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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	25 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 318 final
Subject:	ANNEX to the Proposal for a Council Implementing Decision on the operating rules of the selection panel provided for in Article 14(3) of Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO")

Delegations will find attached document COM(2018) 318 final.

Encl.: COM(2018) 318 final



EUROPEAN
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Brussels, 25.5.2018
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ANNEX

ANNEX

to the

Proposal for a Council Implementing Decision

**on the operating rules of the selection panel provided for in Article 14(3) of Regulation
(EU) 2017/1939 implementing enhanced cooperation on the establishment of the
European Public Prosecutor's Office ("the EPPO")**

ANNEX

I. Mission

The selection panel shall draw up a shortlist of qualified candidates for the position of European Chief Prosecutor, in accordance with Article 14(3) of Regulation (EU) 2017/1939¹. It shall also provide a reasoned opinion on the qualifications of candidates nominated for the position of European Prosecutor, in accordance with Article 16(2) of Regulation (EU) 2017/1939, before their appointment by the European Parliament and Council in the former case and by the Council in the latter.

II. Composition and term of office

The selection panel shall comprise twelve persons who, at the time of their appointment, are former members of the Court of Justice and the Court of Auditors, former national members of Eurojust, members of national supreme courts, high-level prosecutors or lawyers of recognised competence. All members shall meet at least one of the abovementioned criteria at the time of their appointment.

The members of the selection panel shall be appointed by the Council, on a proposal from the Commission, for a period of four years. One of the persons chosen shall be proposed by the European Parliament. A person who is to replace a member before the expiry of that period shall be appointed for the remainder of their predecessor's term. Members of the panel may be reappointed once.

III. Presidency and secretariat

The selection panel shall be chaired by one of its members, elected for that purpose by the members of the panel by a majority vote. The Commission shall be responsible for the panel's secretariat. It shall provide the administrative support necessary for the working of the panel, including the translation of documents. The secretariat shall also transmit the shortlist of candidates for the post as European Chief Prosecutor to the European Parliament and the Council, and, respectively, the reasoned opinions on the candidates' qualifications to perform the duties of European Prosecutors to the Council.

IV. Deliberations and quorum

The deliberations of the selection panel shall be confidential and shall take place *in camera*. The meetings of the panel shall be valid only if at least nine members are present.

Decisions of the selection panel shall be taken by consensus. However, if a member asks for a vote, the decision shall be taken by a simple majority of the members present. In the event of a tie in the voting, the chair shall have the casting vote.

V. Referral to the panel and requests for additional information

As soon as the applications for the position of European Chief Prosecutor are received, the secretariat shall send them to the chair of the panel. The same applies to nominations for the position of European Prosecutor, including the accompanying documents submitted by the Member States.

The selection panel may ask applicants and, in the case of nominations for the position of European Prosecutor, the government of the nominating Member State to provide additional information or other material which the panel considers necessary for its deliberations.

¹ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') OJ L 283, 31.10.2017, p. 1

VI. Review and hearing

1. Procedure for the appointment of the European Chief Prosecutor

Upon receipt of the candidates' applications, the selection panel shall review the applications with regard to the requirements set out in Article 14(2) of Regulation (EU) 2017/1939, as further specified in the vacancy notice. Candidates who do not meet the eligibility requirements shall be excluded from the next steps of the procedure. The panel shall rank candidates who fulfil the requirements according to their qualifications and experience, on the basis of the documentation and information provided in the application or produced following a request pursuant to Rule V. A sufficient number of the highest ranked candidates shall be heard by the panel to enable it to establish the shortlist referred to in Rule VII. The hearing shall take place in person.

Candidates who do not fulfil the eligibility requirements or who are not invited to be heard by the panel shall be informed of the reasons. A candidate may react to this decision stating the reasons why he/she does not agree with the panel's assessment. Subsequently, the panel will reassess the candidate's application and inform him/her of its conclusion in writing. Candidates who are excluded from the selection procedure may submit to the Council a complaint within the meaning of Article 90(2) of the Staff Regulations.

2. Procedure for the appointment of European Prosecutors

Upon receipt of the nominations, the selection panel shall review them with regard to the requirements set out in Article 16(1) of Regulation (EU) 2017/1939. The panel shall hear the candidates nominated. The hearing shall take place in person.

VII. Findings and statement of reasons

1. European Chief Prosecutor

Based on its findings during the review and hearing, the selection panel shall draw up a shortlist of three to five candidates to be submitted to the European Parliament and the Council. It shall provide reasons for selecting the candidates on the shortlist. Candidates who are not placed on the shortlist shall be informed of the reasons.

The selection panel shall rank the candidates according to their qualifications and experience. The ranking shall indicate the panel's order of preference and shall not be binding on the European Parliament and the Council. Candidates who are not included in the shortlist of qualified candidates drawn up by the panel may submit to the Council a complaint within the meaning of Article 90(2) of the Staff Regulations.

2. European Prosecutors

Based on its findings during the review and hearing, the panel shall formulate an opinion on the candidates' qualifications to perform the duties of European Prosecutors and expressly state whether or not a candidate fulfils the conditions in Article 16(1) of Regulation (EU) 2017/1939. The panel shall provide reasons for its opinion.

In the event that nominated candidates do not fulfil the conditions set out in Article 16(1) of Regulation (EU) 2017/1939, the selection panel shall, through its secretariat, request the Member State concerned to nominate a corresponding number of new candidates.

The panel shall rank the candidates according to their qualifications and experience. The ranking shall indicate the panel's order of preference and shall not be binding on the Council.

VIII. Financial provisions

Members of the selection panel required to travel away from their place of residence in order to carry out their duties shall be entitled to reimbursement of their expenses and an allowance in accordance with Article 9 of Council Regulation (EU) 2016/300².

The corresponding expenditure shall be borne by the Council.

IX. Personal data

The processing of personal data in the context of the work of the selection panel shall take place under the responsibility of the Commission in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council³. The rules applicable to the security of and access to information processed in the context of the work of the selection panel shall be those applicable to the Commission.

X. Language regime

The selection panel shall, upon proposal of its chairperson, determine the working language(s) of the panel in view of the common languages spoken by its members.

² Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L58, 4.3.2016, p.1).

³ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).