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NOTE

from: Presidency
to: CATS
Subject: European Public Prosecutor's Office (EPPO)

Background

The Commission's proposal for a Regulation on the establishment of the European Public Prosecutor's Office (EPPO) was adopted on 17 July 2013. The proposal was first discussed by representatives of Member States, European institutions, practitioners and academics in the conference "European Public Prosecutor's Office: A Constructive Approach towards the Legal Framework", organised by the Lithuanian Presidency of the Council of the European Union in cooperation with the European Commission and the Academy of European Law, which was held in Vilnius, Lithuania, on 16-17 September 2013.

Discussions in Council

The Commission presented its proposal to the JHA Council on 7 October 2013. A majority of ministers welcomed the proposal, while noting that a number of issues need clarification and further development, with a view to ensuring broadest possible support of the Member States for the EPPO. The proposal - and in particular the issues of the structure and competences of the EPPO - has already been up to discussion in CATS on 23 September 2013.

The Working Party on Cooperation in criminal matters (COPEN) has examined the proposal in detail in its meetings of 1-2 October, 24-25 October and 5-6 November 2013. A preliminary "article-by-article" examination covering Articles 1-12 in the proposal was carried out, and a more detailed discussion on mainly the following issues has also taken place:

- The structure of the Office: Delegations have raised questions and discussed advantages and disadvantages with the decentralised and integrated structure proposed, whereby an alternative structure in the form of a college has also been suggested.
- The exclusive competence of the Office: Delegations have discussed whether the proposal to give the EPPO exclusive competence in respect of the criminal offences covered by its substantive competence would produce the most appropriate and efficient system.
- Substantive competence: The exact delimitation of the competence of the EPPO has been discussed in detail in the working party, in particular as regards the proposed ancillary competence for offences "inextricably linked" to the main offences covered by the competence of the EPPO.
- Decision-making of the EPPO - Central or local (national) level: Detailed and fruitful discussions on the appropriate level of decision-making for the EPPO have been conducted in the working party.

National parliaments

Protocol 2 to the Treaties foresees a review of a Commission proposal in the area of freedom, security and justice if reasoned opinions on non-compliance with the principle of subsidiarity representing a quarter of votes (14 out of 56 votes) from national parliaments have been submitted. In this case, a sufficient number of reasoned opinions to reach the said threshold has been issued within the deadline. In accordance with Protocol 2, the Commission will therefore review its proposal and on this basis decide to maintain its proposal, amend it or withdraw it, together with the reasons for either of such decisions.

The Presidency suggests that the Commission would provide information on the procedure and future steps.
