CONTRIBUTIONS TO THE COMMISSION'S CONSULTATION ON PROTECTING THE EU'S FINANCIAL INTERESTS AND ENHANCING PROSECUTIONS

A. Criminal law approximation to protect the financial interests

Question 1. Are the current criminal law provisions in your jurisdiction related to offences affecting the EU's financial interests (fraud, money laundering, corruption, accounting offences against the EU's financial interests, etc.) in your view sufficiently effective, proportionate and dissuasive? Please provide reasons for your position.

Member states	Replies
AT	The offences mentioned are widely considered to be sufficiently effective, proportionate and dissuasive, maybe with the exception of accounting offences (if you do not consider them to be merely preparatory offences to corruption, fraud etc.).
BE	There is the same protection for National and EU Interests. Nevertheless the means are not sufficient to assure a prompt reaction and a dissuasive. There are a lot of investigations but not enough staff (national investigators and nationals magistrates).
BG	
CY	Yes they are considered to be effective. Adequate penalties are provided and in addition to this they provide for the necessary sanctions for crimes affecting the Communities" Financial interests.

CZ	The legislation in the field of the protection of economic interests of EU in our jurisdiction could be considered as suitable and appropriate with the importance of these issues. The financial interests of EU have the same protection's level as the domestic interests.
DK	It is the general view of the Director of Public Prosecutions that a number of factors must be taken into account when assessing how effective, proportionate and dissuasive existing criminal legislation linked to the protection of the European Union's financial interests is. Firstly, the question has to be raised whether national criminal legislation provides any obvious loopholes for criminals that are counterproductive to the general protection of the European Union's financial interests.Assessing the Danish provisions that relate to the general protection of inter alia the financial interests of the European Union this does not seem to be the case. However, other conditions have to be taken into account when assessing the overall effectiveness of national criminal legislation in this field. These conditions relate to the scope of persons covered by national criminal legislation, i.e. whether both natural persons and judicial persons are covered, whether legislation covers both attempted and consummated crimes, and whether relevant legislation applies to negligent behavior or only intentional behavior. The relevant Danish criminal legislation in this regard covers both natural and judicial persons and both attempted and consummated crimes. Danish criminal legislation in this field does however not – as the predominant rule – apply to negligent behavior, and the proof of intent is therefore normally required. Secondly, the question has to be raised whether the level of possible sanctions and penalties that can be imposed are of a sufficient severity to have a deterrent effect. In this regard, a general assessment – through an EU benchmarking exercise – of the level of sanctions and penalties throughout the Member States of the European Union could provide useful information to base future initiatives on. Such exercise should include information on both the level of prison sentences for natural persons and the level of fines for natural and judicial persons. Thirdly, the effectiveness of national criminal legislation in this field also much depends on a sufficient and effective national level of administrative control in connection with the administration of different financial programs of the European Union that are linked to providing funding directly in the Member States. Close cooperation between administrative, law enforcement and judicial authorities in the Members States is therefore of the utmost importance to ensure the highest level of effectiveness of relevant national criminal provisions. Finally, it is important that relevant administrative, law enforcement and judicial authorities in the Member States are equipped with effective and relevant investigative tools in order to be able to conduct proper and effective investigations. Specialized bodies and authorities in the Member States, i.e. the Danish State Prosecutor for Serious Economic Crimes, would furthermore in the view of the Director of Public Prosecutions provide the best platform for handling the specific and complex crimes that relate to the protection of the European Union's financial interests.

DE	
EE	EU's and national financial interests are equally protected. In addition to fraud, money laundering, corruption, etc. benefit fraud has been legally assessed as a separate criminal offence (§ 210 of the Penal Code) which prescribes up to 5 years" imprisonment for receiving a benefit by using fraud or using a benefit for purposes other than its intended purpose. "Benefit" means a payment made without charge or partly without charge out of the funds of the state budget or a local government or other public funds to a person engaging in economic activities, or a tax incentive for promoting economic activities.
ES	Yes, all mentioned offences exist and are punished with appropriate penalties. However reliable statistics identifying the number of cases connected to PIF cases are lacking, as courts do not always identify these cases under this label, but use instead some of the concurrent other offences. In our view, provisions could be improved seeking increased effectiveness and better ability to dissuade perpetrators.
FI	In this respect our criminal law provisions are adequate.
FR	La France s'est dotée en matière de fraude aux intérêts financiers de l'UE d'une législation complète, effective, dissuasive et proportionnée […] ***[Please read extended reply placed in the Annex due to space limitation]***
EL	Law 2803/2000, which implements the Brussels Convention (26.7.1995), distinguishes between the fraud against the national interests and the fraud against the EU financial interests. The fraud/forgery against the EU financial interests is not characterized as a special type of fraud but rather a separate crime. Furthermore, the Law covers cases that could not be covered by the provisions of the Greek Criminal Code. Besides, criminal responsibility would be difficult to determine if many different provisions needed to be combined. However, Greek PPOs are understaffed, issue which creates difficulties in the prosecution and in bringing legal proceedings timely before the competent Courts. Furthermore, there is no special Department in the PPOs of Greece and all Prosecutors have competence to deal with such crimes.

