



EUROPEAN COMMISSION

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*Mr Paul VAN MEENEN
Chair of the standing committee
on Security and Justice
Tweede Kamer
Postbus 20018
NL – 2500 EA DEN HAAG*

*cc. Ms Khadija ARIB
President of the Tweede Kamer
Postbus 20018
NL – 2500 EA DEN HAAG*

Dear Chair,

The Commission would like to thank the Tweede Kamer for its Opinion on the Communication from the Commission to the European Parliament and the European Council – A Europe that protects: an initiative to extend the competences of the European Public Prosecutor’s Office to cross-border terrorist crimes {COM(2018) 641 final}.

The Communication outlines the Commission’s vision as regards the possible future role of the European Public Prosecutor’s Office in the area of terrorist crimes, which remain one of the most significant challenges of our time. This Communication forms part of a broader package of measures aimed at completing the Security Union and thus enhancing the security of European citizens, while being conscious of the fact that some measures will take more time to be implemented than others.

The Commission is of the view that combatting terrorist crimes in particular is a long-term challenge which requires a comprehensive and strengthened Union response. The European Public Prosecutor’s Office, as the only Union body with the power to conduct criminal investigations and prosecute criminal offences, is ideally suited to establish a Union approach in the fight against terrorism, encompassing all steps starting from investigating, prosecuting and ending with bringing the perpetrators of terrorist crimes to justice.

Article 86(4) of the Treaty on the Functioning for the European Union provides for the possibility to extend the competences of the European Public Prosecutor’s Office. This process follows a two-step approach, requiring an unanimous decision by the European Council to amend Article 86(1 and 2) of the Treaty on the Functioning for the European Union, and, secondly, a legislative proposal to amend Regulation (EU) 2017/1939¹ so as to extend the competences of the European Public Prosecutor’s Office. The term “unanimity” in Article 86(4) of the Treaty on the Functioning of the European Union

¹ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (‘the EPPO’); OJ L 283, 31.10.2017, p. 1–71.

refers not only to the Member States that participate in the European Public Prosecutor's Office, but includes all Member States. When amending the Regulation, it would not be possible to have a variable geometry within the European Public Prosecutor's Office in a way that Member States would participate in different parts of its competence. This means that all participating Member States would have to accept not only the extended competence of the European Public Prosecutor's Office but also the initial one as currently set out in Article 22 of Regulation (EU) 2017/1939.

It is of note in this respect that crimes affecting the Union budget are often linked to serious crimes with a cross-border dimension, including terrorist but also financial crimes, such as money laundering. These crimes pose serious threats to the security of the Union and its citizens.

With regard to Eurojust and Europol, they play a vital role in the fight against serious cross-border crimes, including terrorism, within the scope of their respective mandates. The future relationship between the European Public Prosecutor's Office and these European Union bodies should be strong and close, aimed at creating synergies.

The Commission would also like to underline that a debate on the extension of the competences of the European Public Prosecutor's Office does not, as such, impact the current set up process of the European Public Prosecutor's Office and the Commission's efforts to make the Office operational by the end of 2020. In this respect, the Commission would like to inform the Tweede Kamer that good progress is being made in the setting up of the European Public Prosecutor's Office.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Tweede Kamer and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Věra Jourová
Member of the Commission*