**Discussion paper for the technical meeting ahead of the second plenary of the High-Level Forum on the Future of EU Criminal Justice**

**29 April 2025**

**Topic: The European Public Prosecutor’s Office (EPPO)**

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The European Public Prosecutor’s Office (EPPO) is the independent EU body competent to investigate and prosecute crimes affecting the Union’s financial interests, in accordance with Council Regulation (EU) 2017/1939 (‘EPPO Regulation’). The EPPO started its operations on 1 June 2021.

In October 2023, an external study[[1]](#footnote-2)contracted by the Commission on the Member States’ compliance with the EPPO Regulation was completed. The study flagged possible issues of non-compliance of Member States legislation with the EPPO Regulation[[2]](#footnote-3). On this basis the Commission started bilateral discussions with almost all Member States to clarify the identified problems.

In addition, the external study also addressed some issues concerning the effectiveness and efficiency of the EPPO, which are related to the wording of the Regulation itself and do not depend on the Member States’ implementing legislation.

**1) Evaluation and possible revision of the EPPO Regulation**

The outcome of the study will be taken into account in the context of the forthcoming evaluation of the EPPO Regulation, which is due by 1 June 2026 (Article 119(1) of the EPPO Regulation) and for which the Commission has started the preparatory work.

Some key areas to be addressed in the evaluation include, but are not limited to, the following aspects: (i) competence, exercise of competence of the EPPO and resolution of conflicts of competence; (ii) other procedural rules, including on evocation and cross-border investigations, and the rules on procedural safeguards; (iii) governance and staff, including the selection/appointment procedure of the European Prosecutors and the status of European Delegated Prosecutors; (iv) rules on translations, access to databases and data protection; (v) relations with institutions, bodies, offices and agencies of the Union, as well as with non-participating Member States, third countries and international organisations. If necessary, on the basis of the outcome of the evaluation, the Commission could submit a legislative proposal to revise the EPPO Regulation.

A revision of the EPPO Regulation can be done in accordance with a special legislative procedure, requiring the Council to act by unanimity of the Member States participating in the EPPO, after obtaining the consent of the European Parliament. At the same time, in accordance with Article 333(2) TFEU, where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts under a special legislative procedure, the Council, by unanimity, may adopt a decision stipulating that it will act under the ordinary legislative procedure. The activation of this passerelle clause would therefore allow to modify the EPPO Regulation by qualified majority of the Member States participating in the EPPO.

**2) The EPPO’s competence and its possible extension**

The EPPO is currently competent for:

1. crimes affecting the Union’s financial interests, as defined in Directive (EU) 2017/1371 (PIF Directive), i.e. fraud, corruption, misappropriation and money laundering of property derived from these crimes (‘PIF crimes’);
2. crimes inextricably linked to PIF crimes; and
3. offences regarding participation in a criminal organisation, if the focus of the criminal organisation is to commit PIF offences.

Pursuant to Article 86(4) TFEU, an extension of the EPPO’s competence to any area of ‘serious crime having a cross-border dimension’, beyond crime affecting the Union’s financial interests, requires a unanimous decision of the European Council (with all its 27 members), which is to be taken after obtaining the consent of the European Parliament and after consulting the Commission.

The political guidelines of President von der Leyen and the mission letter of Commissioner McGrath require a reflection on areas in which the EPPO might need more powers to look at cross-border serious crime, in particular corruption impacting Union funds and cannot be handled alone by Member States.

In the past years, the possibility of extending the competence of the EPPO has been discussed with a view to a number of areas, including cross-border terrorism, environmental crime and violation of Union restrictive measures. In particular, the latter has been extensively debated in the institutions, for example following a statement from the German and French Ministers of Justice of November 2022, speeches of the European Chief Prosecutor and calls from the European Parliament.

**3) The EPPO’s relations with other relevant EU agencies and bodies**

The EPPO has concluded several working arrangements with other EU agencies and bodies, including with Eurojust, Europol and OLAF. These arrangements include provisions on cooperation in institutional, strategic and operational matters applicable to all areas of their respective competences, and the establishment of Liaison Teams. Cooperative relations among these actors, within their respective mandates, are crucial for the effective protection of the Union’s financial interests. Operational cooperation is notably facilitated by the bilateral indirect access to information in their respective case management systems, based on hit/no hit systems.

Against this background and with a view to allowing the High-Level Forum to have an open discussion, experts are invited to share their views on the following topics:

**1) Evaluation and possible revision of the EPPO Regulation** – In view of the forthcoming evaluation and possible revision of the EPPO Regulation, which changes to the existing provisions of that Regulation, if any, would you consider necessary? Similarly, do you consider that the EPPO Regulation should include new provisions on issues that are not yet covered by the Regulation? Should the passerelle clause of Article 333(2) TFEU be activated before any proposal to revise the EPPO Regulation is presented, to facilitate the legislative process and avoid the risk of not being able to deliver a satisfactory revision?

**2) The EPPO’s competence and its possible extension** - Do you consider the EPPO’s competence should be extended, and if so, to which area(s) of crime? Would you support such extension if it is proposed?

**3) The EPPO’s relations with other relevant EU agencies and bodies** – Do you consider the EPPO’s relations with other EU agencies and bodies (notably Eurojust, Europol and OLAF) could be improved and, if so, how? How should the EPPO be included in the future digitalisation of judicial cooperation in the Union? As regards the exchange of data between the relevant EU agencies and bodies, do you consider the current hit/no-hit mechanisms and their corresponding legal framework sufficient? Would you see the added value of introducing semi-automated data exchanges between the EPPO, Eurojust, Europol and OLAF?

1. [Final Report -External Study commissioned by DG JUST on the EPPO - 29.09.2023\_en.pdf](https://www.europarl.europa.eu/cmsdata/280160/Final%20Report%20-%20DG%20JUST%20Study%20on%20the%20EPPO%20-%2029.09.2023_en.pdf) [↑](#footnote-ref-2)
2. These issues mostly concerned whether: (i) all national authorities can directly report cases to the EPPO; (ii) a court or tribunal can solve conflicts of competence between the EPPO and the national prosecutors; (iii) the EPPO is the ‘master’ of its investigations (e.g., its investigative and prosecutorial role is not limited by investigative judges or other authorities); (iv) the EPPO can investigate all categories of persons (e.g., no limitation vis-à-vis former or serving members of the Government); (v) the EPPO can plead cases before all national courts, including Supreme Courts; and (vi) the EPPO is independent from national authorities. [↑](#footnote-ref-3)