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NOTE

From: Presidency
To: Delegations

Subject: Proposal for a Regulation on the establishment of the European Public
Prosecutor's Office
- Report from the EPPO conference on 16-17 April 2015 at ERA

Delegations will find in Annex the report of the Presidency from the conference on European Public Prosecutor Office (EPPO) on 16-17 April 2015 at the European Academy of Law (ERA).

State of Play

The Presidency, together with the European Commission, organised a conference on European Public Prosecutor Office (EPPO) on 16-17 April 2015 at the European Academy of Law (ERA) in Trier (Germany). The conference entitled "The future European Public Prosecutor's Office in Practice: Ensuring effective operation – Demonstration through case simulations", was intended to be a "reality check" of the present text by practitioners from all Member States for the benefit of the EU legislator. Representatives from the Presidency, the European Parliament, the Commission, the General Secretariat of the Council and Eurojust were also present.

The Conference

Over 50 practitioners as well as many COPEN delegates attended and actively discussed the present version of the EPPO text, in particular its structure and work-flow, during two half-day sessions. The conference generated a number of useful comments and recommendations (see below).

Following introductory speeches and an overview of institutional objectives by Isabelle Pérignon (Member of the Cabinet of Commissioner Vera Jourova), Monica Macovei (MEP and Rapporteur EP) and Inguss Kalnins (Latvian Presidency), the conference looked at the EPPO's added value in the context of two case-studies – one focusing on a single-country Protection of financial interest (PIF) case, while the other involving several States (participating Member States, non-participating Member States and third States) and Eurojust. The case studies were followed by a presentation on the benefits of the EPPO as a "single EU Prosecution Office", while the final Panel discussed the issues to be addressed by the legislator.

In general, practitioners expressed strong support for the idea of EPPO but also had questions about EPPO's efficiency in the current text discussed by the Member States in the Council Working Group (COPEN). Practitioners want to avoid a bureaucratic and complex EPPO. Sharing competence between EPPO and national authorities could lead to delays, rivalry and even conflicts of jurisdictions, which the right of evocation might not solve, in the event that EPPO's priority was not sufficiently regulated. The envisaged "national link" and the lack of a European culture of European Delegated Prosecutors (EDPs) were often pointed out. Several prosecutors felt that EDPs should be less dependent on their national status/power but also more independent from the central office in taking decisions (e.g. EDPs should mandatorily attend Permanent Chamber meetings at least when deciding on investigation strategy or taking decisions on closing investigations).

Several practitioners have questioned the added value of the EPPO in single-country PIF cases but all supported the EPPO's involvement in cross-border investigations, where EPPO is seen to facilitating information and evidence gathering, arrests and seizure of assets, and generally leads to faster and more reliable results. In this context, practitioners called for a simplified regime of cross-border cooperation between EDPs, in which Mutual Assistance or Mutual Recognition instruments are replaced by a simple notification of measures that colleagues must undertake on behalf of each other.

The concept of "single office" was largely shared and welcomed by participants, for some holding the promise of a "joint team" or a "joint group", in which language and legal barriers are at least partly overcome by EPPO's European nature and legal regime (EPPO Regulation imposing certain principles, supplemented by national law), although many practitioners expressed their wish that a single EU-level criminal procedure code had been adopted so as to reduce discrepancies. It is seen as a minimum that EPPO provides clear leadership in the investigation/prosecution process, but also support, resources and simplicity in the operational work. For several practitioners, the central office's current functions seem more driven by distrust than a spirit of collegial support. For many, EDPs must be included in developing the EPPO's investigation strategy in cross-border cases and resource issues must be discussed in advance.

Recommendations

The following main recommendations emerged from the practitioners:

- Simplify EPPO's structure and streamline its workflow;
- Include cross-border VAT carousel cases in EPPO competence;
- Consider harmonising further procedural law questions (investigation measures and evidence);
- Consider the potential impact of EPPO on Eurojust and preserve latter's resources;
- Find a simple and easy regime for EPPO's cross-border investigations;
- Examine carefully the role of Permanent Chambers (role of EDPs in preparing investigation strategy);
- Reconsider the data protection regime (do not copy the Eurojust model and make a list of personal data open);
- When EPPO will work well, commit to extend its competence to serious cross-border crime;
- Ensure that the most qualified people are appointed to EPPO and reduce national influence on EDPs;