HU	In Hungary the currently effective legal regulation related to offences affecting the EU's financial interests (fraud, money laundering, corruption, accounting offences against the EU's financial interests etc.) can be regarded as proportionate and it entirely covers criminal conducts that shall be punishable.
IE	
IT	In our jurisdiction criminal law some provisions related to offences affecting the EU's financial interests are well established: in the Italian Criminal Code the following crimes are punishable with imprisonment: a)frauds affecting State's and/or EU's budgets (art. 640-bis) b)money laundering (art. 648-bis and art. 648-ter) c)corruption (art. 319), even when it's committed by corrupting an EU official or any other official of another State (art. 322-ter). The penalties provided by law are proportionate but in practice they are not as effective and dissuasive as they should be. That's because of the serious difficulties of investigations and prosecutions in this field, mainly when it's necessary to collect evidence in different States with different rules of procedure and also when these crimes are committed by the organized crime. Otherwise, there is no specific provision on: (d) corruption in the private sector, (e) trading in influence, (f) self money laundering. Italy didn't implement some important framework-decisions on freezing and confiscation of assets. The very short time limitation statute doesn't allow, in some cases, an effective prosecution.
LT	“The Prosecutor General's Office of the Republic of Lithuania has received the request of the Head of the Legal Service of Eurojust to provide responses to the questionnaire of public consultation launched by the European Commission on "Protecting the European Union's financial interests and enhancing prosecutions". Please be informed that we are ready for constructive discussions regarding strengthening of protection of the European Union's financial interests and possible establishment of the European Public Prosecutor's Office after the European Commission's proposal has been submitted.”
LU	

LV	"Prosecution Office has got acquainted with questions of the European Commission regarding need to establish specialized prosecution body at European level for protection of EU financial interests – European Public Prosecutor's Office. The questions submitted by the Commission currently in our country are being discussed by inter-institutional working party for developing of joint national position. Thereby replies to the questions of Commission we will be capable to provide only after harmonization of the national position of the Republic of Latvia."
+ MT	Affirmative. Chapter 508 of the Laws of Malta, entitled the EUROPEAN COMMUNITIES' FINANCIAL INTERESTS CONVENTION ACT (http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11594&l=1) providesfor the necessary sanctions for crimes affecting the Communities' financial interests.
NL	
PL	Under the Polish law there is the same level of protection of the EU and national financial interests. Methods of conducting preparatory proceedings in relation to the protection of the EU financial interests do not differ from the ones governing cases relating to the offences committed to the detriment of other subjects. So far we did not note the cases in which the current legislation would be ineffective or the penalties foreseen in national law would be disproportionate and non-dissuasive.
PT	

RO	Romanian legislation has specific criminal law provisions incriminating the offences against the EU's financial interests in Law no. 78/2000, as well as general provisions incriminating fraud, money laundering, abuse or negligence in office, conflicts of interest and corruption. Between them, these provisions cover virtually all acts of misuse of EU funds, while the prescribed penalties are severe enough to be dissuasive. Thus, the usage or presentation of false, inexact or incomplete documents or declarations which result in undue fund procurance form the general budget of the European Community or from the budgets administrated by them or on their behalf shall be punished by imprisonment from 3 to 15 years and interdiction of certain rights. The same punishment shall be applied for deliberate omission to supply the data requested pursuant to law for the purpose of getting funds from the general budget of the European Communities or from the budgets administrated by them or on their behalf if the deed results in undue procurance of these funds. If these deeds produced extremely serious consequences, the punishment shall be imprisonment from 10 to 20 years and interdiction of certain rights. Also, the change without observance of the legal provisions, of the fund destination obtained from the general budget of the European Communities or from the budgets administrated by them or on behalf of them shall be punished by imprisonment from 6 months to 5 years. If the deed generated extremely serious consequences, the punishment shall be imprisonment from 5 to 15 years and interdiction of certain rights. The change without observance of the legal provisions, of the destination for an acquired legal advantage if the deed has as a result the illegal diminution of the resources from the general budget of the European Communities or from the budgets administrated by them or on their behalf, shall be sanctioned by imprisonment from 6 months to 5 years. Usage or presentation of false, inexact or incomplete documents or declarations which result in undue fund procurance form the general budget of the European Community or from the budgets administrated by them or on their behalf shall be punished by imprisonment from 3 to 15 years and interdiction of certain rights. (2) The same punishment shall be applied for deliberate omission to supply the data requested pursuant to law for the purpose of getting funds from the general budget of the European Communities or from the budgets administrated by them or on their behalf if the deed results in undue procurance of these funds. If these deeds produced extremely serious consequences, the punishment shall be imprisonment from 10 to 20 years and interdiction of certain rights. Attempt to commit all these offences is punishable. Non-performance by negligence of a job duty by the director or administrator or the person who has decisional or controlling attributes in an economic unit, by not carrying it out or by carrying it out erroneously, if it resulted in the perpetration of one of the mentioned offences or in the perpetration of a corruption or money-laundering crime in connection with the funds of the European Communities, by a person who was under his rule and acted on behalf of this economic unit, is punished with imprisonment from 6 months to 5 years and interdiction of certain rights.
SE	
SI	

