

THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE: A theoretical analyse of the proposed regulation for establishment of a European Public Prosecutor's Office

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Abstract

Establishing a new European body, namely, European Public Prosecutor's Office, could be described as one of the sensitive issues currently under discussion within the European Union, especially in the context of the serious economic crisis that hit in the last 5 years both the European Union and the national economies, as well as their difficult recovery.

The author's intention is to describe the events proceedings the discussions to regulate the possibility to establish this concept in the Treaty of Lisbon, including a theoretical analysis of the regulation proposed by the European Commission in accordance with Article 86 TFEU to establish this new body of the European Union having as main goal to investigate, prosecute and bring to justice those who commit criminal offences affecting the Union's financial interests.

The author's conviction is that if agreed to be establish, this new body could change Europe's judicial landscape, from various reasons. One of these reasons is that this new European Public Prosecutor's Office will constitute a network of around 100 prosecutors in charge to investigate and prosecute suspects for defrauding EU funding programs.

Keywords: *Treaty of Lisbon, Article 86 TFEU, European Public Prosecutor's Office, European institutions, Eurojust*

I. Introduction

The necessity to help the candidates states from the Central and Eastern Europe¹, during the 2000s, to get the membership of the European Union by achieving the accession conditions (especially the Copenhagen criteria, 1993), implied on the one hand ensuring an adequate pre-accession financial assistance to these candidates as one of the key factors in the Union's pre-accession strategy, and on the other hand ensuring considerable investments helping in aligning their economies with the European economy.

In this context, the officials of the European Commission established three pre-accession financial instruments, as follows: PHARE (Council Regulation no.3906/89)², focused on two main priorities: Institution Building and acquis-related Investment; ISPA³ (Council Regulation no.1267/99), supporting large-scale infrastructure projects in the fields of transport and environment, in a 50% - 50% proportion; SAPARD⁴ (Council Regulation

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¹ Bulgaria, Czech Republic, Hungary, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia.

² PHARE means "Poland Hungary Aid for Reconstruction of the Economy"; It was published in Official Journal L 375 of 23.12.1989, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31989R3906:EN:NOT> (last accessed 03.04.2014).

³ ISPA represents "Instrument for Structural Policies for Pre-Accession". It was published in Official Journal L 161 of 26.06.1999, available at: http://www.mrrfeu.hr/UserDocsImages/EU_fondovi/Uredba_Vijeca_1267_1999_1.pdf (last accessed 03.04.2014).

⁴ SAPARD means "Special Accession Programme for Agriculture and Rural Development". It was published in Official Journal L 161 of 26.06.1999, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:161:0087:0093:EN:PDF> (last accessed 03.04.2014).

no.1268/99) helping to prepare the countries for taking on the acquis in the fields of agriculture and rural development, to which the special pre-accession instrument for Turkey⁵ was added, all of these instruments being in force between 2000 and 2006 and involving billions of Euros. Much more, according to the European Commission⁶, the financial aid ensured through these instruments to the tenth countries in the Central and Eastern Europe, that joined EU in two waves of accession, in May 2004 and January 2007, plus Turkey, as candidate state, have been up to € 3,351 million, annually.

Starting with 2007 onwards, a new instrument is applied by the officials in Brussels, namely the Instrument for Pre-accession Assistance (IPA), replacing the pre-accession instruments, the special pre-accession instrument for Turkey and, finally, the CARDS programme created for the Western Balkan countries⁷. Thus, the European Union through the IPA financial program⁸ supports reforms in the “enlargement countries” with financial and technical help and funds, which only for the period 2007-2013 have been 11.5 billion €. In addition, the IPA program is made up of five components: support for transition and institution-building; cross-border cooperation; regional development; human resources development and rural development.

Once a former candidate member join the Union, it receives a temporary post-accession financial assistance, called the Transitional Facility, provided for by the Treaty of Accession to the EU, as it was the case of the countries that joined the EU in 2004, 2007, and 2013. In other words, this financial assistance is meant to strengthen the new Member States’ administrative capacity to implement the European legislation and to encourage exchange of the best practices among peers. The temporary financial assistance addresses the need for strengthening institutional capacity in certain areas through actions which could not be financed by the Structural Funds⁹.

