

# COM Communication Extending EPPO Competence

Thomas Wahl

News

On 12 September 2018, the European Commission tabled a proposal to extend the competences of the European Public Prosecutor's Office to include terrorist offences affecting more than one EU Member State (COM (2018) 641 final). The proposal was tabled in conjunction with Commission President *Jean-Claude Juncker's* 2018 State of the Union speech, held on 13 September 2018 before the Members of the European Parliament. In his speech, *Juncker* stated:

*"The European Union must also be stronger in fighting terrorism. In the past three years, we have made real progress. But we still lack the means to act quickly in case of cross-border terrorist threats. [...] I also see a strong case for tasking the new European Public Prosecutor with prosecuting cross-border terrorist crimes."*

The initiative was a contribution to the meeting of the EU leaders in Salzburg on 19-20 September 2018. The plans of Commission President *Juncker* to extend the mandate of the EPPO even before the new body becomes operational (planned for 2020) are not new. *Juncker* started the debate on a possible extension of the EPPO's mandate with a letter of intent to the EP-President and Estonian Prime Minister (then holding the Presidency of the Council) on 13 September 2017 (see eu crim 3/2017, p. 104).

According to the tabled Commission Communication, the fight against terrorism is a severe, ongoing problem that needs a comprehensive and strengthened EU response. Therefore, the EPPO will overcome existing gaps in the fight against cross-border terrorist offences – gaps are seen as follows:

- Fragmentation of terrorist crime investigations;
- Untimely exchange of information on terrorist cases between the national authorities and EU agencies;
- Poor collection, sharing, and use of sensitive types of evidence;
- Disconnection between investigation and prosecuting phase;
- Inefficient parallel investigations and prosecutions.

Against this background, the Communication is supplemented by an Annex containing a concrete proposal for the European Council to unanimously extend the EPPO's competence on the basis of Art. 86 para. 4 TFEU (i.e., unanimity required by all EU Member States, regardless of their current participation in the enhanced cooperation scheme of the EPPO). The new mandate of the EPPO would be linked to Directive (EU) 2017/541 and comprise "terrorist offences," "offences relating to a terrorist group," and "offences related to terrorist activities" (e.g., public provocation to commit a terrorist offence, recruitment, providing and receiving training for terrorism, travelling for the purpose of terrorism, organising or facilitating such

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travelling, and terrorist financing). This includes not only the commission of these offences, but also aiding, abetting, inciting, and attempting said offences.

The Commission hopes that the European Council may finally decide to agree on the extension of EPPO's mandate at the summit of the European Council in Sibiu/Romania on 9 May 2019 – after Brexit.

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