

Informal Meeting of Justice and Home Affairs Ministers (7-8 July, Bratislava, Justice Session)

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EPPO: new architecture for the protection of the Union's financial interests in the EU

I. The need to eliminate the loss of taxpayer money

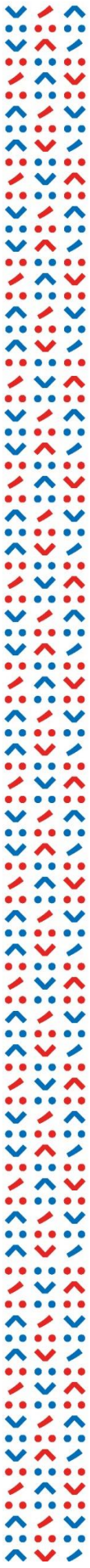
In 2012 and 2013, the Commission presented two legislative proposals which aim at strengthening efforts to curb offences against the Union's financial interests ('PIF offences'), namely the proposal for a Directive on the fight against fraud to the Union's financial interests by means of criminal law (the PIF Directive) and the proposal for a Regulation on the establishment of a European Public Prosecutor's Office (the EPPO Regulation). They were complemented by the proposal for a Regulation on the European Agency for Criminal Justice Cooperation (the Eurojust Regulation), which aims at strengthening judicial cooperation in the area of criminal law and includes certain links to the provisions in the EPPO Regulation.

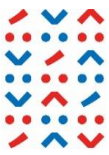
This package of proposals is based on evidence that the EU budget is suffering substantial losses due to fraud and other criminal activities against the Union's financial interests. It was estimated that the current criminal law framework in the area of protection of the Union's financial interests (essentially the Convention on the protection of the Communities' financial interests of 1995 with protocols) was not strong enough to curb the loss of taxpayer money allocated to the EU. A resolute response to this longstanding challenge was required in order to set a common and proportionate level of protection by deterrence and to address the deficiencies identified with respect to the prosecution of criminal offences related to the protection of the EU's financial interests.

II. The state of play

EPPO Regulation – making the investigation of PIF crime more European

Since its publication, the proposal for the EPPO Regulation has undergone substantial changes. The text has been modified to reflect the balanced compromises reached by the Member States. In particular, the draft Regulation now foresees that the Office will have a collegial structure and that the competence for investigating and prosecuting PIF offences will, under certain conditions, be shared between the EPPO and national prosecution authorities. The European Parliament adopted a first report on the proposal in 2014 and a second one in 2015 in order to address the modifications decided upon by the Council.





Eurojust Regulation – ensuring complementarity

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Eurojust could play a crucial role in the fight against PIF offences, particularly in relation to third countries and non-participating (in EPPO) Member States. The proposal for a Eurojust Regulation aims to strengthen the operational capacities of Eurojust, which would also enhance the fight against PIF offences overall. According to the Treaty, the EPPO shall be created from Eurojust, which means that certain synergies and links between the two agencies will be necessary. The draft Eurojust Regulation was negotiated relatively rapidly in the Council, and a partial general approach was reached in early 2015. The provisions which would have an impact on the EPPO were not, however, part of the general approach. The EP has still not adopted a position on the proposal.

PIF Directive – at the heart of the competence of the EPPO

The main objective of the PIF Directive is to strengthen the protection of the Union's financial interests, in particular by harmonising, to a certain extent, criminal law in the area of protecting EU financial interests by modernising and complementing the PIF Convention from 1995. The Directive is of particular importance since it will constitute the substantive law to be applied by the future EPPO. The text was negotiated intensively in dialogues in 2014 and 2015, and the EP and the Council had provisionally agreed on almost all of the provisions by mid-2015. The issue of including VAT fraud within the scope of the Directive remains to be resolved.

OLAF – the administrative side of the fight against PIF offences

When finalising the three instruments outlined above, it must also be ensured that they are in line with the rules and administrative actions of OLAF2.