SK	Yes. Provisions of the Slovak criminal law related to offences affecting the EU's financial interests (fraud, money laundering, corruption, accounting offences against the EU's financial interests) are in my view sufficiently effective, proportional and dissuasive. For instance maximum penalty for fraud is 15 years imprisonment, for money laundering 20 years imprisonment, for corruption 15 years imprisonment and for accounting offences against the EU's financial interests 12 years imprisonment. It's also possible to impose protective measures, having character of sanction to legal persons- confiscation of money and confiscation of property.
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	Yes, the current criminal law provisions in our jurisdiction, related to offences affecting the EU's financial interests (fraud, money laundering, corruption, accounting offences against the EU's financial interests, etc) in our view are sufficiently effective, proportionate and dissuasive. The Bulgarian Penal code includes such crimes, and we think that our national law-enforcement authorities are fighting to a great extent successfully and effectively with these types of criminal activities.
IT Francesco Ippolito Supreme Court of Cassation	The current criminal law provisions are sufficiently effective in the investigation and repression of the offences damaging the financial interests of the EU -including misappropriation- especially following the ratification, by Law No.300 of 29 September 2000, of the EU and OECD Conventions on corruption by officials and both foreign and EU public officials, as well as on criminal liability of legal persons (Legislative Decree No. 231 of 2001). There is an ongoing debate within Parliamentary bodies to reform some offences against the public administration – including corruption and “concussione”* - and to include new offences (private corruption and trafficking in influence), to make the system more effective in terms of sanctions and more in line with the international legal framework

EL Anna Damaskou Transparency International	Greece ratified the 1995 Convention on the Protection of the EC Financial Interests by virtue of law 2803/2000. However, the Greek Legislator transposed the Convention into domestic legal order by using the "translation" technique, without taking into account the peculiarities of the Greek legal system and without healing misconceptions of the original text.
MT Dr. Giovanni Grixti Court of Justice	Our criminal law on fraud is considered to be significantly useful and successful in combatting offences affecting the financial interests of any person, including the State and the European Union, its institutions and organs. Wide ranging amendments made throughout the years regarding extended jurisdiction, anti-money laundering legislation, the introduction of complicity in organized crime, trading in influence, accounting offences and others have contributed toward this goal. These were enacted years in advance of the law, which brings into effect the 1995 EC Financial Interests Conv. In fraud related cases the penalty is meet on a gradient of the damages caused. When accompanied by other crimes, the penalty can include forfeiture of assets and interdiction.
RO Stoica Alina Florentina National Anticorruption Directorate	In Romania, the protection of the financial interests of the European Union is provided by a centralized legal framework which has been in force since 2004 and respectively by the Law no. 78/2000 on preventing, discovering and sanctioning corruption offences, the incrimination of the offences committed against the financial interests of the European Union, representing in fact a taking over of the disposition from PIF CONVENTION. The experience of the last eight years in implementing the provisions of the Law no. 78/2000 has shown that by this normative act, the protection of the financial interests of the European Union can be ensured, taking into consideration the conditions of incriminating the deeds, the considerable large quantum of punishments up to 20 years.
SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Yes. In the Slovak Republic these issues are regulated in the Criminal Code, which includes not only sanctions for commission of fraud, money laundering, corruption but it also includes special provision in its Section 261 to 263 regarding offences affecting financial interests of the European Communities. The mentioned provisions on affecting EU's financial interests have the objective to protect financial interests of the Community namely in the territory of the Slovak Republic. Also they have the objective to prevent any damage that might be caused to funds granted to the Slovak Republic within various programs and related processes after accession of the Slovak Republic to the EU.
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	The offences available in Scotland are currently sufficient to protect the financial interests of the European Union. There is a wide range of offences which are available. Scottish Common Law offences, such as theft, embezzlement and fraud are supplemented by statutory offences, such as the Bribery Act 2010. The Proceeds of Crime Act 2002, which provides money laundering offences and powers to confiscate, proceeds of crime.

