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*Plenary sitting*

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**A9-0079/2023**

27.3.2023

# REPORT

on discharge in respect of the implementation of the budget of the European  
Public Prosecutor's Office for the financial year 2021  
(2022/2091(DEC))

Committee on Budgetary Control

Rapporteur: Mikuláš Peksa

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## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on discharge in respect of the implementation of the budget of the European Public Prosecutor's Office for the financial year 2021 (2022/2091(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Public Prosecutor's Office for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' replies<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the European Public Prosecutor's Office in respect of the implementation of the budget for the financial year 2021 (06247/2023 – C9-0073/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 thereof,
- having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office<sup>4</sup>, and in particular Article 94 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,
- having regard to Rule 100 of and Annex V to its Rules of Procedure,

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 283, 31.10.2017, p. 1.

<sup>5</sup> OJ L 122, 10.5.2019, p. 1.

- having regard to the opinion of the Committee on Civil Liberties, Justice and Home Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0079/2023),
1. Grants the Administrative Director of the European Public Prosecutor's Office discharge in respect of the implementation of the Office's budget for the financial year 2021;
  2. Sets out its observations in the resolution below;
  3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Administrative Director of the European Public Prosecutor's Office, the European Council, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

## 2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on the closure of the accounts of the European Public Prosecutor's Office for the financial year 2021 (2022/2091(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Public Prosecutor's Office for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' replies<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the European Public Prosecutor's Office in respect of the implementation of the budget for the financial year 2021 (06247/2023 – C9-0073/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 thereof,
- having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office<sup>4</sup>, and in particular Article 94 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,
- having regard to Rule 100 of and Annex V to its Rules of Procedure,
- having regard to the opinion of the Committee on Civil Liberties, Justice and Home

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 283, 31.10.2017, p. 1.

<sup>5</sup> OJ L 122, 10.5.2019, p. 1.

Affairs,

- having regard to the report of the Committee on Budgetary Control (A9-0079/2023),
- 1. Approves the closure of the accounts of the European Public Prosecutor's Office for the financial year 2021;
- 2. Instructs its President to forward this decision to the Administrative Director of the European Public Prosecutor's Office, the European Council, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

### 3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Public Prosecutor's Office for the financial year 2021  
(2022/2091(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Public Prosecutor's Office for the financial year 2021,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the opinion of the Committee on Civil Liberties, Justice and Home Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0079/2023),
- A. Whereas the European Public Prosecutor's Office (EPPO) has been established by Council Regulation (EU) 2017/1939 of 12 October 2017, implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office;
- B. Whereas the EPPO is the new independent public prosecution office of the Union and is responsible for investigating and prosecuting crimes against the financial interests of the Union and bringing to judgment the perpetrators of, and accomplices to, criminal offences provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law<sup>1</sup> and indicated by Council Regulation (EU) 2017/1939 ;
- C. Whereas the EPPO intervenes in a scenario where only national authorities could investigate and prosecute these crimes, but their powers stopped at the borders of their country, and other organisations like Eurojust, OLAF and Europol had not the necessary powers to carry out the relevant criminal investigations and prosecutions;
- D. Whereas the competence of the EPPO encompasses several types of fraud, and includes amongst them VAT fraud with damages above EUR 10 million, money laundering, corruption and others in which regard the EPPO exercises the functions of prosecutor in the competent courts of the participating Member States, until the case has been finally disposed of;
- E. Whereas the procedural acts of the EPPO are subject to judicial review by the national courts and the European Court of Justice – by way of preliminary rulings or judicial reviews of those acts – has residual powers to ensure a consistent application of EU law;
- F. Whereas the EPPO is composed of a central level, with its headquarters in Luxembourg, consisting of the European Chief Prosecutor, 22 European Prosecutors (one per participating EU country) and the Administrative Director, and of a decentralised

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<sup>1</sup> OJ L 198, 28.7.2017, p. 29.

