensure a successful ***and fair***

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;

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;

Or. en

Amendment 105
Sari Essayah

Motion for a resolution
Paragraph 6 – point i a (new)

Motion for a resolution

Amendment

(ia) the structure of the European Public Prosecutor's Office should be collegial, thus representatives from all Member States should have an equal say in the decisions of the Office;

Or. en

Amendment 106
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 6 – point ii

Motion for a resolution

Amendment

(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;

deleted

Or. en

Amendment 107
Jan Philipp Albrecht

Motion for a resolution
Paragraph 6 – point iii

Motion for a resolution

(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;

Amendment

(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, **from the legal profession** 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;

Or. en

Amendment 108
Anna Maria Corazza Bildt

Motion for a resolution
Paragraph 6 – point iii

Motion for a resolution

(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

Amendment

iii) **in order** 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. 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

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;

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;

Or. en

Amendment 109
Salvatore Iacolino

Motion for a resolution
Paragraph 6 – point iii

Motion for a resolution

(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;

Amendment

(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 ***as well as appropriate knowledge of the legal systems of the Member States***. 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;

Or. en

Amendment 110
Axel Voss

Motion for a resolution
Paragraph 6 – point iii a (new)

Motion for a resolution

Amendment

(iii) a control mechanism should be established and report annually on EPPOs activities;

Or. en

Amendment 111
Véronique Mathieu Houillon

Motion for a resolution
Paragraph 6 a (new)

Motion for a resolution

Amendment

6a. Regrets the fact that the European Public Prosecutor's Office is not empowered to handle serious cross-border crime such as organised crime; encourages the Commission to carry out an impact assessment on this matter;

Or. fr

Amendment 112
Axel Voss

Motion for a resolution
Paragraph 7

Motion for a resolution

Amendment

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,

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;*

intends to maintain frequent contacts with the Commission and the Council;

Or. en

Amendment 113
Birgit Sippel

Motion for a resolution
Subheading after paragraph 7 (new)

Motion for a resolution

Amendment

II. Legislative recommendations

Or. en

Amendment 114
Birgit Sippel

Motion for a resolution
Paragraph 7 a (new)

Motion for a resolution

Amendment

7a. In accordance with the above, calls the Council to incorporate the following modifications in the text of the proposal:

Or. en

Amendment 115
Birgit Sippel

Motion for a resolution

Paragraph 7 a – Modification 1 (new)

Proposal for a regulation

Recital 22

Modification 1

Proposal for a Regulation

(22) Offences against the Union’s financial interests are often closely connected to other offences. ***In the interest of procedural efficiency and*** to avoid a possible breach of the principle *ne bis in idem*, the competence of European Public Prosecutor’s Office should also cover offences which are not technically defined under national law as offences affecting the Union’s financial interests where their constituent facts are identical and inextricably linked with those of the offences affecting the financial interests of the Union. In such mixed cases, where the offence affecting the Union’s financial interests is ***preponderant***, the competence of the European Public Prosecutor’s Office should be exercised after consultation with the competent authorities of the Member State concerned. Preponderance should be established on the basis of criteria such as the offences’ financial impact for the Union, for national budgets, the number of victims or other circumstances related to the offences’ gravity, or the applicable penalties.

Amendment

(22) Offences against the Union’s financial interests are often closely connected to other offences. [...] To avoid a possible breach of the principle *ne bis in idem*, the competence of European Public Prosecutor’s Office should also cover offences which are not technically defined under national law as offences affecting the Union’s financial interests where their constituent facts are identical and inextricably linked with those of the offences affecting the financial interests of the Union. In such mixed cases, where the offence affecting the Union’s financial interests is ***predominant***, the competence of the European Public Prosecutor’s Office should be exercised after consultation with the competent authorities of the Member State concerned. Preponderance should be established on the basis of criteria such as the offences’ financial impact for the Union, for national budgets, the number of victims or other circumstances related to the offences’ gravity, or the applicable penalties.