Bearing in mind the short presentation of the main pre and post – accession financial assistance programs few questions arise, namely: at the European level exists an official body in charge in investigating the correctness of using the European funds, prosecuting and bringing to judgment the perpetrators of offences affecting the Union’s financial interests, and to what extent such body is useful for the European society, filling thus the institutional gap existed at the European level, but without interfering with the attributions of other EU bodies, such as: European Anti-Fraud Office (OLAF), Eurojust and Europol?

In this paper, we will try to give a general overview of the newest instrument proposed by the European Commission in July 2013, based on Article 86 TFEU.

⁵ This financial instrument was established by Council Regulation (EC) no.2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey and amending Regulations (EEC) no.3906/89, (EC) no.1267/1999, (EC) no.1268/1999 and (EC) no.555/2000, published in Official Journal L 342 / 27.12.2001, available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=EN&numdoc=32001R2500 (last accessed 03.04.2014). The said regulation reiterated the Commission’s objective to establish pre-accession financial assistance, on average, at an annual level of 177 million Euros.

⁶ General Report on Pre-Accession Assistance (Phare – Ispa – Sapard), Report from the Commission, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0844:FIN:EN:PDF> (last accessed 03.04.2014).

⁷ The intention of the CARDS program was to provide Community assistance to the countries of South-Eastern Europe with a view to their participation in the stabilisation and association process with the European Union, available at: http://europa.eu/legislation_summaries/enlargement/western_balkans/r18002_en.htm (last accessed 03.04.2014).

⁸ The beneficiary countries are: Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Iceland, Kosovo, Montenegro, Serbia, and Turkey, available at: http://ec.europa.eu/enlargement/instruments/overview/index_en.htm (last accessed 03.04.2014).

⁹ Available at: http://ec.europa.eu/enlargement/policy/glossary/terms/transition-facility_en.htm (last accessed 03.04.2014).

II. Historical approach in designing the concept of a European Public Prosecutor's Office

The fraud and the high rate of criminal misapplication of the European money affects, generally speaking, all the citizens of the European Union, especially nowadays, when the Europe is passing through one of the most serious economic crisis and budgetary restriction of its history where the need to investigate, prosecute and bring to justice of those who commit criminal offences affecting the Union's financial interests it is more important than ever¹⁰.

In this context, the establishment of a European body in charge with investigating, prosecuting and bringing to judgment the perpetrators of such offences, namely the European Public Prosecutor's Office (EPPO), represents rather an obligation than a possibility as it was stipulated in Article 86 TFEU. Furthermore, this issue represents one of the most debated topics in the European Union, mainly due to the adoption of the Lisbon Treaty, which regulates the concept of such body at the level of primary EU law, offering two modalities to create it, namely: "a special legislative procedure" and the consolidate or enhanced cooperation when a draft regulation initiated by "a group of at least nine Member States" can be "referred to the European Council", which is the institution in charge to define the general political direction and the main priorities of the European Union, in order to adopt it.

Historically, the discussions on the need to explain the role, competences, structure and other technical aspects related to a proper operation of EPPO, started long time ago, more precisely at the middle of 1990s, when the European Commission tasked a group of experts to draft a *Corpus Juris* having as clear objective to provide for the basic principles for the protection of the financial interests of the European Union¹¹.

Following a hard working of several years, in 1997 the *Corpus Juris* was published¹² and included in Article 18 the proposal to introduce a European Public Prosecutor as "an authority of the European [Union], responsible for investigation, prosecution, committal to trial the offences defined [in the proposal], [...] being independent as regards both national authorities and [European] institutions", meaning that this office will not receive any legal or political dispositions coming from the officials of the national authorities or the European institutions.

The provisions of the *Corpus Juris* have been amended later, in 1999 following a conference held in May of the same year in Florence at the European University Institute (Florence - Fiesole), which provoked since then a significant response determined by its enormous interest for practitioners, experts, scholars and professional public in the field¹³.

Briefly, the *Corpus Juris* is characterised as a simplified approach of criminal law and criminal procedures, which was drawn up exclusively for the area of protecting the financial interests of the European Union¹⁴. This project do not have a binding nature; the provisions are recommendations to be taken into account by the European legislator, and the proposals *de lege ferenda* have as main goal the creation of a European judicial area, ensuring more effective cooperation in relation to protecting the financial interests of the European Union¹⁵.

¹⁰ Available at: http://ec.europa.eu/justice/criminal/judicial-cooperation/public-prosecutor/index_en.htm (last accessed 03.04.2014).

