



Council of the
European Union

Brussels, 6 June 2017
(OR. en)

9896/17

LIMITE

EPPO 20
EUROJUST 82
CATS 61
FIN 343
COPEN 185
GAF 24
CSC 119

**Interinstitutional File:
2013/0255 (APP)**

NOTE

From:	Presidency
To:	Council
No. prev. doc.:	9476/17
Subject:	Draft Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office - General approach

On 17 July 2013, the Commission presented a proposal for a Regulation of the Council on the establishment of the European Public Prosecutor's Office.

On 7 February 2017, after three and a half years of negotiations, the Council registered the absence of unanimity on the draft Regulation. The lack of unanimous agreement was confirmed by the European Council on 9 March 2017. In accordance with the applicable procedure, on 3 April 2017, 16 Member States notified their wish to establish enhanced cooperation. In accordance with the third subparagraph of Article 86(1) TFEU, the authorisation to proceed with enhanced cooperation was thereby deemed to be granted and the provisions on enhanced cooperation applied from 3 April 2017. Two additional Member States (Estonia and Latvia) joined the enhanced cooperation at a later date.

The Maltese Presidency triggered negotiations in Council at technical level on the draft Regulation implementing enhanced cooperation in the competent Working Party (COPEN) in April 2017. Throughout these COPEN meetings, the Presidency tried to find solutions to outstanding issues, thereby facilitating the process for the current non-participating Member States to join this project. In particular, certain adjustments of the rules relating to the material competence of the EPPO and the exercise of its competence (Articles 17, 19 and 20 respectively) have thereby been amended and have subsequently been agreed upon at Working Party level. In addition, a new rule on the relations between the EPPO and non-participating Member States has been added in the third paragraph of Article 59a.

In the draft consolidated text set out in document 9545/2/17 REV 2, the Presidency proposes a balanced compromise on the full text of the draft Regulation. The draft consolidated text also incorporates a number of minor modifications aiming at improving the quality of the text, to make it internally coherent and to adapt it to the enhanced cooperation, as has been agreed at expert level.

In light of the discussions in Coreper on 31 May 2017, the Presidency considers that it will be possible for all the Member States that participate in the enhanced cooperation to agree on the current text of the draft Regulation.

The Council is invited to reach a General Approach on the text as set out in document 9545/2/17, which will then constitute the basis for the request to the European Parliament to give its consent to the adoption of the Regulation.