LT Audrius Juozapavicius The Supreme Court of Lithuania	Yes, for example: fraud (article 182), use of a credit, loan or targeted support not in accordance with its purpose or the established procedure (article 206), money or property laundering (article 216), failure to pay taxes (article 219), fraudulent management of accounts (article 222), negligent management of accounts (article 223), bribery (article 225), ect. Criminal code provides different types of sanctions for offences mentioned above: community service, fine, arrest, restriction of liberty, imprisonment, terms of which varies from one up to eight years. Hence we can assume that sanctions for criminal offences that can affect the EU's financial interests are sufficiently strict, dissuasive and proportionate to offences for which they are set.
DK Knut Gotfredsen Transparency International Denmark Chapter	Yes, they are sufficient.
HU Adam Foldes Transparency International Hunary	The provisions of the Criminal Code on offences affecting the EU's financial interests are proportionate. The matter of effectiveness and dissuasiveness mainly depends on enforcement of the law. The principle of criminology also applies here not the severity of the sanction, but the certainty of the punishment matters, therefore the criminal law provisions have relevance only when an offence is recorded, evidence is available and suspects are arrested. There are few statistical analyses and studies in this field, but it is hard to judge the performance of the criminal justice system, however the perception of the level of corruption in Hungary worsening.
CZ Tomas Hudecek Ministry of Justice	Yes, the provisions are deemed effective, proportionate and dissuasive. Act No. 40/2009 Coll., Criminal Code criminalizes harm to financial interests of the European Union as a standalone offence in its Section 260. Further, joinder of offences is possible in connection to abuse of competence of public official (Section 329) and bribery offences (Section 331 to 334) and also in connection to provisions protecting domestic financial interests. The Criminal Code also allows for broad jurisdiction over such criminal acts (Sections 4, 5, 6 and 8). The defence of effective regret is inadmissible as far as harm to financial interests of the EU is concerned. Specialised prosecutors exist at every level. The Government approves National Strategy to Protect Financial Interests of the EU regularly.

CY Ch. Mavrommatis Cyprus Police	Cyprus has implemented the Convention on the protection of the European Communities financial interests and its Protocols through Law 37(III)/2003. As the Law is used in addition to other Cyprus Laws, for example the Penal Code, legislation on these offences is considered sufficiently effective, proportionate and dissuasive.
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	The legislation in the field of the protection of economic interests of EU in our jurisdiction could be considered as suitable and appropriate with the importance of these issues. The financial interests of EU have the same protection´s level as the domestic interests.
DE Joachim Ettenhofer	The criminal law provisions are sufficient. The problem is not the criminal law but getting enough evidence for a conviction of the perpetrator and sometimes the motivation of other member states to investigate or co-operate.
MT Dr Donatella Frendo Dimech Attorney General's Office	Affirmative. Chapter 508 of the Laws of Malta, entitled the EUROPEAN COMMUNITIES' FINANCIAL INTERESTS CONVENTION ACT (http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11594&l=1) provides for the necessary sanctions for crimes affecting the Communities' financial interests.
FI Petteri Palomaki The District Court of Pirkanmaa	In my opinion they are.
DE Kanzlei Cliff Gatzweiler	Yes. There are many criminal law provisions outside of the Criminal Code e.g. Commercial Code.
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	Yes, they are.

ES Carlos Gomez-Jara Universidad Autonoma de Madrid	Yes there are provisions; but no, there are not effective, proportionate and dissuasive. National authorities are not interested in prosecuting offenses that could lead to the Member State's secondary civil liability. Additionally, there is a lack of knowledge regarding EU instruments and institutions that could help them achieve a more efficient prosecution of these offenses. In short, they do not treat EU financial interests as national financial interests.
IE Robert Eagar Sheenan and Partners Solicitors	No. The current Irish legislation is unclear and outdated for EU level. There is a need for codification and modernising.
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	The relevant provisions under German criminal law regarding tax evasion, subsidy fraud and active and passive corruption have been extended to cover offences affecting the EU, to ensure that there is no criminal justice loophole. The problem remains, however, that under German law, bribery of MPs and, consequently, of MEPs is punishable by law in only very limited circumstances.
Juan Francisco Martínez JFMO Servicios en Intermediacion Publica México	In my view each and every citizen must protect their interests, in the case of those who break the law they should be subject to their own legislation and must face the consequences, regardless of the nature of their acts in law, while respecting their fundamental rights
BE Jana Mittermaier Transparency International EU Liaison Office	