¹¹ Available at: http://eurojust.europa.eu/doclibrary/corporate/newsletter/Eurojust%20News%20Issue%208%20%28May%202013%29%20on%20the%20creation%20of%20a%20European%20Public%20Prosecutor%20Office/EurojustNews_Issue8_2013-05-EN.pdf (last accessed 03.04.2014).

¹² Available at: http://ec.europa.eu/anti_fraud/documents/fwkgreenpapercorpus/corpus_juris_en.pdf (last accessed 03.04.2014).

¹³ Ladislav Hamran and Eva Szabova, 'European Public Prosecutor's Office – Cui Bono?', *New Journal of European Criminal Law*, Vol. 4, Issue 1–2, 2013, p. 40-41.

¹⁴ Available at: http://ec.europa.eu/justice/criminal/judicial-cooperation/public-prosecutor/index_en.htm (last accessed 09.04.2014).

¹⁵ Norel Neagu, 'The European Public Prosecutor's Office – Necessary Instrument Or Political Compromise?', *Law Review*, vol. III, issue 2, July-December 2013, p. 55.

Finally, the *Corpus Juris* comprises 35 articles arranged into two main sections, namely the substantive law (articles 1–17) and the procedural law (articles 18–35). The project managed to incorporate into one, all the sections of the criminal law protection of the financial interests of the European Union, though legally non-binding document, and to overcome the apparently insurmountable differences between the three main judicial systems in the European Union (Anglo-Saxon, Continental and Mixed Scandinavian)¹⁶.

As the main aim of the *Corpus Juris* was to be achieved through the establishment of the EPPO, the provisions on the European Public Prosecutor are accorded the greatest importance, being contained in the procedural section, specifically from Articles 18 to 24, which are dealing with the status and structure of the EPPO, the start of proceedings, the performance of investigations, the conduct of prosecutions and the tasks of a European Public Prosecutor when making decisions¹⁷.

Despite the fact that at the beginning Member States have been reluctant to the ideas contained in the *Corpus Juris*, yet the project won the full political and legal supporting from the European Parliament and the European Commission. Much more, the project stipulated very clear that the European Commission shall provide a legal basis for the creation of the EPPO.

In this context, through its specialised service, Legal Service, the European Commission presented a proposal at a meeting within the Intergovernmental Conference in Nice (2000), with the aim of making the relevant amendment to the founding Treaty on the European Union. The proposal was not adopted by the European Council due to the lack of time to analyse it, the need for a more detailed examination of the practical consequences of creating a European Public Prosecutor¹⁸, and the lack of Member States' support¹⁹ which for the moment rejected the concept of a European 'supranational' *parquet*, given the sensitivity of the issues raised in the proposal from the political and institutional viewpoints²⁰.

The European Commission in accordance with its action plan for 2001–2003 on protecting the Communities' financial interests adopted a Green Paper on Criminal Law Protection of the Financial Interests of the European Community and the Establishment of a European Prosecutor²¹, where the principle goal was to offer an in-depth presentation of the European Public Prosecutor proposal to the professional public, and to define realistic conditions for the implementation of this instrument, especially when the *Corpus Juris* provided a direct impulse for drafting this document.

Describing summarily the form of the Green Paper, one can notice that it was very specific and it took the form of a questionnaire, in which the European Commission raised specific questions related to various issues, such as: the status of the European Public Prosecutor; appointment and dismissal, responsibility for serious errors in the performance of the role; the organisation structure of the EPPO and the basic principles of its operation; the method of investigation, detention of persons or items; the relations between the European Public Prosecutor and the national public prosecutors and with other EU bodies and offices,

¹⁶ Ladislav Hamran and Eva Szabova, op.cit., p. 42.

¹⁷ Ibid.

¹⁸ Report Outline for a conference assessing the Commission proposal to establish a European Public Prosecution Office (EPPO) - Criminal Law protection of European financial interests: a shared constitutional responsibility of the EU and its Member States?, T.M.C. ASSER Institute, Centre for International and European Law, May 2013, p.2, available at: <http://www.asser.nl/upload/documents/20130614T041004-Asser%20EPPO%20Conf%20%20Outline%20May%202013.pdf> (last accessed 09.04.2014).

¹⁹ Fifteenth Report of Session 2013–14 called "European Public Prosecutor's Office: Reasoned Opinion Reform of Eurojust European Anti-Fraud Office", The House of Commons, London, 2013, p.8.

²⁰ Katalin Ligeti and Michele Simonato, 'The European Public Prosecutor's Office: Towards A Truly European Prosecution Service?', *New Journal of European Criminal Law*, Vol. 4, Issue 1–2, 2013, p.8.

