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Organizational and Other Challenges for the Police in the Proceedings Conducted by the European Public Prosecutor Office[[1]](#footnote-1)

Dear colleagues, my presentation will consist of three short units. The first part deals with technical issues related to the topic that I am talking about, the second relates to some of the relevant legal issues and the third to the importance of establishing the European Public Prosecutor Office in a wider context.

I'll start my presentation with the third topic. In my opinion, this is one of the most significant changes that are occuring in the legal system in relation to the police. The reason for that is the following; the primary role of the police is to achieve and promote security at the national level, and in order to do so, the police have a number of legally defined powers which are limited locally. Police proceedings are based on legally defined powers that are exercised on the basis of the legitimate command of the superior in the police system, as well as on the basis of the order of the state attorney, court or other competent body when prescribed by law. It is clear that the order and command to conduct the police work must be based on the law, as well as be clear and specific. A police officer is obliged to refuse execution of orders for which it is obvious that their execution constitutes a criminal offense.

The Decree on the European Public Prosecutor Office allows one supranational body to issue orders to the police in a new way, in which, according to the existing legal framework, there is no possibility of these orders being controlled. Existing forms of "international" cooperation enabled some type of control of foreign orders, whether it was by a previous domestic legislative arrangement on rules of acceptance and proceedings, or a certain freedom of acceptance of implementation. This conclusion stems from the organizational structure, but also from the provisions on jurisdictions and existing mode of work, i.e. the decision making process of the Office.

To the extent that we know, the European Public Prosecutor Office, at the organizational level, will have two levels of prosecutors: the central level and the national level. The central level refers to the Chief European Prosecutor; one European prosecutor from the states participating in the work of the Office, the Administrative Director, and the technical and investigative staff. The central level will monitor the investigation and persecution at the national level. Delegated European prosecutors will conduct investigations and prosecutions in participating States, together with national police and law enforcement agencies (all relevant bodies and not just police) when there is a suspicion of the commission of a criminal offense of fraud, corruption, money laundering or cross-border fraud in the VAT area. The EPPO will conduct cross-border fraud investigations in connection with EU funds exceeding EUR 10,000, or an investigation of cross-border VAT fraud cases that have caused a loss of more than EUR 10 million. By pointing out these known facts, I would like to emphasize the fact that I do not consider the amount of 10 000 euros as being too high, on the contrary.

The second level of questions are the legal issues that arise with the establishment of the European Public Prosecutor Office and, regarding those, I would only like to say that I consider it necessary to supplement certain laws and / or bylaws in the aim of clarifying the relationship between the police (and other bodies that will participate in the procedure) and the European Public Prosecutor Office, which will definitely have a significant impact on the third issue of the presentation, which I have named „Technical Issues Within the Organizational Challenges for the Police“.

It is well known that the work of every organization, including the police, is conditioned by three elements: human resources; legal framework for action and material equipment.

Each of these elements exist in the current mode and are reflected in the future tasks of the organization. At this point in time, there are no answers to some important issues related to the work of the European Prosecutor's Office itself, so it is difficult to give more precise answers.

Mainly speaking, significant issues relate to how many such criminal offences are currently in the dark, how many investigations can be expected to be conducted, as well as how complicated those investigations are going to be. This affects human resources issues and question whether the number of existing police officers will be sufficient to be able to investigate new criminal offenses.

 Furthermore, are they adequately trained for these types of investigations, and whether they will be sufficiently trained, which they certainly will need to be and who will provide the neccessary education (perhaps OLAF). There is also a question of where the procedures will be conducted and in what language and who will perform the translations, what will be the language of communication between the central level and the police if it comes to it. Within these technical issues there is also the issue of the relationship between police officers and the European Public Prosecutor, and whether this communication and the issuance of a warrant will be direct, as in appointing an investigator under national law. Futhermore, there is the question of the implementation of certain actions, for which the order was usually made by a public prosecutor, so it is necessary to say that such orders will now have to be obtained by the European Public Prosecutor. The possibility of implementation of special evidence procedures in such investigations should not be ruled out, as well as the issue of personnel, orders and material conditions in general.

Such issues and similar will certainly emerge during the first investigations. I would like to add the need for specific equipment and tools that might be needed but is not available right now.

I would like to conclude this brief exposition by highlighting two things. First, the new way of ordering police investigations by a supranational body, and second, a point which is difficult to assess at the moment, the possibility of new investigations influencing the police's capacity to conduct existing ones.

Thank you for your attention.

1. This paper was presented at the Conference Integration of the EPPO in the National Criminal Justice Systems: Institutional, Procedural and Cooperative Challenges, Zagreb, 11-12 April 2019, Co-funded by Croatian Science Foundation under project Croatian Judicial Cooperation in Criminal Matters in the EU and the Region: Heritage of the Past and Challenges of the Future (CoCoCrim) [↑](#footnote-ref-1)