Other Respondents (mail)	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	To answer this question in a meaningful way one needs to be adequately informed about the factual situation on several points: (i) what kinds of criminal behavior affecting the EU's financial interests do in fact occur in the Netherlands? (ii) are the policing and prosecuting authorities sufficiently capable to bring this behavior to light? (iii) are criminal prosecutions concerning this behavior successful? And (iv) if not, why not? These are questions that are hard to answer – if not impossible – from the perspective of a supreme court justice. From that position the only relevant observation that I can provide at this point is that in the Netherlands cases before the supreme court about criminal behavior affecting EU's financial interests are rare to non-existent.
DE Dr. Holger Karitzki Federal Office of Justice	The German criminal-law provisions are sufficiently effective, proportionate and dissuasive. The relevant criminal-law provisions relatingto fraud and subsidy fraud, money laundering, bribery and corruption, etc. provide for the imposition of up to five years' imprisonment or a fine. In the case of aggravating circumstances, the respective offence may even be subject to a more severe range of penalties. A violation of the obligation to keep accounts and records is punishable by a term of imprisonment of up to two years or a fine. These penalty ranges provide the criminal prosecution authorities with a means of appropriately punishing criminal offences committed against the EU's financial interests. Practice has shown that the domestic courts have been able to use these penalty ranges to pronounce penalties which are commensurate both to the offence committed and the degree of culpability.
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	National legislation is appropriate and proportionate to combat fraud and any illegal action related to economic and financial crime, both in respect of national interests but also with regard to the interests of the European Union. We understand, however, that although the penalties for crimes of fraud should be deterrent of the practice of this type of crime, in practice, the penalties applied, because they are not severe, have not proved to be educational or set the example in order to prevent the large number of crimes and even its increase. Moreover, the lack of resources, for investigations, means that the combat to economic and financial crime has not until now obtained the desired results.

LV Sandris Laganovskis Permanent Representation of Latvia to the EU	By careful evaluation of the practice in Latvia, it can be deduced that the existing regulation has not caused the need to separate the EU's and Latvia's financial interests, thus the potential threat by any criminal offence is taken equally. The separation of fraud against the EU's financial interests among any other person whose financial interests have been affected regarding economic crimes is not maintained in a specific regulation; however it is encompassed in existing regulation and are protected sufficiently. In this context a criminal proceeding will be commenced based on the relevant Criminal Law article or on the relevant Criminal Procedure Law section. Regulation on fraud, money laundering, and corruption currently is effective and proportionate. Taking into account all above mentioned, Latvia is of the opinion that the current criminal law provisions and other regulations aiming to protect financial interests both of the EU and each member state are sufficiently effective, proportionate and dissuasive; thus no new criminal law approximation is needed. Rather monitoring of existing regulation at the EU level could be initiated in order to strengthen the mechanism already in use to meet the challenges of the current economic environment.
European Association of Judges	
Eurojust	The current criminal law provisions in the national jurisdictions are largely considered sufficiently effective, proportionate and dissuasive. In many Member States, EU and national financial interests are equally protected. However, in some Member States, difficulties are encountered in practice in investigating and prosecuting such crimes effectively due to the following reasons: lack of staff; need for specialised bodies and authorities in the Member States for handling the specific and complex PIF crimes; need to gather evidence in different States with different rules of procedure; overlap of PIF crimes and organised crime; and very short time limitations. It was noted that close cooperation between administrative, law enforcement and judicial authorities in the Member States is of utmost importance in ensuring the highest level of effectiveness of relevant national criminal provisions. The lack of reliable statistics identifying the number of cases connected to PIF cases in some Member States should also be highlighted.

Question 2. If not, could the protection of EU's financial interests be improved on EU level concerning, in particular, one or several of the following aspects of criminal law :

- scope of persons covered

- scope of geographical application (in particular in cases affecting EU financial interests involving third-country nationals as suspects and where the place of commission is a third country.

