



Council of the  
European Union

Brussels, 4 November 2020  
(OR. en)

11063/20  
COR 1

EPPO 38  
COPEN 255  
FIN 653  
GAF 43  
CSC 249

**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	State of play of the setting up of the EPPO

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Document ST 11063/20 INIT should not bear the distribution marking "LIMITE".

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Council of the  
European Union

Brussels, 28 September 2020  
(OR. en)

11063/20

**LIMITE**

**EPPO 38  
COPEN 255  
FIN 653  
GAF 43  
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Delegations will find attached the above mentioned document.

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**Non-paper from the Commission services and the European Public Prosecutor's Office  
(EPPO) on the state of play of the setting up of the EPPO**

This document presents an update on the preparatory steps taken in relation to the establishment process of the EPPO, as provided for by Council Regulation (EU) 2017/1939, highlighting the progress made since June.

- **Interim Administrative Director:** Following the resignation of the previous interim Administrative Director, the Commission designated a new interim Administrative Director, Mr Richard Sonnenschein, who took up his functions in June 2020.
- **European Prosecutors/EPPO College:** On 29 July 2020, the Council Implementing Decision appointing the 22 European Prosecutors was published in the *Official Journal* and entered into force. The EPPO College is thus formed and should hold its first official meeting on 28 September. Once the College will take up its duties, the Commission will cease to be responsible for the administrative operation of the EPPO.
- **Appointment of the European Delegated Prosecutors (EDPs):** Based on the number of EDPs provided for in the Commission's Draft Budget proposal for 2021, bilateral discussions are ongoing between the European Chief Prosecutor and national authorities to determine the required number of EDPs per each Member State (two at least). These discussions were significantly slowed down due to the COVID-19 pandemic.
- **Staff recruitment:** The recruitment of staff for the EPPO is on track. 70 staff budgeted for the EPPO in 2020 (including the 22 European Prosecutors) are expected to be recruited before the end of the year.

- **Budget:** For the 2021 draft budget, the Commission proposed EUR 37.7 million. This proposal is being discussed by the Budgetary Authority.
- **Case Management System (CMS):** The development of the EPPO CMS is ongoing and the delivery date is expected in October 2020. In parallel, Member States' connectivity is further advancing.
- **Premises:** The works on the EPPO premises located in the Tower B building (floors 1-5) together with its Annex on the Kirchberg Plateau in Luxembourg have commenced in January 2020 with the aim of being completed by November 2020. Due to some delays because of the COVID-19 pandemic, the EPPO premises should be delivered in early 2021. This has no impact on the start date since until delivery the EPPO staff can continue to work at the transitional workplace in Luxembourg.
- **Delegated Act on personal data and data subjects:** Article 49(3) of Regulation (EU) 2017/1939 empowers the Commission to adopt delegated acts to list the categories of operational personal data and the categories of data subjects whose operational data may be processed by the EPPO in the index of the EPPO's Case Management System. The Commission consulted the Article 20 Expert Group on a draft text for a Commission Delegated Regulation on 8 May 2020 and the European Data Protection Supervisor on 3 July 2020 and published it for public feedback until 3 September 2020. The text is expected to be adopted in October.
- **Cooperation with third countries/Council of Europe Conventions:** At the last meeting of the Working Party on Cooperation in Criminal Matters (COPEN) on this topic on 22 September 2020, the delegations agreed upon the text of the declaration for the notification of the EPPO as a competent judicial authority for the purpose of the 1959 European Convention on Mutual Assistance in Criminal Matters and its Protocols.

- **Non-participating Member States:** This matter was first discussed at the COPEN meeting on 16 July 2020. These discussions continued at the COPEN meeting of 22 September 2020, where the delegations agreed upon the paper drafted by the German Presidency on the interpretation of the Directive on the European Investigation Order for the purpose of its application between the EPPO and the competent authorities of non-participating Member States.
- **Adaptations to the EPPO Regulation:** The Article 20 Expert Group discussed on 30 June 2020 the state of play of the national implementation measures. It emerged that some Member States have progressed and defined the elements necessary in their legislation to accommodate the EPPO. However, for many Member States, not all the necessary legislation has yet completed the legislative procedure. The Commission continues to monitor the legal and administrative adaptations in the Member States that are needed to comply with the EPPO Regulation.
- **PIF Directive:** Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law (PIF Directive) was due to be transposed on 6 July 2019. The Commission is carrying out a transposition check. To date, 23 Member States notified the Commission stating that they transposed the Directive completely, while three Member States (two of them participating in the EPPO) stated that they transposed the Directive in part. Denmark does not take part in the Directive. For those Member States that have not yet notified full transposition, the Commission is pursuing the infringement procedures, also mindful of their relevance for the decision on the EPPO's start of operations.

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