(national) level consisting of the European Delegated Prosecutors (EDPs) in the 22 participating EU Member States;

- G. Whereas at the central level the European Chief Prosecutor and the 22 European Prosecutors compose the College of the EPPO and supervises the investigations and prosecutions carried out by the EDPs at the national level, who operate with complete independence from their national authorities;
  - H. Whereas, under Article 93 of Regulation (EU) 2017/1939 the EPPO Administrative Director, acting as the authorising officer of the Office, shall implement its budget under its own responsibility and within the limits authorised in the budget and shall send each year to the budgetary authority all information relevant to the findings of any evaluation procedures;
  - I. Whereas, in accordance with Article 50(2) of the EPPO's Financial Rules, the Accounting Officer of the Commission shall also act as Accounting Officer of the EPPO and is responsible for the preparation of the annual accounts, which are consolidated with those of the Union;
  - J. Whereas, under the current framework, the final annual accounts are scrutinised by the Court and it is with the Council to recommend and to the European Parliament to decide whether to grant discharge to the Administrative Director of the Office in respect of the implementation of the budget for a given financial year;
  - K. Whereas the Office started its operational activities on the 1st of June 2021 and it gained financial autonomy from the European Commission as of 24 June 2021 and produces in this year the first set of annual accounts;
- 1. Welcomes the European Court of Auditors' positive opinion on the reliability of the EPPO's accounts for the financial year 2021 and on the legality and regularity of the underlying revenue and payments;
  - 2. Welcomes the EPPO's efforts with regard to setting up an operational structure and support system to enable its functioning as the Union's independent prosecution office, in particular the recruitment of staff for central and decentralised levels, the setting up of a dedicated case management system, including the acquisition of software and access to databases material to the performance of its functions and the intensive cooperation launched with the relevant partners;
  - 3. Believes that the experience earned in the first year of operational activity and administrative management of the EPPO has identified a number of weaknesses in Regulation (EU) 2017/1939 and therefore requires a timely intervention by the Commission; calls on the Commission to engage in an active dialogue with the EPPO and to submit, without delay, an adequately comprehensive proposal for the revision of Regulation (EU) 2017/1939, aiming to resolve existing shortcomings, particularly in internal processes related to of financial and human resources; asks the EPPO to inform the discharge authority, in a timely manner, about measures taken to resolve the weaknesses or potentially new identified shortcomings;
  - 4. Emphasises that all payments made for the fulfilment of milestones and targets based on reforms and investments described in the national plans under the Recovery and



Resilience Facility (RRF) are considered Union money; underlines that therefore all related projects, transactions, tenders or other activities fall under the mandate of the EPPO; calls on all Member States to fully cooperate with the EPPO in all investigations that relate to the implementation of the RRF;

### ***Budgetary and financial management***

5. Notes that the overall budget allocated to the EPPO for 2021 was EUR 26.3 million, reduced from the initial endowment of EUR 45 million; notes that an additional EUR 9 200 000 was allocated and used while the EPPO was still operating financially as part of the Commission; understands that, out of the initially expected amount of EUR 45 million, EUR 9 500 000 was returned to the budget of the Union; points out that the return of EUR 9.5 million resulted from the delay in both the appointments of EDPs at the beginning of the EPPO's operations, and from the fact that the budget quota granted for hiring statutory staff was not used because the establishment plan was not adapted accordingly;
6. Observes that, in 2021, the EPPO's budget increased significantly compared to 2020 (EUR 11.6 million), as a consequence of a correction of the underestimation of the caseload provided in 2017 when adopting Regulation (EU) 2017/1939; stresses the importance of adapting human and financial resources to the growing workload and increasing the EPPO's budget accordingly.
7. Notes the budget implementation of 97% of commitment appropriations and of 71% of payment appropriations; underlines the carry over of 26% of the payment appropriations to 2022; observes that 83% of the payment transactions were carried out within the statutory time limit and that the average payment time was 21.1 days; underlines that 34% of the late payments were one day late and that 75% of the late payments were less than five days late; encourages the EPPO to reduce the delay for payments with the fully efficient use of electronic solutions which would also contribute to making the institutions more transparent and sustainable;
8. Remarks that, overall, the COVID-19 pandemic had no specific impact on the EPPO's activities in terms of mopping-up, transfers or investments needed or on market costs of goods and services; however, remarks that the COVID-19 pandemic may have contributed, to a minor extent, to preventing the timely appointment of the EDPs, delaying the start of the prosecutorial and investigative operations;
9. Observes that the most important intangible asset is the EPPO's dedicated IT system, which is used for entering, managing and transmitting the EPPO's cases and other confidential data in a secure manner and is linked to the Member States' systems (Case Management System - CMS); notes that the development of that software began before the EPPO became independent from the Commission and that the intrinsic value paid until then for the CMS has been transferred from the Commission;
10. Remarks that the majority of tangible assets were transferred to the EPPO from the Commission free of charge and that the corresponding revenue from this donation has been recognised in the accounts as revenue;
11. Notes that this recent transfer from the Commission of prerogatives and responsibilities, even if expected under the implementing arrangement agreed upon, following the