²¹ Green Paper on Criminal Law Protection of the Financial Interests of the European Community and the Establishment of a European Prosecutor, Brussels, 11 December 2001, COM (2001) 715 final, available at: http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0715en01.pdf (last accessed 03.04.2014).

questionnaire to which commentaries, analyses and opinions²² have been made and sent to the European Commission.

Therefore, the European Commission's efforts to create a European Public Prosecutor, as a stand-alone body, officially recognised in a treaty, either by means of an amendment to Article 280 of the Treaty establishing the European Community (TEC), or as a new supplementary Article 280A to the TEC were not approved by the Intergovernmental Conference in Nice, which instead adopted a decision on the incorporation of Eurojust into the Treaty Establishing the European Union, as one of the first body in charge in fight against serious organised crime at the level of the European Union²³.

Once the Treaty of Lisbon was signed on 13 December 2007 and entered into force on 1 December 2009, the efforts to enshrine an EPPO into the EU primary law, finally succeed, having as source of inspiration former Article III-274 of the proposed EU Constitution. In addition, through the Lisbon Treaty, the EU Area of Freedom, Security and Justice provided for development of several fields, where improvements of the legal and institutional framework aimed at combating in a more effective way the offences affecting trafficking of human beings, organised crime, including the EU's financial interests, by taking into consideration the possibility of establishing a European Public Prosecutor's Office from Eurojust, as one of the major challenges for the modern Europe²⁴.

Bearing in mind the lack of any explanatory provisions in the Treaty of Lisbon as concern the modality to create a European Public Prosecutor's Office, we share the opinion²⁵ that the Treaty of Lisbon envisaged a progressive transformation of Eurojust into a European Public Prosecutor's Office. If accepting this idea, another question arises: what are the forms to transform Eurojust, by merging the existing institution of Eurojust and the newly-established EPPO, or by transferring the former powers of Eurojust defined under the Council Decision on Eurojust to the EPPO?

In this context, the future debates on the proposal for a Regulation on the establishment of a European Public Prosecutor's Office will indicate us which of the forms will be choose, as well as the tasks, responsibilities and other issues that will be given to the European Public Prosecutor's Office.

III. Establishing a European Public Prosecutor's Office in the context of Article 86 TFEU and of the European Commission's proposed regulation

Based on the problems existed at the European level concerning the hundred million of Euros coming from the European funds that are fraudulently diverted from their intended purpose every year by the corrupt players²⁶, we should underline that only a small part of this amount is effectively recovered through judicial techniques, taking in account its significant potential damage caused to the European financial interests²⁷. For this reason, the drafters of the Treaty of Lisbon adopted specific provisions, particularly Article 325 TFEU, to determine the Union and Member States "*to counter fraud and other illegal activities affecting the*

²² Ladislav Hamran and Eva Szabova, op. cit., p.43.

²³ More information about Eurojust is available at: <http://eurojust.europa.eu/Pages/home.aspx> (last accessed 03.04.2014).

²⁴ Carlos Zeyen, Conference « The Challenges of Transnational Investigation » Birmingham, 21-23 March 2013, 'The Role Of Eurojust in a European Public Prosecutor's Office', p.1, available at: [http://www.birmingham.ac.uk/Documents/college-arts-law/ija/transnational/\(6b\)CarlosZeyenwrittenpresentationUniversityofBirmingham.pdf](http://www.birmingham.ac.uk/Documents/college-arts-law/ija/transnational/(6b)CarlosZeyenwrittenpresentationUniversityofBirmingham.pdf) (last accessed 03.04.2014).

²⁵ Ladislav Hamran and Eva Szabova, op. cit., p.47.

²⁶ Study *Deterrence of fraud with EU funds through investigative journalism in EU-27*, Policy Department D: Budgetary Affairs, Directorate General for Internal Policies, 13.09.2012, p.96, available at: www.europarl.europa.eu/document/activities/cont/201210/20121002ATT52809/20121002ATT52809EN.pdf (last accessed 04.04.2014).

²⁷ Report, Initial appraisal of a European Commission Impact Assessment European Commission proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office, December 2013, p.1.

financial interests of the Union” and “*to afford effective protection to those interests*”, inserting in the same time a new article, namely Article 86 para.1 TFEU which incorporates the issue of establishing a European Public Prosecutor “*from Eurojust*”, “[...] *by means of regulations adopted in accordance with a special legislative procedure [...]*” by the Council, with the aim “*to combat crimes affecting the financial interests of the Union*”.

