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NOTE

from:	Presidency
to:	Working Party on Cooperation in Criminal Matters
No. initiative :	12558/13 EPPO 3 EUROJUST 58 CATS 35 FIN 467 COPEN 108
Subject:	<i>Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office</i> - Report on the State of Play

1. Introduction

The Lithuanian and the Hellenic Presidencies of the Council have issued one report¹ each on the state of play in Council as regards the Commission's proposal for a Regulation on the establishment of the European Public Prosecutor's Office. The current Report should complement these earlier reports as regards developments from March 2014, and present an updated state of play.

¹ Doc 18120/13 EPPO 37 EUROJUST 153 CATS 106 FIN 966 COPEN 252.
Doc 6490/1/14 EPPO 9 EUROJUST 38 CATS 23 FIN 117 COPEN 53 GAF 10.

The JHA Council on 3 March 2014 endorsed the principles of

- a Collegial structure of the EPPO, with a College consisting of Members from participating Member States;
- a concurrent competence to investigate and prosecute offences against the financial interests of the Union for both the EPPO and national prosecution authorities.

The Council also underlined the necessity to ensure that the Office will be independent and efficient in its functioning.

Following the Council, the Presidency proposed a first revision of certain key parts of the Commission's proposal. The revised text, consisting of 19 Articles on mainly the structure and competence of the Office, aimed at translating the outcome of the JHA Council into legal text, whilst also taking account of the views expressed by national parliaments in the reasoned opinions emitted in 2013. The text and its underlying principles were then discussed and further developed in the competent working party, as well as in CATS, in view of presenting it to the JHA Council.

2. JHA Council of 6 June 2014

In JHA Council of 6 June 2014, the great majority of delegations welcomed the text and confirmed it as the basis for future discussions¹. In general terms and on the understanding that the text will need further consideration by the Working Party, ministers broadly confirmed

- that the approach in the text conforms with the principles of independence and efficiency of the EPPO;
- the model for supervision of operational work in Member States described in the document as the basis for further discussions;
- the principle that the EPPO has a priority competence to investigate and prosecute offences affecting the Union's financial interests, within a model for concurrent competence between the EPPO and the national prosecution authorities.

¹ Doc 9834/1/14 EPPO 24 EUROJUST 97 CATS 69 FIN 361 COPEN 150 GAF 28.

It was generally agreed that certain provisions will need to be revisited later, also in order to clarify certain details and concepts used in the text. A few delegations questioned whether the text will be sufficiently strong to guarantee the independence and/or efficiency of the Office. Specific remarks on certain aspects of the text were also made by some delegations, in particular as regards:

- The procedure for the appointment of the European Chief Prosecutor
- The conditions for the EPPO's exercise of its competence, in concurrence with national prosecution authorities
- The role of the Permanent Chambers and the European Prosecutors, respectively, in the supervision of the operational work of the Office
- The ancillary competence of the EPPO

The Presidency notes that the text discussed in JHA Council of 6 June 2014 is the agreed basis for future work. The issues concerned by remarks of delegations will be revisited in a later stage of negotiations.

3. Late developments

In the final COPEN meeting on the EPPO under Hellenic Presidency on 19 June 2014, the key issue of investigation measures (Articles 25-26 in the proposal) was discussed in detail, as a follow-up to an introductory thematic discussion that had taken place under the Lithuanian Presidency. The discussion identified a few issues that will need further clarification, and provided a good basis for further work on the issue.