adoption of Regulation (EU) 2017/1939, still requires considerable efforts from the EPPO in order to address the issue of late payments, compliance with its internal financial rules, including controls associated with the operational and financial aspects of its operations;

12. Encourages the EPPO to use the electronic invoicing procedures to ensure a more efficient management of actions related to making payments;
13. Notes the relevant additional costs, linked to operational activities (meetings and missions), incurred by the EDPs on top of their remuneration, were regarded as operation expenditure as part EPPO's budget under Article 91(5) of Regulation (EU) 2017/1939;
14. Understands that the EPPO is exploring the possibility of acquiring the services of national sworn translators, recognised by the competent national authorities as the exclusive providers of certified translations admissible and usable in court trials, or of directly contributing to the costs incurred by the EDPs for such services, via the reimbursement of costs sustained at national level;
15. Recalls that the implementation of Article 31, 91(5) and 91(6) of Regulation (EU) 2017/1939, which sets out the situations in which a financial contribution from the EPPO budget may be required to cover investigation costs at the decentralised level and exceptionally costly investigative measures carried out at national level, requires adaptation of the relevant financial rules, which, currently, do not allow for the reimbursement of expenses incurred by national justice systems; points out that due to the sensitivity and confidentiality of EPPO operations, launching a procurement procedure might be unknown and therefore the rules shall take into account the possibility of concluding financing agreements and service level agreements between the EPPO and Member States; urges the Commission to take action in this regard, proposing appropriate amendments of the Financial Regulation, while taking into account the need to allocate the burden of such costs in compliance with the proportionality principle;
16. Is aware that, in the context of the budgetary procedure, the EPPO's needs are communicated to the Commission by 31 January for the following year; remarks that the outcome of the forecast exercise, material to the quantification of such needs, duly considers the estimated caseload (average number of incoming crime reports and of the investigations being launched, and the level of maturity of the ongoing investigations); observes, however, that this forecast does not factor in the impact of the deployment of the Recovery and Resilience Facility (RRF), which has brought an increase in the amount of available resources and of the risk of fraud and mismanagement; points out that an additional element of complexity in the quantification of the budgetary needs stems both from the mandatory nature of the EPPO's competence, which has no power of discretion when it comes to the expediency of investigations and prosecutions, and from the lack of fixed correlation between the number of investigations and their costs, that are very difficult to predict; underlines the need for the EPPO to be provided with sufficient resources and the required prerogatives to be able to perform its tasks successfully;
17. Remarks that clarification has been sought in each participating Member State on how

fraud affecting the RRF will be reported to the EPPO and that discussion is ongoing regarding how the EPPO could effectively intervene in this regard;

18. Is concerned by the lack of certainty on the remedial measures that could be adopted following detection and prosecution of such frauds affecting the RRF;
19. Urges the Commission to provide adequate guidance in this regard and to exhaustively inform the budgetary authority about the options;
20. Shares the view that the absence of a mid-term resource framework for the EPPO, both in terms of budget and staffing, at a time when operations need to be swiftly ramped-up and administrative foundations established, limits the options that should be made available to achieve maximal flexibility in the development of an organisational infrastructure for a project as innovative as the EPPO;