Or. en

Amendment 116

Birgit Sippel

Motion for a resolution

Paragraph 7 a – Modification 2 (new)

Proposal for a regulation

Recital 46

Modification 2

Proposal for a Regulation

(46) The general rules of transparency applicable to Union agencies should also apply to the European Public Prosecutor's Office ***but only with regard to its administrative tasks so as not to jeopardise in any manner the requirement of confidentiality in its operational work. In the same manner***, administrative inquiries conducted by the European Ombudsman should respect the requirement of confidentiality of the European Public Prosecutor's Office.

Amendment

(46) The general rules of transparency applicable to Union agencies should also apply to the European Public Prosecutor's Office, administrative inquiries conducted by the European Ombudsman should respect the requirement of confidentiality of the European Public Prosecutor's Office.

Or. en

Amendment 117 **Birgit Sippel**

Motion for a resolution

Paragraph 7 a – Modification 3 (new)

Proposal for a regulation

Article 13 – paragraphs 1 to 4

Modification 3

Proposal for a Regulation

1. Where the offences referred to in Article 12 are ***inextricably*** linked with criminal offences other than those referred to in Article 12 ***and their joint investigation and prosecution are in the interest of a good administration of justice*** the European Public Prosecutor's Office shall also be competent for those other criminal offences, ***under the conditions*** that the offences referred to in Article 12 are ***preponderant*** and the other criminal offences are ***based on identical facts***.

Amendment

1. Where the offences referred to in Article 12 are linked with criminal offences other than those referred to in Article 12 the European Public Prosecutor's Office shall also be competent for those other criminal offences ***provided that*** the offences referred to in Article 12 are ***predominant*** and the other criminal offences ***are ancillary, and provided that the following cumulative conditions are met:***
- one particular set of facts simultaneously constitutes both offences affecting the Union's financial interests

and other offence(s); and

- the offence(s) affecting the Union's financial interest is/ are predominant and the other(s) is/are merely ancillary; and

- the further prosecution and punishment of the other offence(s) would no longer be possible if they were not prosecuted and brought to judgment together with the offence(s) affecting the Union's financial interests.

If those conditions are not met, the Member State that is competent for the other offences shall also be competent for the offences referred to in Article 12.

If those conditions are not met, the Member State that is competent for the other offences shall also be competent for the offences referred to in Article 12.

2. The European Public Prosecutor's Office and the national prosecution authorities shall consult each other in order to determine which authority has competence pursuant to paragraph 1. Where appropriate to facilitate the determination of such competence Eurojust may be associated in accordance with Article 57.

2. The European Public Prosecutor's Office and the national prosecution authorities shall consult each other in order to determine which authority has competence pursuant to paragraph 1. Where appropriate to facilitate the determination of such competence Eurojust may be associated in accordance with Article 57.

3. In case of disagreement between the European Public Prosecutor's Office and the national prosecution authorities over competence pursuant to in paragraph 1, the national judicial authority competent to decide on the attribution of competences concerning prosecution at national level shall decide on ancillary competence.

3. In case of disagreement between the European Public Prosecutor's Office and the national prosecution authorities over competence pursuant to in paragraph 1, the national judicial authority competent to decide on the attribution of competences concerning prosecution at national level shall decide on ancillary competence.

4. The determination of competence pursuant to this Article shall not be subject to review.

4. The determination of competence pursuant to this Article *may* be subject to review *by the trial court as determined pursuant to Article 27 (4) of the proposal, of its own motion.*

Or. en

Amendment 118
Birgit Sippel

Motion for a resolution
Paragraph 7 a – Modification 4 (new)

Proposal for a regulation
Article 27 – paragraphs 1 to 5

Modification 4

Proposal for a Regulation

1. The European Public Prosecutor and the European Delegated Prosecutors shall have the same powers as national public prosecutors in respect of prosecution and bringing a case to judgement, in particular the power to present trial pleas, participate in evidence taking and exercise the available remedies.