Immediately after the adoption of the TFEU, discussions started as regards the meaning of the term “*from Eurojust*”²⁸, which so far has been interpreted in many ways, due to the lack of a common consensus on its meaning and subsequent practical implementation between the parties involved in taking this decision, among which we mention few of them, as follows:

- EPPO will be created as a specialised unit within Eurojust;
- EPPO will be merged with Eurojust in order to create one body, with separate tasks and responsibilities in the field of organised crime;
- EPPO will become an additional member of Eurojust, and an EPPO representative will participate in the meetings of the College of Eurojust, whenever the criminal cases affecting the financial interests of the European Union will be discussed;
- EPPO will be established as an independent body that will stand outside the Eurojust structure, but will make use of Eurojust’s professional experience and knowledge;
- EPPO will be created as an independent body supported by a small team and secretariat provided by Eurojust etc.

Since the term “Eurojust” have been mentioned several times, we should highlight that according to Article 85 para.1 TFEU, Eurojust is a body, with legal personality, established by the Council Decision 2002/187/JHA of 28 February 2002²⁹ setting up Eurojust with a view to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious cross-border crimes, while its objectives arises from Article 3 of the said decision.

On the other side, the said article makes no mention of how a future EPPO will look in terms of its structure or organisation, responsibilities, tasks to fulfil, relations with other European and international bodies.

After long negotiations and based on Article 86 TFEU, on 17 July 2013 the European Commission proposed a Regulation on the establishment of a European Public Prosecutor's Office (EPPO), in charge with combating crimes affecting the financial interests of the Union by means of investigation, prosecution and bringing to judgment the perpetrators of such offences³⁰, which in the eyes of the President of the European Commission, José Manuel Durão Barroso this proposal “*confirms the Commission commitment to upholding the rule of law [and] it will decisively enhance the protection of taxpayers’ money and the effective tackling of fraud involving EU funds [...]*”³¹. Furthermore, we consider that this proposal is an important step towards a more efficient fight against this phenomenon affecting more and more the Union’s budget, as well as to improve the trust of citizens in the institutions, especially when Europe is passing a difficult period of economic crisis. Another reason for establishing body is that the existing European bodies (OLAF, Eurojust and Europol) do not have and cannot be given the mandate to conduct criminal investigations³².

²⁸ Marianne L. Wade, ‘A European public prosecutor: potential and pitfalls’, *Crime, Law and Social Change*, Volume 59, Issue 4, May 2013, p.441.

²⁹ It was published in Official Journal L 063 of 06/03/2002, as amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Council Decision 2002/187/JHA, published in Official Journal L 138 of 04.06.2009.

³⁰ Available at: http://ec.europa.eu/anti_fraud/policy/european_public_prosecutor/index_en.htm (last accessed 03.04.2014).

³¹ Available at: http://europa.eu/rapid/press-release_IP-13-709_en.htm (last accessed 03.04.2014).

³² Available at: http://ec.europa.eu/justice/criminal/judicial-cooperation/public-prosecutor/index_en.htm (last accessed 03.04.2014).

“With today’s proposal the European Commission is delivering on its promise to apply a zero tolerance policy towards fraud against the EU budget [...]”³³, concluded Vice-President Viviane Reding, while the principles envisaged by the proposed regulation are: effectiveness, independence and accountability.

As regards the key features³⁴ of the proposed regulation on EPPO, in the following we will mention only few, since the topic is still under debate and these features can change:

- a. EPPO would be an independent office, subject to democratic oversight and accountable before the European Parliament, Council and the national Parliaments;
- b. EPPO would be a decentralised body of the European Union, composed of European Public Prosecutor and Delegated European Prosecutors located in the Member States and embedded in the national judiciary, carrying out in the same time investigations and prosecutions using national staff and would generally apply national law;
- c. EPPO would generally apply national law for the execution of its tasks, relying on in the same time on a limited body of essential EU wide rules for uniform powers and protection of procedural rights;
- d. Finally, EPPO would respect the rule of law and the Charter of Fundamental Rights of the European Union in achieving its investigations and prosecutions, while investigation measures that touch mostly on fundamental rights as e.g. telephone interception and other means of interception, will need a prior authorisation by a national Court. Much more, the EPPO’s investigations will be subject to judicial review by the national courts.