### ***Internal management, performance and internal control***

21. Encourages the EPPO to periodically review its set of performance indicators, building on the operational experience in running its particular operating model;
22. Notes that, in 2021, the EPPO received 2832 reports about potential offences -1351 from national authorities, 190 from institutions, bodies, organisations and agencies of the Union, 1282 from private parties and 9 ex officio; understands that, after verifying the reported information in accordance with Article 24(6) of Regulation (EU) 2017/1939, the EPPO concluded there were grounds to exercise its competence and to evoke or initiate investigations in 576 cases (while 84 assessments were pending at the end of the year 2021), out of which 31 cases were further referred to the national authorities after the EPPO's competence was exercised; observes that, in 2021, five indictments were issued by the EPPO and that one final conviction was ordered by the courts in the EPPO cases, while in three additional cases, simplified prosecution procedures were applied;
23. Welcomes the fact that the EPPO is in the process of adopting a comprehensive business continuity plan; stresses the importance of adopting a business continuity plan as soon as possible in order to avoid any disruptions in its business but also to be prepared in the event of future tumultuous events;
24. Calls on the Commission and the participating Member States to consider the extension of the mandate and competences of the EPPO to include the investigation, prosecution and bringing to justice of violations of Union restrictive measures;

### ***Human resources, equality and staff well-being***

25. Praises the EPPO's efforts to engage in an intensive recruiting and onboarding process, with the goal of guaranteeing the achievement of a full operational capacity without delay;
26. Notes that the occupancy rate is 94% for temporary and contract agent posts and that, in the 22 participating Member States, there were 95 EDPs out of the 140 that were initially budgeted;

27. Understands that, at the end of 2021, the EPPO had 217 staff overall, out of which 122 statutory agents (91 temporary agents and 31 contract agents) were employed in the central office, while the national offices were staffed with 95 special advisors, and that for both offices the gender levels are well balanced; observes, however, that the gender distribution amongst the five management positions is suboptimal (four men and one woman) and that this aspect should be improved, together with the development of a diversity strategy, to include adequate encouragement for people with disabilities to apply for positions in the EPPO;
28. Regrets that the selection procedures of EDPs in several Member States have been repeatedly unsuccessful in filling the positions initially budgeted for various reasons, amongst them the remuneration level (80% of AD9 level – in line with the Special Advisors status, which is sometimes not in line with the qualifications and experience expected from the EDPs), the lack of a clear career perspective, as well as uncertainty as to their social security and health insurance coverage;
29. Believes that the complexity resulting from the EDPs' administrative status (for whom social rights and benefits including pension rights, working time and leave regimes are to be provided by the Member States and the remuneration is provided by the Union budget calculated as a percentage of the remuneration of a Union official) contributes to making these posts less appealing and their appointment process less selective;
30. Understands that the application of the general Staff Regulation's Implementing Rules with regard to EDPs represents a risk to judicial independence, but, under the procedure set out in article 110 of the Staff Regulations, and without the prior validation of the Commission, the status of the EPPO does not allow for the adoption of alternative implementing rules for EDPs; recalls that the EPPO is the only Union institution employing prosecutors and that their independence is paramount to the good functioning of the prosecution office; calls on the Commission to address this issue and to ensure the necessary flexibility within the legal framework in order to fully accommodate the special status of prosecutors as EPPO staff; believes that this situation brings additional considerations to further support a revision of Regulation (EU) 2017/1939 and the EPPO status;
31. Commends the EPPO management for having adopted all possible viable actions, within its prerogatives, to address the matter, deploying the available resources to increase the occupation rate and to speed up the recruitment process, despite the post-pandemic issues; is aware of the post-pandemic limitations and of the peculiarities of the very competitive Luxembourgish labour market, and observes that the unattractiveness of Luxembourg as a place of employment, mainly because of the high cost of living, has also resulted in limiting the geographical variety of the candidates for applying for positions; remarks that, in terms of the financial package, combined with the career perspective, the EPPO is less competitive than the four Union Institutions with employees in Luxembourg (Parliament, Commission, Court of Justice and Court of Auditors), as it cannot offer a path towards becoming a Union official and that the one and only Union agency in Luxembourg has been merged and moved to Brussels under the current MFF;
32. Is concerned by how frequently third-party commercial services and temporary worker mechanisms are used in most areas where staffing by Union public agents was not

cleared, and created at times sub-optimal working conditions resulting from prolonged high workloads for a significant number of EPPO staff; calls on the Commission to address, without further delay, the understaffing of the EPPO when proposing its future establishment plans;

