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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Council Decision on the exercise of powers of the Secretary General of the Council as regards complaints submitted to the Council by candidates for the position of European Chief Prosecutor
- Adoption

1. Article 14(1) of Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO Regulation") provides that the European Parliament and the Council shall appoint by common accord the European Chief Prosecutor for a non-renewal term of 7 years. The Council shall act by simple majority.
2. Article 14(3) of the EPPO Regulation provides in particular that a selection panel shall draw up a shortlist of qualified candidates to be submitted to the European Parliament and to the Council and that the Council shall establish the selection panel's operating rules.

3. On 13 July 2018, the Council adopted Implementing Decision (EU) 2018/1696 laying down the operating rules of the selection panel provided for in Article 14(3) of the EPPO Regulation.
4. Pursuant to Rule VI.1 of the Annex to Council Implementing Decision (EU) 2018/1696, candidates who do not meet the eligibility requirements and are, for this reason, excluded by the selection panel from the selection procedure for the appointment of the European Chief Prosecutor, may then submit a complaint within the meaning of Article 90(2) of the Staff Regulations to the Council.
5. Pursuant to Rule VII.1 of the Annex to Council Implementing Decision (EU) 2018/1696, candidates who are not included in the shortlist of qualified candidates drawn up by the selection panel for the appointment of the European Chief Prosecutor, may submit a complaint within the meaning of Article 90(2) of the Staff Regulations to the Council.
6. The selection panel has taken and notified the above-mentioned decisions to exclude candidates who do not meet the eligibility requirements and not to include some qualified candidates in the shortlist submitted to the European Parliament and to the Council.
7. By letter addressed to the President of the European Parliament and to the President of the Council on 4 February 2019, the selection panel provided for in Article 14(3) of the EPPO Regulation submitted a shortlist of 3 candidates for the position of European Chief Prosecutor.
8. Article 2 of the Staff Regulations requires institutions to decide who within it shall exercise the powers conferred by the Staff Regulations, which includes the powers of appointing authority with regard to complaints within the meaning of Article 90(2) thereof.

9. The exercise of the powers of the appointing authority with regard to complaints within the meaning of Article 90(2) of the Staff Regulations and submitted to the Council by candidates in the selection procedure for the appointment of the European Chief Prosecutor pursuant to Rules VI.1 and VII.1 of the Annex to Council Implementing Decision (EU) 2018/1696 should therefore be conferred upon the Secretary-General.
 10. The Permanent Representatives Committee is therefore invited to suggest that the Council adopts, as an "A" item at a forthcoming meeting, the Council Decision as set out in document 7626/19.
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