- Definition of additional acts to criminalise (abuse of public office in a conflict of interest, breach of professionnal secrecy etc)

- Type of conduct (intent versus negligence)

- Time limitation

- Other horizontal matters

Member states	Replies
AT	Efficient protection of financial interests of the EU would require various measures, such as further harmonisation of criminal provisions and other provisions of substantive law. Corruption offences on EU level seem to be lagging behind the standards in other fora (in particular OECD, UN, Council of Europe) and there seems to be nothing at all concerning accounting offences.
BE	The financial investigations are often time barred. The criminal procedures are dismissed and the lawyers try to abuse of the criminal rules (for example: appeal sometimes irrecevable, request of new complementary investigations, etc.)
BG	

CY	
CZ	We see different approaches to the field of prosecuting money laundering cases in particular EU member states. In some jurisdiction prosecutors have to proof accurately the predictive offence and its perpetrator in order to prosecute money laundering cases. On the other hand in some jurisdiction suffice reasonable probability that such predictive offence has been committed. It would be appropriate to consider some tools to unify these approaches on EU level.
DK	The Director of Public Prosecutions is of the opinion that a thorough assessment of Member State's legislation etc. in this field might be carried out in order to identify areas where initiatives might be required. The Director of Public Prosecutions however finds that a major impediment to the effective international and European cooperation on cases related to the financial interests of the European Union is often of a much more concrete and practical nature not directly connected to legal problems. In this regard it could furthermore in general be assessed by the European Union how to support Member State authorities in for instance setting standards for good case management, best investigative practices, i.e. establishing milestones etc. Such a specific initiative could be a fruitful addition to the described list of legal issues raised.
DE	
EE	There are no direct legal problems in the context of Estonia.
ES	In line with the answer given to the previous question, EU actions could improve the current situation as perceived from Spain by: -increasing dissuasive effect (awareness about EU paying specific attention to the problem and promoting clear and concrete actions in this field) -improving clarification as regards persons covered, criminalized acts and their legal definitions (by harmonizing regulations on these topics) and, above all, time-limitation periods EU approach could also help to unify the response of judicial authorities and law enforcement agencies throughout the union.
FI	
FR	Comme indiqué ci-dessus, la France s'est dotée en matière de fraude aux intérêts financiers de l'UE d'une législation complète, effective, dissuasive et proportionnée, de telle sorte que son arsenal parait suffisant pour couvrir l'ensemble des situations visées. La France est toutefois disposée à accueillir avec bienveillance les éventuelles initiatives de la Commission tendant à l'approximation des législations concernées dans le but d'une répression cohérente des atteintes aux intérêts financiers au sein de l'Union.

EL	No suggestions
HU	The scope of persons and criminal conducts is wide enough; a further widening of them would only exceed the scope of national criminal laws and would result in incoherent regulations. The current provisions regarding the Hungarian criminal jurisdiction allow for a broad scope; their extended application to criminal offences committed by third country citizens in third countries is considered to be unreasonable in my view; it would only lead to further conflicts of competences, whereas, on the other hand, it would not result in more in merito condemnation. Similarly, I do not consider the criminalisation of further conducts necessary and justified. The unification of time limits (procedural deadlines, regulations of prescription) is desirable and would be welcomed (if such time limits were extended).
IE	
IT	Glancing at the topic, we can say that the main issues are the scope of geographical application, in particular when prosecutions involve third-country nationals, and time-limitation. As we said above, difficulties in collecting evidence abroad are many, while time-limitation in our jurisdiction is very short. On the other hand, we don't think that these kinds of offences could be punished on a simple basis of negligence. Breaches of EU financial interests that are caused by negligence (of an official or of any other private individual) could be punished with civil or administrative sanctions.
LT	See reply to Question 1
LU	
LV	See reply to Question 1
MT	
NL	
PL	The main problem that we encountered while conducting the preparatory proceedings in the above mentioned category of offences was time-consuming execution of the MLA requests. *See also answer to the question 3*.
PT	

RO	We think that the existing national provisions ensure an adequate protection of the financial interests of the EU and the following efforts should be directed toward reaching the standardization of these provisions at European level, as well as towards increasing the efficiency of the law enforcement in this area.
SE	
SI	
SK	
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	All of the abovementioned aspects of the criminal law should be really well considered and some legal changes might take place. The effective fight against the serious crimes, affecting the EU financial interests, can be achieved through a good cooperation among the relevant authorities and with the establishment of the European Public Prosecutor's Office.
IT Francesco Ippolito Supreme Court of Cassation	See answer Q. 1
MT Dr. Giovanni Grixti Court of Justice	

RO Stoica Alina Florentina National Anticorruption Directorate	
SK Miroslav Tiza General Prosecution Office of the Slovak Republic	We feel the need to explain that the idea of creating EPP implies manifestation of certain distrust from the side of the European Commission/European Union towards prosecutors and prosecuting attorneys of the Member States and/or lack of respect regarding existing and functioning national systems, such distrust is closely connected with the issue of mutual trust in the area of justice and law as well as with the question of trust regarding the efficiency of existing system of international mutual legal assistance. Various quality of international judicial cooperation in criminal matters underlined by differences resulting from Member States‘ differing jurisdictions should be considered the most topical problem. It’s not clear if this serious problem could be solved be means of EPP.
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	
LT Audrius Juozapavicius The Supreme Court of Lithuania	
DK Knut Gotfredsen Transparency International Denmark Chapter	