33. Agrees with the European Court of Auditors that the indicated shortcomings in financial management also reflect a lack of resources allocated to finance and procurement functions, and constitute a weakness in the EPPO's human resources management;
34. Acknowledges that, with regard to human resources, attention is to be devoted to guarantee full compliance with the principles of transparency and equal treatment, while being aware of the urgency and pressure that were predominant in the start-up phases of the EPPO's operational activities, recalls the need to follow up the Court's findings on the implementation of some recruitment procedures;
35. Appreciates that about 86% of the recruited staff are deployed, across the EPPO's departments, in investigative-related activities (that is 186 staff, including the 95 EDPs);
36. Notes that the EPPO's staffing strategy is focused on growing operational resources in the years 2022 and 2023, that administrative and central support functions will have to grow as well, to be able to support the growing operational population, and that additional recruitment will also be critical in the areas of compliance and risk management functions and digital and security services;
37. Notes that the working arrangements adopted for 2021, following the authorisation to return to the office, stipulated working from home for up to 2.5 days a week and that this option was widely used by the majority of staff; understands that the EPPO will align its policy with the recent Commission Implementing Rules regarding working time and hybrid work;

### ***Ethical framework and transparency***

38. Notes that the EPPO is in the process of developing the essential features of its ethical framework; welcomes that it has adopted an anti-fraud strategy as a component of its risk-based management, that all staff provide a conflict of interest declaration, all staff deployed in operations are subject to a personal security clearance requirement and that declarations of interests are requested and screened for all prosecution roles and for the Administrative Director;
39. Appreciates the adoption of implementing rules on whistleblowing by the College of the EPPO, and understands that such provisions are now subject to further practical implementation steps;
40. Is aware of the case opened by the European Ombudsman's in 2021 in relation to the appointment procedure of an EDP; understands that, because the same complaint has been introduced by the same complainant before the Court of Justice of the European Union, the European Ombudsman had decided to close the case considering that the Ombudsman may not examine complaints where the issues raised are or have been the subject of legal proceedings;
41. Calls for an end to the use of external companies that, according to Yale University's

ranking<sup>2</sup>, continue to operate in Russia;

### ***Digitalisation, cybersecurity and data protection***

42. Remarks that the EPPO's case management system is based on a system developed by DG COMP at the Commission, and that while options to interconnect such system with other equivalent tools (used for instance by OLAF or Europol) have not been discussed for the time being, a wide interoperability is however ensured using concepts and components developed and made available by the Commission;
43. Observes that the EPPO CMS is fully managed by the EPPO and that, while its development is outsourced, the contract is managed by a dedicated EPPO CMS Programme team; notes that the operational system and its data are stored and processed in the EPPO's own data centre managed by a dedicated CMS Support team;
44. Appreciates the attention paid to the use of automated translation services, and the development of the "translation portal" for prosecutors, staff of the Central Office and other staff to enhance efficiency in the handling of cases and to limit the increase of translation-related costs, which are expected to increase in consideration of the corresponding increasing workload of the Office;
45. Encourages the Office to further develop its own cybersecurity capacity to supplement and collaborate with the services of CERT-EU and of DG DIGIT at the Commission;
46. Notes that, in 2021, EUR 547 000 was invested in audio-visual, technical equipment and installations, and that EUR 872 000 and EUR 4 871 000 were invested in administrative and operational ICT goods/services respectively(hardware, software, services, analysis, programming and technical assistance); remarks that, during 2021, the EPPO made full use of the developments resulting from the Covid-19 working adjustments, relying DG DIGIT at the Commission for videoconference facilities and launching a project to upgrade all of the EPPO's meeting rooms to full videoconference capability;