2. When the competent European Delegated Prosecutor considers the investigation to be completed, he/she shall submit a summary of the case with a draft indictment and the list of evidence to the European Public Prosecutor for review. Where he/she does not instruct to dismiss the case pursuant to Article 28, the European Public Prosecutor shall instruct the European Delegated Prosecutor to bring the case before the competent national court with an indictment, or refer it back for further investigations. The European Public Prosecutor may also bring the case to the competent national court himself/herself.

3. The indictment submitted to the competent national court shall list the evidence to be adduced in trial.

4. The European Public Prosecutor shall choose, in close consultation with the European Delegated Prosecutor submitting the case ***and bearing in mind the proper administration of justice***, the jurisdiction of trial and determine the competent

Amendment

1. The European Public Prosecutor and the European Delegated Prosecutors shall have the same powers as national public prosecutors in respect of prosecution and bringing a case to judgement, in particular the power to present trial pleas, participate in evidence taking and exercise the available remedies.

2. When the competent European Delegated Prosecutor considers the investigation to be completed, he/she shall submit a summary of the case with a draft indictment and the list of evidence to the European Public Prosecutor for review. Where he/she does not instruct to dismiss the case pursuant to Article 28 ***or where, upon his/her instruction to offer a transaction under Article 29, such offer was not accepted***, the European Public Prosecutor shall instruct the European Delegated Prosecutor to bring the case before the competent national court with an indictment, or refer it back for further investigations. The European Public Prosecutor may also bring the case to the competent national court himself/herself.

3. The indictment submitted to the competent national court shall list the evidence to be adduced in trial.

4. The European Public Prosecutor shall choose, in close consultation with the European Delegated Prosecutor submitting the case, the jurisdiction of trial and determine the competent national court ***on***

national court *taking into account* the following criteria:

- a) the place where the offence, or in case of several offences, the majority of the offences was committed;
- b) the place where the accused person has his/her habitual residence;
- c) the place where the evidence is located;
- d) the place where the direct victims have their habitual residence.

5. Where necessary for the purposes of recovery, administrative follow-up or monitoring, the European Public Prosecutor shall notify the competent national authorities, the interested persons and the relevant Union institutions, bodies, agencies of the indictment.

the basis of the following criteria:

- a) the place where the offence, or in case of several offences, the majority of the offences was committed;
- b) the place where the accused person has his/her habitual residence;
- c) the place where the evidence is located;
- d) the place where the direct victims have their habitual residence.

5. Where necessary for the purposes of recovery, administrative follow-up or monitoring, the European Public Prosecutor shall notify the competent national authorities, the interested persons and the relevant Union institutions, bodies, agencies of the indictment.

Or. en

Amendment 119
Birgit Sippel

Motion for a resolution
Paragraph 7 a – Modification 5 (new)
Proposal for a regulation
Article 28 – paragraphs 1 to 4

Modification 5

Proposal for a Regulation

1. The European Public Prosecutor shall dismiss the case where prosecution has become impossible on account of any of the following grounds:
- a) death of the suspected person;
 - b) the conduct subject to investigation does not amount to a criminal offence;
 - c) amnesty or immunity granted to the

Amendment

1. The European Public Prosecutor shall dismiss the case where prosecution has become impossible on account of any of the following grounds:
- a) death of the suspected person;
 - b) the conduct subject to investigation does not amount to a criminal offence;
 - c) amnesty or immunity granted to the

suspect;

d) expiry of the national statutory limitation to prosecute;

e) the suspected person has already been finally acquitted or convicted of the same facts within the Union or the case has been dealt with in accordance with Article 29.

2. The European Public Prosecutor may dismiss the case **on any of the following grounds:**

a) the offence is a minor offence according to national law implementing Directive 2013/XX/EU on the fight against fraud to the Union's financial interests by means of criminal law;

b) lack of relevant evidence.

3. The European Public Prosecutor's Office may refer cases dismissed by it to OLAF or to the competent national administrative or judicial authorities for recovery, other administrative follow-up or monitoring.

