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Editorial

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Dear Readers,

EU money must not be pocketed by criminals. We have a federal budget – with money coming from the 28 EU Member States – and, as a consequence, we also need federal laws to protect this budget.

This is why the European Commission proposed a Directive on the protection of the EU's financial interests in July 2012. The new EU-wide rules aim to achieve two objectives: First, to introduce common definitions of fraud throughout the EU, making sure that fraud against the EU budget is considered a crime everywhere in the EU. Second, to set a minimum level of sanctions for fraud against the EU budget, including imprisonment, in order to deter fraudsters. We are also creating a level playing field for periods within which it is possible to investigate and prosecute offences – the so-called statutes of limitation.

With the creation of the European Public Prosecutor's Office, we are delivering on a commitment. A commitment that we first made at our hearing before the Parliament in January 2010: to make full use of the Treaty of Lisbon to fight fraud against the EU budget and to uphold the rule of law across the Union.

Member States report an average of about €500 million in suspected fraud each year. But the real amount with regard to fraud is likely to be significantly higher. Member States' response to fraud is inconsistent because of divergent rules, lack of resources, and the difficulty of gathering evidence in cross-border cases. As a result, the conviction rate for fraud offences against EU resources varies greatly across Member States, with an EU average of just 42.3%.

We know that our proposal of establishing a European Public Prosecutor's Office is ambitious. But we need to be ambitious to ensure effective and uniform protection of the EU budget across the EU. At the same time, we are determined to set up an office that is fully embedded in national systems, relying to a large extent on national structures and national law. Independence, accountability, and decentralisation are the keywords.

We opted for a solution that is respectful of the justice systems and legal traditions of the Member States without compromising on our aim to better protect the Union's financial interests.

The groundwork (gathering evidence, prosecuting, bringing to court) will be carried out by so-called "European delegated prosecutors" who are fully integrated into the national justice systems. They will wear a "double hat:" they will be national prosecutors and part of the European Public Prosecutor's Office. They will use national staff, apply national rules, and address national courts.

The European Public Prosecutor's Office will go hand in hand with a comprehensive set of procedural safeguards. These rules offer an additional layer of protection compared to national law so that suspects can benefit directly from protection at the Union level.

Negotiations on the proposal started under the Lithuanian Presidency and will continue under the Greek Presidency in the Council. We were pleased to note that a vast majority of Member States agreed to the need for a European Public Prosecutor's Office at the Justice Council in October. We are also receiving strong encouraging signals from the European Parliament; the October plenary clearly endorsed the project.

Finally, national parliaments have also contributed and made use of their possibilities under the Treaty to contribute reasoned opinions on the compatibility of the EPPO with the principle of subsidiarity. Having carefully analysed these reasoned opinions, the Commission has decided to maintain the proposal, in line with Article 7(2) of Protocol No 2 to the Treaties, as we are confident that it complies with the subsidiarity principle. Of course, the opinions of the national parliaments will be taken into account in the ongoing legislative process.

With the proposal for the establishment of a European Prosecutor's Office that will show zero tolerance towards fraud against the EU budget, the European Commission is delivering on its promise. We now call on Member States and the European Parliament to rally behind this important project so that the European Public Prosecutor's Office can assume its function as of 1 January 2015.

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

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