### ***Buildings and security***

47. Is aware that, during 2021, the EPPO received, from the Luxembourg government, a total of 8 335 square meters of office space, free of charge, which would cost approximately EUR 3 901 000 to rent per year and that, additionally, in 2021, the Luxembourg government offered the refurbishment of floors free of charge, estimated at cost of EUR 2 700 000;
48. Notes that no lease agreement has been signed yet with the host Member State authorities providing the office space free of charge, despite what is laid out in Article 3.2 of the Headquarters Agreement; agrees with the European Court of Auditors when it highlights how that the lack of a written official lease agreement could deprive the EPPO of the adequate long-term stability needed to perform its duties; understands that the EPPO has finalised its part and has handled the matter to the Member State hosting authority; calls for the Luxembourgish administration to speed up the process and

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<sup>2</sup> <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain>



finalise the procedure without any further delay;

### ***Environment and sustainability***

49. Notes that the building occupied by the EPPO and the relevant services are provided by the Luxembourgish authorities, who are also in charge of investments related to sustainability and energy performance;
50. Invites the EPPO to adopt a strategy for the sustainable mobility of its staff;

### ***Interinstitutional cooperation***

51. Praises the efforts deployed by the EPPO in engaging in an intensive cooperation and coordination with partners and stakeholders;
52. Underlines that, in 2021, the EPPO concluded a cooperation agreement with the Commission and working arrangements with the European Investment Bank Group, OLAF, the European Court of Auditors, Europol and Eurojust;
53. Welcomes the signature of 21 Service Level Agreements and Memoranda of Understanding with other institutions and bodies of the Union with the aim of maximising the benefits stemming from already existing contractual instruments;
54. Underlines the importance of engaging in productive dialogue with non-participating Member States; notes that, in 2021, the EPPO opened 48 investigations involving non-participating Member States; observes that cooperation, grounded on the relevant Union acts on judicial cooperation in criminal matters, works smoothly with Denmark, Hungary and Sweden, even if at a different pace than with the participating countries; shares the concern expressed by the Chief European Prosecutor on the lack of cooperation from Ireland and Poland in the EPPO investigations which require evidence to be gathered from these two non-participating Member States;
55. Is concerned by a lack of cooperation from non-participating Member States, since the start of EPPO operations in June 2021, in particular affecting the gathering of evidence; emphasises that, as of 2022, the number of EPPO investigations involving Poland was the highest of any non-participating country; regrets that Poland considerably delayed the introduction, into its code of criminal procedure, of the amendment required for the operationalisation of the working arrangement with the EPPO; notes that the aforementioned amendment has since been adopted; calls on non-participating Member States to fully respect their obligations towards ensuring sincere cooperation with the EPPO;
56. Calls on the Commission to promote the extension of the participation of the other still non-participating Member States in the EPPO by; invites these countries to depart from approaches that could result in the creation of areas of immunity and privilege, and to adopt at least cooperation agreements that facilitate effectively the execution of the EPPO's activities, ensuring a sincere cooperation with the EPPO; also encourages the EPPO to find efficient and effective working arrangements with the five non-participating Union Member States and to define how the EPPO can better cooperate with them;

57. Remarks that the cooperation of the EPPO with the Commission in the spheres of administrative recovery and precautionary measures, as governed by Article 103(2) of Council Regulation (EU) 2017/1939, is regulated under the Cooperation agreement with the Commission; observes that in this specific regard, no feedback has yet been provided by the EPPO; understands that the successful implementation of the cooperation under Article 103(2) requires coordination with EDPs in the Member States and is aware that compliance with the general principle of the EPPO's independence and consistency with the objective of efficiency and effectiveness of its investigations are essential; calls on the EPPO to advise the EDPs in their efforts in supporting the Commission's efforts to safeguard the Union budget, and asks both the EPPO and the Commission to report on this specific matter;
58. Encourages the EPPO to work closely and to strengthen its cooperation with the European Court of Auditors, OLAF and Ombudsman in order to avoid the duplication of investigations and emphasises the need to discuss areas of mutual interest;
59. Notes the EPPO observer status in the Camden Asset Recovery Inter-Agency Network (CARIN) since December 2020 and in the Working Group on Bribery in International Business Transactions (WGB), as well as the invitation to participate also as observer at the bi-annual meetings of the Law Enforcement Officials (LEO) of the Organisation for Economic Co-operation and Development (OECD) and the preliminary meetings held in 2021 with the Financial Action Task Force (FATF/GAFI) Secretariat to prepare the EPPO application as observer;