4. Where the investigation was initiated on the basis of information provided by the injured party, the European Public Prosecutor's Office shall inform that party thereof.

suspect;

d) expiry of the national statutory limitation to prosecute;

e) the suspected person has already been finally acquitted or convicted of the same facts within the Union or the case has been dealt with in accordance with Article 29;

f) following a full, comprehensive and proportionate investigation by the European Public Prosecutor's Office, there is a lack of relevant evidence.

2. The European Public Prosecutor may dismiss the case **if** the offence is a minor offence according to national law implementing Directive 2013/XX/EU on the fight against fraud to the Union's financial interests by means of criminal law;

3. The European Public Prosecutor's Office may refer cases dismissed by it to OLAF or to the competent national administrative or judicial authorities for recovery, other administrative follow-up or monitoring.

4. Where the investigation was initiated on the basis of information provided by the injured party, the European Public Prosecutor's Office shall inform that party thereof.

Or. en

Amendment 120
Birgit Sippel

Motion for a resolution
Paragraph 7 a – Modification 6 (new)
Proposal for a regulation
Article 29 – paragraphs 1 to 3

Modification 6

Proposal for a Regulation

1. Where the case *is not* dismissed *and it would serve the purpose of proper administration of justice*, the European Public Prosecutor's Office may, after the damage has been compensated, propose to the suspected person to pay a lump-sum fine which, once paid, entails the final dismissal of the case (transaction). If the suspected person agrees, he/she shall pay the lump sum fine to the Union.

2. The European Public Prosecutor's Office shall supervise the collection of the financial payment involved in the transaction.

3. Where the transaction is accepted and paid by the suspected person, the European Public Prosecutor shall finally dismiss the case and officially notify the competent national law enforcement and judicial authorities and shall inform the relevant Union institutions, bodies, agencies thereof.

4. The dismissal referred to in paragraph 3 shall not be subject to judicial review.

Amendment

1. Where the case cannot be dismissed *under Article 28 [...] and where an imprisonment penalty would be disproportionate even if the conduct were fully proven at trial*, the European Public Prosecutor's Office may, after the damage has been compensated, propose to the suspected person to pay a lump-sum fine which, once paid, entails the final dismissal of the case (transaction). If the suspected person agrees, he/she shall pay the lump sum fine to the Union.

2. The European Public Prosecutor's Office shall supervise the collection of the financial payment involved in the transaction.

3. Where the transaction is accepted and paid by the suspected person, the European Public Prosecutor shall finally dismiss the case and officially notify the competent national law enforcement and judicial authorities and shall inform the relevant Union institutions, bodies, agencies thereof.

Or. en

Amendment 121
Birgit Sippel

Motion for a resolution
Paragraph 7 a – Modification 7 (new)
Proposal for a regulation
Article 30 – paragraphs 1 to 2

Modification 7

Proposal for a Regulation

1. Evidence presented by the European Public Prosecutor's Office to the trial court, where the court considers that its admission would not adversely affect the fairness of the procedure or the rights of defence as enshrined in **Articles 47 and 48 of** the Charter of Fundamental Rights of the European Union, shall be admitted in the trial without any validation or similar legal process even if the national law of the Member State where the court is located provides for different rules on the collection or presentation of such evidence.
2. Once the evidence is admitted, the competence of national courts to assess freely the evidence presented by the European Public Prosecutor's Office at trial shall not be affected.

Amendment

1. Evidence presented by the European Public Prosecutor's Office to the trial court, where the court considers that its admission would not adversely affect the fairness of the procedure or the rights of defence as enshrined in the Charter of Fundamental Rights of the European Union, shall be admitted in the trial without any validation or similar legal process even if the national law of the Member State where the court is located provides for different rules on the collection or presentation of such evidence.
2. Once the evidence is admitted, the competence of national courts to assess freely the evidence presented by the European Public Prosecutor's Office at trial shall not be affected.