Describing briefly the regulation³⁵, we can see that the objectives envisaged are, as follows:

- To strengthen the protection of the Union’s financial interests and further development of an area of justice, and, implicitly, to enhance the trust of EU businesses and citizens in the Union’s institutions;
- To establish a coherent European system for investigation and prosecution of perpetrators of offences affecting the EU’s financial interests;
- To enhance deterrence of committing offences affecting the EU’s financial interests;
- To increase the number of prosecutions, leading to more convictions and recovery of fraudulently obtained Union funds;
- To ensure close cooperation and effective information exchange between the European and national competent authorities.

Bearing in mind the above mentioned, it is worth mentioning the added value of the EPPO, namely to be a genuine European prosecution policy that will investigate and prosecute all EU fraud cases and complex cross-border cases, ensuring in the same time a uniform, consistent and systematic approach while linking in with Member States’ judicial systems.

The European Commission’s proposal for a Regulation on the establishment of the European Public Prosecutor’s Office has been discussed in the COPEN working group³⁶ since October 2013, while a report containing a summary of the developments on the file and the conclusions of the former Lithuanian Presidency on 20 December 2013 have been presented in the first meetings of the Working Group under the Hellenic Presidency of the Council which took place between January and March 2014, where the negotiations on the instrument continued, taking into account also the point of views expressed by the national parliaments.

³³ Available at: http://europa.eu/rapid/press-release_IP-13-709_en.htm (last accessed 03.04.2014).

³⁴ Available at: http://ec.europa.eu/anti_fraud/policy/european_public_prosecutor/index_en.htm (last accessed 03.04.2014).

³⁵ Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0534:FIN:EN:PDF> (last accessed 03.04.2014).

³⁶ Working Party on Cooperation in Criminal Matters.

Much more, the proposal has also been discussed in CATS³⁷ committee of the Council, in February 2014, in particular regarding the appropriate level of decision-making within the EPPO, where the idea was to settle down a clear delimitation of powers of decision between the Central Office of the EPPO and the European Delegated Prosecutors based in the Member States.

As concern the further steps in this dossier, both the Hellenic Presidency and the Italian Presidency³⁸ will continue to work on the most relevant issues of the proposal, such as: institutional and procedural relations with Eurojust, procedural safeguards, judicial review, admissibility of evidence, jurisdiction of EPPO, exercise of competence etc., while the specialised ministries of the 28 Member States will be invited, within a well-established procedure, to give their own opinions and to make comments on these issues.

IV. Conclusions

Although a useful instrument in prosecution and judging the perpetrators who commit criminal offences affecting the Union's financial interests, we share the opinion of André Klip³⁹, who said that Article 86 TFEU instead giving all the necessary answers, provides more questions to which the European institutions and the Member States should respond, especially when have been designed at least four models for establishing EPPO, all of them involving another European body, namely Eurojust, especially when the European Commission justified the necessity to create a European Public Prosecutor's Office by the fact that the Member States' action to tackle "*fraud and illegal activities affecting the EU*" financial interests was not uniform and effective.

Many another questions relating to this body remain unanswered for the moment, despite more than a decade of continuous discussion and negotiations, if we take into account also those occurred during the meetings of the European working groups involved in analyzing this issue.

Establishing of a European Public Prosecutor's Office has been also analysed in the doctrine from a European constitutional viewpoint⁴⁰, although from our perspective it represents an interesting approach especially when we believe that the drafters of this regulation never thought to deal with the constitutional aspects of this issue, and the proposed regulation seems to be a very technical instrument offering in a way or another "a helping hand" in fight against organised crime, in general, and against the offences affecting the EU's financial interests, in particular.

Therefore, in this paper, the aim was to present briefly the main features of the proposed regulation in order to have a general idea of what means EPPO, while an in-depth analyse of this instrument, including the relations of EPPO with Eurojust and OLAF, the delegated representatives of EPPO, the EPPO's structure and organization, tasks and responsibilities and other aspects will be the subject of a separate study.

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³⁷ Co-ordinating Committee on the area of Police and Judicial Cooperation in Criminal Matters.

³⁸ Between 1 July and 31 December 2014.

³⁹ Klip André, *European Criminal Law*, Antwerp, Intersentia, 2009, p. 410.

⁴⁰ Simone White, 'Towards a decentralised European Public Prosecutor's Office', *New Journal of European Criminal Law*, Vol. 4, Issue 1-2, 2013, p.22.

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