### ***Communication***

60. Notes that the institution's external communication is centred on the corporate website platform ([www.eppo.europa.eu](http://www.eppo.europa.eu)), and shared via the EPPO's official accounts on Facebook, Twitter and LinkedIn, and that a range of options are offered into such platforms (request for public access to documents, contact forms for citizens, journalists, and potential applicants);
61. Appreciates the publication of press releases, the social media updates and the interviews on its operational and institutional activities that the European Chief Prosecutor, the European Prosecutors and several specialised staff members are giving to significantly increases the knowledge and awareness about the EPPO's role and actions;
62. Encourages the EPPO to include, amongst its strategic actions, focused activities aiming to increase its visibility and to endorse the knowledge and understanding of the Union's vision and approach in the protection of the Union's and taxpayers' interests.



## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

for the Committee on Budgetary Control

on discharge in respect of the implementation of the general budget of the European Union for the financial year 2021, Section III – European Public Prosecutor’s Office (2022/2091(DEC))

Rapporteur for opinion: Saskia Bricmont

### **SUGGESTIONS**

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Notes that the Court of Auditors (the ‘Court’) declared the transactions underlying the annual accounts of the EPPO for the financial year 2021 to be legal and regular in all material respects and that its financial position at 31 December 2021 is fairly presented;
2. Welcomes the EPPO 2021 Annual Report; notes that the EPPO has started its operations on 1 June 2021 and has been financially autonomous since 24 June 2021; notes that, in the first seven months of operations, the EPPO processed 2382 crime reports and opened 576 investigations, 515 of which were active by the end of 2021, and that the seizure of 147 million EUR was granted upon the EPPO's request; highlights the added value brought to the fight against economic and financial crime, as shown by those operational results;
3. Recalls that the EPPO’s human resources management and financial control systems must function correctly; welcomes that the EPPO followed up to the Court’s observations and established internal procedures on organisational structure and ex-ante controls;
4. Notes the Court's observation concerning the use of interim staff for processing payments, not in line with EPPO's financial rules; acknowledges EPPO's explanations that the limited and transparently disclosed use of interim staff was caused by the necessity to adapt its control framework as activities grew and staff was made available, while initiating as early as possible its prosecution and investigative roles; notes as well that, despite the health crisis still ongoing, the EPPO continued to recruit staff during 2021 to strengthen its operational and administrative capacities;
5. Welcomes the EPPO’s agreement with the Commission, and working arrangements with non-participating countries and with OLAF, Eurojust, Europol; highlights that

effective cooperation between the EPPO and other Union bodies and agencies is pivotal; encourages EPPO to further engage in a closer relationship with Union bodies involved in the protection of the financial interests of the Union, in particular OLAF, based on mutual cooperation within their respective mandates;