Or. en

Amendment 122 **Birgit Sippel**

Motion for a resolution **Paragraph 7 a – Modification 8 (new)** Proposal for a regulation Article 33 – paragraphs 1 to 2

Modification 8

Proposal for a Regulation

1. The suspect and accused person involved in the proceedings of the European Public Prosecutor's Office shall have, **in accordance with national law**, the right to remain silent when questioned, in relation to the facts that he/she is suspected of having committed, and shall be

Amendment

1. The suspect and accused person involved in the proceedings of the European Public Prosecutor's Office shall have the right to remain silent when questioned, in relation to the facts that he/she is suspected of having committed, and shall be informed that he/she is not

informed that he/she is not obliged to incriminate himself/herself.

2. The suspect and accused person shall be presumed innocent until proven guilty *according to national law*.

obliged to incriminate himself/herself.

2. The suspect and accused person shall be presumed innocent until proven guilty.

Or. en

Amendment 123
Birgit Sippel

Motion for a resolution
Paragraph 7 a – Modification 9 (new)
Proposal for a regulation
Article 34

Modification 9

Proposal for a Regulation

Any person suspected or accused of an offence within the scope of the competence of the European Public Prosecutor's Office shall have, *in accordance with national law*, the right to be given legal assistance free or partially free of charge by national authorities if he/she has insufficient means to pay for it.

Amendment

Any person suspected or accused of an offence within the scope of the competence of the European Public Prosecutor's Office shall have the right to be given legal assistance free or partially free of charge by national authorities if he/she has insufficient means to pay for it.

Or. en

Amendment 124
Birgit Sippel

Motion for a resolution
Paragraph 7 a – Modification 10 (new)
Proposal for a regulation
Article 36

Modification 10

Proposal for a Regulation

1. ***When adopting procedural measures in the performance of its functions***, the European Public Prosecutor's Office shall be considered as a national authority for the purpose of judicial review.

2. ***Where provisions of national law are rendered applicable by this Regulation, such provisions shall not be considered as provisions of Union law for the purpose of Article 267 of the Treaty.***

Amendment

1. ***For the purposes of judicial review***, the European Public Prosecutor's Office shall be considered to be a national authority ***in respect of all procedural measures which it adopts in the course of its prosecution function before the competent trial court.*** ***For all other acts or omissions of the European Public Prosecutor's Office, it shall be regarded as a Union body.***

Or. en

Amendment 125
Birgit Sippel

Motion for a resolution
Paragraph 7 a – Modification 11 (new)
Proposal for a regulation
Article 68

Modification 11

Proposal for a Regulation

The administrative activities of the European Public Prosecutor's Office shall be subject to the inquiries of the European Ombudsman in accordance with Article 228 of the Treaty.

Amendment

The European Public Prosecutor's Office shall be subject to the inquiries of the European Ombudsman ***in relation to instances of maladministration*** in accordance with Article 228 of the Treaty.

Or. en

Amendment 126
Auke Zijlstra

Motion for a resolution
Recital – A

Modification 11

Proposal for a Regulation

1. 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;

Amendment

1. whereas crime – in particular organised crime – is increasingly taking on a cross-border dimension and the only effective response can **therefore** come from **internal border control by the Member States**;

Or. en

Amendment 127
Auke Zijlstra

Motion for a resolution
Paragraph 1

Motion for a resolution

1. Considers the Commission proposal to be a further step towards the establishment of a European criminal justice area;

Amendment

1. **deleted**

Or. en

Amendment 128
Auke Zijlstra

Motion for a resolution
Paragraph 2

Motion for a resolution

2. Calls on the Council to involve the European Parliament in its legislative work

Amendment

2. **deleted**

through a constant flow of information and ongoing consultation of Parliament to achieve an outcome that is essentially welcomed by both parties;

Or. en

Amendment 129
Auke Zijlstra

Motion for a resolution
Paragraph 8

Motion for a resolution

Amendment

8. *Instructs its President to call for continued scrutiny of the proposal with the Council;*

8. *Rejects the proposal;*

Or. en