

Vergaderjaar 2012–2013

33 709

EU voorstel: Verordening oprichting Europees openbaar ministerie COM (2013) 534

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BRIEF VAN DE VICEVOORZITTER VAN DE EUROPESE COMMISSIE

Aan de Voorzitter van de Eerste Kamer der Staten-Generaal

Brussels, 17 July 2013

I am delighted to inform you that today the European Commission has adopted a legislative proposal on the establishment of the European Public Prosecutor's Office.

I attach a copy of the proposal as well as of the communication providing the policy context.

With this proposal, the Commission delivers what President Barroso has announced in his speech to the European Parliament on the State of the Union in September 2012 confirming the Commission's continued commitment to upholding the rule of law and in enhancing the protection of taxpayers' money to tackle most effectively fraud involving EU-funds.

Now it is the time to begin negotiations on this proposal thus bringing a long-awaited change in the area of prosecuting fraud and other offences that cause substantial damage to the Union's financial interests every year.

This legislative proposal is based on Article 86 of the Treaty on the Functioning of the European Union (TFEU), which provides the legal basis for the Union to act. By providing a clear legal framework and a strong institutional footing for the functioning of the future European Public Prosecutor's Office, I am convinced that the proposal fulfils the ambition of the Treaty and also responds to its objective of creating a common area of freedom, security and justice (Article 67 TFEU) and protecting the Union's financial interests (Article 325 TFEU).

As you will see from the text of the Regulation, the Commission proposes a decentralised and cost-efficient structure. The European Public Prosecutor's Office will have a decentralised structure, integrated into national judicial systems. Delegated European Prosecutors, who will be

national prosecutors, will carry out the investigations and prosecutions in the respective Member State, using national staff and applying national law. Their actions will be coordinated by the European Public Prosecutor to ensure a uniform approach throughout the EU. The whole structure is based on existing resources and should therefore entail few additional costs. National courts will be entrusted with the judicial review. A «College» often bringing together the European Public Prosecutor, the 4 deputies and 5 delegated prosecutors will ensure a seamless integration between the EU and the national level, notably by agreeing on general rules on the allocation of cases.

The proposal also guarantees a strong protection of procedural rights for individuals concerned by European Public Prosecutor's Office investigations. This includes for example the right to interpretation and translation, the right to information and access to case materials or the right of access to a lawyer in case of detention. In addition, the rules establishing the European Public Prosecutor's Office define other rights not yet harmonised by EU legislation, to ensure robust safeguards for procedural rights. These include the right to remain silent and be presumed innocent, the right to legal aid and the right to present evidence, and hear witnesses.

The proposal also sets out clear, harmonised rules on the investigative measures that the European Public Prosecutor's Office can use in its investigations, as well as provisions on the collection and use of evidence.

In short, the Commission is proposing the establishment of a European Public Prosecutor's Office capable of combatting fraud and other offences harming the Union's financial interests in an efficient, independent and accountable way, while providing the safeguards and protections that ensure that it acts under the Rule of Law and complies with the EU Charter of Fundamental Rights. To fulfil its mandate, this new Union body will rely on the continued commitment and assistance of national authorities.

The setting up of the European Public Prosecutor's Office entails certain adaptations of the current legal framework of Eurojust. The European Commission has therefore adopted a second legislative proposal today to establish links between the future European Public Prosecutor's Office and Eurojust. This proposal also seeks to modernise Eurojust's functioning and make it more operational as well as increasing the role of the European Parliament and of national Parliaments in the evaluation of its activities.

I call on the Member States and on the European Parliament to now rally behind this important project so that the European Public Prosecutor's Office can assume its functions by 2015. To this end I count on your support and in working together towards their adoption by the EU legislator at the earliest possible date.

Viviane Reding
Vice-President of the European Commission