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NOTE

From: Commission services
To: Council
Subject: EPPO: Setting up of the European Public Prosecutor's Office
- State of play

Delegations will find attached a non-paper from the Commission services on the state of play of the setting up of the European Public Prosecutor's Office (EPPO), released in view of the JHA Council on 7 October 2019.

**Non-paper from the Commission services on the state of play of the setting up of the
European Public Prosecutor's Office (EPPO)**

This document presents an update on the preparatory steps taken by the Commission in relation to the establishment process of the EPPO, as provided for by the EPPO Regulation, highlighting the progress made since June 2019.

- **European Chief Prosecutor:** Following the negotiations between the Council and the European Parliament, both institutions reached a common accord in September 2019 and committed to appoint Ms. Laura Kövesi as European Chief Prosecutor rapidly.
- **European Prosecutors:** A large majority of Member States submitted their nominations for the post of European Prosecutor and the Selection Panel set up pursuant to Article 14(3) of Council Regulation (EU) 2017/1939 is currently in the process of hearing the nominated candidates. However, a number of Member States still has not submitted their nominations. These Member States are urged to send in their nominations as soon as possible.
- **EPPO internal rules of procedure:** The EPPO Expert Group met on 27-28 May 2019 to discuss a draft preparatory document for the EPPO's internal rules of procedure, prepared by the Commission services. The EPPO's internal rules of procedure have to be adopted by the EPPO College, on the European Chief Prosecutor's proposal. The Commission is examining the need to discuss selected topics of the revised document with the Expert Group on 14 October. This preparatory draft document will be provided to the European Chief Prosecutor as soon as she has been appointed.
- **EPPO conditions of employment of European Delegated Prosecutors:** The preparatory document for the conditions of employment of European Delegated Prosecutors was discussed at the EPPO Expert Group meeting on 8 April 2019. A revised document is due for discussion at the EPPO Expert Group meeting in October 2019.
- **Case Management System (CMS):** The contractor presented the outcomes of the business case study for the EPPO CMS in July and September. The results were discussed at the EPPO Expert Group meetings on 11 July 2019 and on 16 September 2019. The EPPO CMS will be discussed again at the EPPO Expert Group meeting in November 2019.

- **Budget:** The EPPO's budget for 2019 was adopted and work is on-going to ensure the timely adoption of the draft budget for 2020. The EPPO Expert Group has been consulted on the EPPO budget for 2020 on 21 March 2019.
- **Council of Europe Conventions:** The Commission started informal discussions with the Council of Europe to explore the possibilities for the EPPO to cooperate with third countries by making use of the Council of Europe Conventions, in particular the Convention on Mutual Legal Assistance. Discussions on the steps that participating Member States need to undertake for the EPPO's recognition as a competent authority under that Convention, as foreseen in the EPPO Regulation, will take place at expert group level in the Council on 23 October 2019.
- **Adaptations:** The Commission also closely monitors the legal and administrative adaptations in the Member States that are needed to comply with the EPPO Regulation. This concerns adaptations related to reporting and cooperation procedures, the status and powers of European Prosecutors and European Delegated Prosecutors during the investigation, prosecution, appeals and enforcement phase requiring changes in the criminal code, criminal procedural code and/or codes on the organisation of their judiciary and prosecution services, as well as other administrative and organisational measures. In June, the Commission held a conference at the College of Europe in Bruges dedicated to this topic and also prepared a secured and restricted website ("EPPO Wiki"), where Member States are requested to provide information on the adaptation process. The Commission will discuss this matter also at the EPPO Expert Group meeting in November.
- **PIF Directive:** The transposition deadline of 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 (PIF Directive) lapsed on 6 July 2019. To date, 12 Member States notified the Commission stating that they transposed the PIF Directive completely, 10 Member States stated that they transposed the Directive in parts, while 4 Member States did not notify the Commission at all. Denmark and the United Kingdom do not take part in the PIF Directive. A complete and correct transposition of the PIF Directive is a prerequisite for the EPPO's operational start. In accordance with the Treaty, the Commission in September sent out "Letters of Formal Notice" to those Member States that failed to notify the Commission of a complete transposition of the PIF Directive.