



SEIMAS OF THE REPUBLIC OF LITHUANIA
COMMITTEE ON EUROPEAN AFFAIRS

OPINION

**ON THE EUROPEAN COMMISSION PROPOSAL FOR A COUNCIL REGULATION
ON THE ESTABLISHMENT OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE**

16 July 2014 No V-2014-4174

Vilnius

Pursuant to the consistent position set out in the Conclusions of the Seimas Committee on European Affairs of 11 October 2013 on the potential conflict with the principle of subsidiarity of the European Commission Proposal for a Council Regulation (COM (2013) 534) on the establishment of the European Public Prosecutor's Office (hereinafter referred to as the Proposal), which concurrently endorsed the insights formulated in the Conclusions of the Seimas Committee on Legal Affairs of 2 October 2013,

having heard the information from the Ministry of Justice on the results of the negotiations on the Proposal in the Council of the European Union,

having examined the Opinion of the House of Representatives of the Dutch Parliament on the Proposal of 11 April 2014,

having regard to the Protocol Resolution of 16 July 2014 of the Seimas Committee on Legal Affairs regarding the Opinion of the House of Representatives of the Dutch Parliament on the Proposal,

supporting the opinion of the Seimas Committee on Legal Affairs, expressed on 16 July 2014 in the Committee Conclusions on the Proposal (ES-13-137),

the Committee on European Affairs of the Seimas of the Republic of Lithuania

1. emphasizes that effective protection of the EU's financial interests is very important and should be ensured through appropriate measures both at national and the EU level; therefore, the Committee welcomes the initiative of the European Commission to strengthen the protection of the Union's financial interests by establishing a European Public Prosecutor's Office, thus creating a single system for investigation and prosecution of offences affecting the EU's financial interests, and ensuring close cooperation and

effective exchange of information between the competent European and national authorities.

2. opposes the model of management of the European Public Prosecutor's Office (hereinafter referred to as the EPPO) defined in the Proposal, where a hierarchical structure with a single head of the EPPO is envisaged. The Committee considers that rather than being supranational, the new Office should be a collegial body helping Member States to cooperate. Therefore, the Committee supports the compromise document drafted by the Greek Presidency in the light of the discussions in the Council of the European Union (hereinafter referred to as the Council), and in particular supports the proposed collegial model of governance of the EPPO, where strategic and horizontal solutions are taken in a college that consists of representatives of Member States and is co-ordinated by the Chief Prosecutor; and where direct supervision of investigation is coordinated by the European Prosecutor of the Member State where the investigation is being carried out. The Committee notes that the provisions on the remit of the college, the permanent colleges, the European and Delegated Prosecutors, as well as the provisions governing their interaction should be drafted in a way to ensure the implementation of the principles of efficiency and due speed of investigation.
3. agrees that the Proposal provisions fail to provide clarity on the competence of the EPPO. The Committee welcomes the intention to maintain the sovereignty of the Member States. Therefore, the Committee considers that the exclusive competence of the EPPO to deal with the offences affecting the EU's financial interests should not mean that Member States cannot take any action in the field. The remit of the EPPO should be sufficient to meet its objectives, without extending it to an unreasonable extent. The Proposal should include clear criteria for distinguishing between the competence of the EPPO and that of the Member States. The Committee considers that the Proposal should be accompanied by a proposal for a directive specifying the offences that affect the EU's financial interests and fall within the remit of the EPPO. As regards the additional competence of the EPPO to investigate offences associated with the offences affecting the EU's financial interests and other offenses, the Committee questions whether this does not exceed the EPPO's remit under Article 86 of the Treaty on the Functioning of the European Union. The Committee notes that the concentration of minor cases in the EPPO could negatively affect the efficiency of investigation into criminal offenses and increase the administrative burden; and therefore considers that such cases would be more effectively dealt with at the national level; in cross-border cases, closer cooperation with other Member States is called for.
4. the institutional framework of the EPPO would be based on dual legitimacy at both national and EU levels. Therefore, the Committee considers that proper supervision of the EPPO should involve both the European Parliament and national Parliaments. The Committee also emphasizes the need to respect the principle of independence of the EPPO while setting out the EPPO supervision procedures.

5. considers that the opinion of the House of Representatives of the Dutch Parliament lends itself to many varying interpretations. The exceptional participation of the EPPO as *ultimum remedium*, where the EPPO has the powers to take active steps given the Member State concerned fails to take action or its actions are inadequate, could be justified for minor cases, but its potential to help ensure efficiency and avoid excessive delay in investigation into complex large-scale offenses is questionable.

Gediminas Kirkilas

Chair of the Committee on European Affairs