HU Adam Foldes Transparency International Hunary	Yes, definitely, though not in the substantive but in procedure law. These offences are rarely detected and even if detected in most case evidence is not available for effective prosecution. In we conducted a research (http://old.transparency.hu/en/sol) with following findings: 1. Statutes of limitation legislation in Hungary does not need any improvement. 2. Cooperation between controlling and investigative authorities, as well as between investigative authorities on the transnational level should be enhanced for better detection. 3. Investigative independence of the police and the prosecutor's office should be strengthened so as to be able to provide neutral, non-political, non-arbitrary decision-making about the application of criminal law and policy to real cases.
CZ Tomas Hudecek Ministry of Justice	
CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	
DE Joachim Ettenhofer	
MT Dr Donatella Frendo Dimech Attorney General's Office	
FI Petteri Palomaki The District Court of Pirkanmaa	

DE Kanzlei Cliff Gatzweiler	You could think of opening the scope of commercial criminal law to the prosecution of companies (not only natural persons).
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	No, I do think that an improvement on the aspects above is not necessary.
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	Yes in all fronts. As the development of federal systems of criminal law clearly shows, these are substantial areas that improve the protection of the federal interest. 1.- It is difficult to prosecute persons located at the higher spectrum of the political system. It should be addressed specifically by the legislation. 2.- Unless something similar to a federal jurisdiction is established, it will be hard to get local authorities to comply with the enforcement needs in third countries. Rules regarding the enforceability should be established clearly. 3.- Abuse of public office regularly appears when these offenses are perpetrated. It should be included. 4.- Negligent conducts should be criminalize to avoid loopholes. 5.- Statute of limitation should be harmonized across the EU.
IE Robert Eagar Sheenan and Partners Solicitors	I agree with the proposals to extend the scope of the jurisdiction and agree with criminalising negligence.
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	As stated above, no loopholes have as yet been identified in substantive criminal law. It remains to be seen to what extent the growing cooperation between the Member States in the framework of European Economic Governance and the related mechanisms will bring about the need for a re-appraisal of criminal offences affecting the Union's financial interests.

Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica México	Regardless of the offence and its seriousness, the legal consequences have to be recognised, but the offender also has rights and therefore certain criteria must be met without according any preferential legal treatment on grounds of social position, nationality etc.
BE Jana Mittermaier Transparency International EU Liaison Office	

Other Respondents (mail)	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	The answer to the first question makes clear that the assumption in this question “if not” is not fulfilled.
DE Dr. Holger Karitzki Federal Office of Justice	See response to question 1

PT Maria Cândida Almeida Procuradoria-geral de Repùblica	The protection of the interests of the European Union could be clearly improved if the judicial cooperation at the level of Member States was fulfilled and implemented. This could be achieved by the full and timely compliance with the rogatory letters.
LV Sandris Laganovskis Permanent Representation of Latvia to the EU	Considering the latest known results in prosecuting and bringing to justice cases of fraud against both the EU's and Latvia's financial interests, Latvia considers that there are no substantial problems or obstacles in order to substantiate fundamental ground for establishing a specialized institution at the EU level. Firstly, by considering the European Commission's justification for the establishment of the institution, as well on structure and powers, it is concluded that over several decades it was impossible to provide with reasonable and persuasive arguments regarding the creation of the institution. There is no comprehensive statistics on criminal offences affecting the EU's financial interests in order to provide sufficient and detailed data to be able to analyse the specific issues needing to be dealt with. There is no such statistics in Latvia either. However, the absence of this statistics cannot be an argument to establish a new institution. Secondly, developing a legal basis for Article 86 of the Treaty on the functioning of the European Union (TFEU) further elaboration on certain issues is needed, especially, on competence and principles of operation on this institution, in particular by ensuring their compatibility with national legislation of criminal law. In addition, at the EU level several legislative measures relating to cooperation between member states in the area of criminal law are under development or are already adopted. It is important to be clear as to the nature of crimes affecting the EU's financial interests, in particular, whether they should be crimes such as money laundering, corruption, fraud or this definition would also cover crimes against the financial interests of the EU as crimes in the area of environmental law and intellectual property rights, in the belief that these areas are not undoubtedly related to the EU's common prosperity. The focal point of this argument is that the financial resources and preparation of an extensive legal base for this institution which would be necessary in order to ensure the operation of the European Public Prosecutor's Office would be highly valuable and needed to evaluate the added value of this institution. Currently there is no information about the financial contribution from the member states for the creation of this institution. Although it depends on the design of the European Public Prosecutor's Office's structure – centralised or decentralised. Nevertheless, taking into consideration both possible ways of the potential design, the financial constraints and discipline in current economic situation certainly have implications on national financial resources that could be allocated to establish a new institution in the near future. Latvia believes that the current legislative framework at the national and the EU level could be developed and strengthened in order to ensure that existing legislative safeguards are in order to protect the EU's