6. Recognizes EPPO as a novel actor equipped with the competence to prosecute criminal offenses against the Union's financial interests, which are often linked to other serious crimes with a cross-border dimension; recalls that EPPO's resources should allow for the proper performance of its mandate;
7. Notes that from the non-participating Member States, the EPPO cooperates with Denmark, Hungary and Sweden, but regrets that since the start of its operations in June 2021 the work of the EPPO, in particular the evidence gathering, has been affected by a lack of cooperation from Ireland and Poland; welcomes the commitment by the Irish authorities to review their working arrangement with the EPPO in 2023; notes that Ireland opt-out on EU cooperation in freedom, security and justice;
8. Emphasises that as of 2022, the number of EPPO investigations involving Poland was the highest of any non-participating country; regrets that Poland considerably delayed the introduction, into its code of criminal procedure, of the amendment required for the operationalisation of the working arrangement with EPPO;
9. Regrets that the EPPO's full independence has been put into question by some Member States governments' interferences with their European delegated prosecutors appointment procedure; stresses that the appointment procedure must always be in compliance with Article 17 of the Council Regulation (EU) 2017/1939; encourages Member States to contribute to the full independence of EPPO when selecting and nominating the European Delegated Prosecutors to be appointed by the EPPO College;
10. Notes that the EPPO's caseload has been significantly underestimated; stresses the importance to adapt human and financial resources to the growing workload and to increase the EPPO's budget accordingly.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	31.1.2023
<b>Result of final vote</b>	+: 49 -: 9 0: 2
<b>Members present for the final vote</b>	Konstantinos Arvanitis, Malik Azmani, Pietro Bartolo, Vladimír Bilčík, Vasile Blaga, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Annika Bruna, Damien Carême, Patricia Chagnon, Caterina Chinnici, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Nicolaus Fest, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Erik Marquardt, Javier Moreno Sánchez, Theresa Muigg, Emil Radev, Karlo Ressler, Diana Riba i Giner, Isabel Santos, Birgit Sippel, Sara Skytvedal, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Yana Toom, Milan Uhrík, Tom Vandendriessche, Jadwiga Wiśniewska, Elena Yoncheva
<b>Substitutes present for the final vote</b>	Delara Burkhardt, Beata Kempa, Alessandra Mussolini, Matjaž Nemec, Jan-Christoph Oetjen, Rob Rooker, Róza Thun und Hohenstein, Dragoș Tudorache, Loránt Vincze, Tomáš Zdechovský
<b>Substitutes under Rule 209(7) present for the final vote</b>	Niyazi Kizilyürek, David Lega

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

49	+
PPE	Vladimír Bilčík, Vasile Blaga, Karolin Braunsberger-Reinhold, Lena Düpont, Andrzej Halicki, David Lega, Jeroen Lenaers, Lukas Mandl, Alessandra Mussolini, Emil Radev, Karlo Ressler, Sara Skyttedal, Loránt Vincze, Tomáš Zdechovský
RENEW	Malik Azmani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Ramona Strugariu, Róza Thun und Hohenstein, Yana Toom, Dragoș Tudorache
S&D	Pietro Bartolo, Delara Burkhardt, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Evin Incir, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Theresa Muigg, Matjaž Nemec, Isabel Santos, Birgit Sippel, Elena Yoncheva
The Left	Konstantinos Arvanitis, Clare Daly, Cornelia Ernst, Niyazi Kizilyürek
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

9	-
ECR	Joachim Stanisław Brudziński, Beata Kempa, Rob Rooker, Jadwiga Wiśniewska
ID	Annika Bruna, Patricia Chagnon, Annalisa Tardino, Tom Vandendriessche
NI	Milan Uhrík

2	0
ECR	Assita Kanko
ID	Nicolaus Fest

Key to symbols:

+ : in favour

- : against

0 : abstention

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	28.2.2023
<b>Result of final vote</b>	+: 23 -: 3 0: 1
<b>Members present for the final vote</b>	Gilles Boyer, Olivier Chastel, Caterina Chinnici, Corina Crețu, Ryszard Czarnecki, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Mislav Kolakušić, Joachim Kuhs, Alin Mituța, Jan Olbrycht, Markus Pieper, Michèle Rivasi, Sándor Rónai, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Eider Gardiazabal Rubial, Elżbieta Rafalska
<b>Substitutes under Rule 209(7) present for the final vote</b>	Fabienne Keller, Katrin Langensiepen

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

23	+
NI	Mislav Kolakušić
PPE	José Manuel Fernandes, Monika Hohlmeier, Jan Olbrycht, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Tomáš Zdechovský
Renew	Gilles Boyer, Olivier Chastel, Fabienne Keller, Alin Mituța
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Eider Gardiazabal Rubial, Sándor Rónai, Lara Wolters
The Left	Luke Ming Flanagan
Verts/ALE	Daniel Freund, Katrin Langensiepen, Michèle Rivasi

3	-
ECR	Ryszard Czarnecki, Elżbieta Rafalska
ID	Jean-François Jalkh

1	0
ID	Joachim Kuhs

Key to symbols:

+ : in favour

- : against

0 : abstentions