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Editorial

EDITORIAL

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Dear Readers,

I have been a prosecutor for half of my life. I have combatted high-level corruption for many years and possess firsthand experience in the vital importance of fairness, the willingness to comply with commonly agreed rules, the ability to administer justice – in other words, the rule of law. This is the core strength of the European Union for me and, I am sure, for millions of European citizens who grew up under dictatorial regimes in a divided Europe: our only effective way to ensure the rule of law is true democracy in a globalised world.

One of the new instruments that can play a key role in this respect is the European Public Prosecutor's Office (EPPO). It is the outcome of more than twenty years of convincing arguments and negotiations, and it marks one of the most ambitious European integration projects of the last decade.

The EPPO is a specialised prosecution office. Any fraud involving EU funds or serious cross-border VAT fraud committed in the participating Member States after November 2017 falls within our jurisdiction. As we have a mandatory competence, it is our legal obligation to investigate all new cases from the day we start operations.

In practice, 22 European Prosecutors in Luxembourg will oversee investigations initiated by the European Delegated Prosecutors in the participating Member States. The European Delegated Prosecutors will be active members of the judiciary in their respective national systems, and they will perform prosecutorial functions before the national courts.

This is the basic definition and description of the EPPO, but what does it mean?

From a magistrate's point of view, the EPPO is the most exciting challenge of our generation. For the first time, a European Union body will investigate, prosecute, and bring to trial criminal offences. Of course, it will not be easy to find solutions for 22 different judicial systems, especially because there is no precedent for a European Public Prosecutor's Office.

From a political perspective, the EPPO establishes a transfer of sovereignty and a new instrument to protect the Union budget in the 22 participating Member States. From a citizen's perspective, the EPPO is the first powerful tool to defend the rule of law in the EU.

Lastly, from my perspective, even if I agree that setting up a prosecutor's office at the EU level is a complex and sensitive issue, if we wish to make the EPPO work in an efficient and independent manner, the choices to be made are ultimately straightforward. These are the key questions that need to be answered before we can assess whether the EPPO is capable of fulfilling its potential:

- Can we agree that the European Delegated Prosecutors should work full-time for the EPPO?
- Can we agree how many prosecutors there should be in each of the Member States in order to do the job properly?
- What types of support and equipment will they receive?
- What will the overall budget of the EPPO be?
- Will the EPPO's central office be able to analyse all the available information in order to genuinely improve cross-border investigations?

- Will the EPPO's central office be able to improve the identification of criminal assets, thus helping the Member States improve the recovery of damages?

Our work is that of true pioneers. I am convinced that we are ready. And we are not alone. We can count on the European Court of Justice, with all its authority and decisive jurisprudence. I am confident that we can also count on our fellow prosecutors, judges, and police officers in the Member States.

Why will the EPPO be a game changer in the fight against fraud involving European funds?

Until now, the level of protection of the financial interests of the EU varied across the Member States. In some Member States, thousands of investigations have taken place while, in other Member States, there were two or even less cases per year. From now on, the investigation and prosecution of these crimes will be a priority for all the European Delegated Prosecutors. This alone should already increase the overall level of protection for European funds.

The second, key expected improvement is the likely increase in the efficiency of investigations. The EPPO will be independent from national governments, the Commission, and other European institutions, bodies, and agencies. This is very important, because the independence of the institution and the independence of prosecutors is the first premise for obtaining efficient results when fighting corruption and other serious crime. Without this independence, we cannot talk about the rule of law or about equality in the face of the law. Independence is a crucial, basic rule for the functioning of the EPPO. And this should be the model followed by all the national public prosecutor's offices.

The main characteristic of the type of criminality that the EPPO will tackle is the speed with which criminals shift their *modus operandi* in reaction to law enforcement actions. The EPPO has unprecedented possibilities to act in this respect:

- Obtaining and aggregating information at the European level;
- Conducting investigations without being limited by national borders;
- Harmonising the use of the most efficient investigative tactics;
- Using evidence collected in another Member State without the need for excessive formalities;
- Conducting investigations simultaneously in several Member States.

Where do we stand today?

We have adopted internal rules of procedure, which define our internal processes, including the key appointments of the Deputy European Chief Prosecutors, the Data Protection Officer, and the Administrative Director. We also adopted our financial regulation, our data protection rules, and the rules on public access to documents.

Important internal governance tools, such as the code of good administrative behavior, an anti-fraud strategy, and internal control standards, are approved by the College of the EPPO. We also finalised our operational templates in addition to the investigation and prosecution policy of the EPPO and related guidelines. We just signed a working arrangement with Europol and Eurojust and expect one with OLAF to be signed soon. Discussions on cooperation between the EPPO and the Commission are progressing well. We initiated negotiations on working arrangements with non-participating Member States and already signed such an arrangement with Hungary. We decided on the number and composition of the Permanent Chambers – the true engine of the EPPO. Our case management system is fully operational and ready for use.

All in all, at the central level, we are ready. In the past few weeks, we have been waiting for the last few Member States to nominate enough candidates as European Delegated Prosecutors to be able to start. In early April 2021, I proposed June 1st to the European Commission as the date on which the EPPO could take up its investigative and prosecutorial tasks. This is the moment all of us at the EPPO have long been waiting for, and I am very excited to be starting operations. This is truly a collective effort. I am sure many challenges will cross our paths, but I am equally convinced that we will be able to overcome them one by one, one step at a time.

As prosecutors, we are responsible for enforcing the law. Our role is to set the wheels of justice in motion, in order to ensure that everyone is equal before the law and that no one is untouchable. It is now our task to build up a strong and efficient institution, which earns the trust of European citizens, is able to protect the financial interests of the European Union, and contributes to the enforcement of the rule of law. By protecting the budget of the European Union, we will play an essential role in reinforcing and increasing the trust of all Europeans in the Union.

All we need is to be consistent and keep European interests at heart!

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eucrim is the leading journal serving as a European forum for insight and debate on criminal and “criministrative” law. For over 20 years, it has brought together practitioners, academics, and policymakers to exchange ideas and shape the future of European justice. From its inception, eucrim has placed focus on the protection of the EU’s financial interests – a key driver of European integration in “criministrative” justice policy.

Editorially reviewed articles published in English, French, or German, are complemented by timely news and analysis of legal and policy developments across Europe.

All content is freely accessible at <https://eucrim.eu>, with four online and print issues published annually.

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