	financial interests. Also, Latvia is of the opinion that it would be valuable to analyze the potential ways to strengthen the institutional framework that already exists aiming to maintain substantially effective relations and cooperation between the EU institutions and with other European bodies involved in the protection of EU financial interests and/or criminal matters, such as OLAF and Eurojust.
European Association of Judges	
Eurojust	Although, in general, national legislations are considered sufficiently complete and effective, some Members of the Forum would welcome EU initiatives to improve them. In particular, suggestions have been made to further harmonise substantive and procedural criminal law provisions related to time limitations (which are often too short, especially considering the time-consuming execution of MLA requests), persons covered, criminalised acts and their legal definitions, for instance in relation to standards for corruption offences and accounting offences and with respect to the various possible approaches to money laundering. Furthermore, an EU approach could also help to unify in a coherent way the response given by the competent authorities throughout the European Union in this field and increase the dissuasive effect of criminal law. However, some Members of the Forum consider that the scope of persons covered and criminal conduct is wide enough in the current legislation and advise not to extend it to offences committed by third country citizens in third countries. Breaches of the EU"s financial interests caused by negligence could be punished with civil or administrative sanctions. Moreover, some Members of the Forum consider that difficulties in judicial cooperation in this field are often of a more concrete and practical nature, not directly related to legal problems. In this regard, support to national authorities in, for instance, setting standards for good case management, best investigative practices such as establishing milestones, etc, would be useful.

B. interests Need for specialised prosecution bodies at European level

Question 3.Considering the latest known results in prosecuting and bringing to justice cases of fraud and in light of your own professional experience, do you think that there would be an added value in establishing a specialized European Public Prosecutor's Office with EU-wide priority competences in order to conduct prosecutions in relation to fraud committed against the EU financial interests at the level of the UE?

Member states	Replies
AT	A fair and true answer to this question is not possible because it depends not only on the view someone might take but also on the conditions of an EPPO which have not been presented by now. From the point of the accused it can e.g. be said that "model rules" only state minimum standards whereas the accused might have additional rights according to national procedural rules of a certain Member State. From the point of law enforcement agencies it can be said that an EPPO might have an added value but not necessarily. Without knowing the answers to problems/topics which so far have not been dealt with (such as the structure, the competent court to decide upon arrest warrants or house search warrants etc, legal remedies and an indictment etc) the question cannot be answered.
BE	The setting up of the European Public Prosecutor requires a preliminary study to avoid problems for the treatment of the national cases. The number of judges must be increased in due proportion especially in Brussels because of the localization of the EU institutions.
BG	

CY	In Cyprus cases of fraud committed against the EU Financial interests at the level of the Union have been successfully investigated and prosecuted. In our opinion the establishment of a specialized European Public Prosecutor's office depends on the willingness of the Member States to investigate such crimes. If a Member State does not provide for adequate penalties or sanctions for such crimes, or is reluctant to investigate and prosecute such crimes, then there's a need for the establishment of a specialized body to deal with these issues at a European level. The setting up of the European Public Prosecutor is certainly a complex issue and requires a careful preliminary study in order to avoid problems in the treatment of national cases.
CZ	This question is too general. The added value depends on competences, structure and effectiveness of a proposed model. Some effective models have already been proposed in the past (e.g. Corpus Iuris 2000); just a formal establishment of such an office would have no added value on the other hand.
DK	It is the general view of the Director of Public Prosecutions that considerations about the possible establishment of a specialized European Public Prosecutor's Office (EPPO) require a thorough analysis of the need for supplementing the national judicial systems. The establishment of a European institution with powers to investigate and prosecute criminal cases should therefore only take place on a thorough evidence based assessment, identifying the specific need for such an institution and identifying the possible cases that national authorities are not able to handle effectively. This assessment should in detail uncover how and under what conditions the competent authorities of the Member States handle relevant cases, the specific nature of the cases that are being handled, i.e. whether cross border dimensions are present, obstacles and barriers that decrease the efficiency of the national investigation and prosecution of cases in the Member States, and questions related to the efficiency of mutual legal assistance between the Member States and the cooperation with the relevant EU bodies in this area. The assessment must furthermore include a thorough assessment of the principles of subsidiarity and proportionality determining whether the establishment of a specialized EPPO is indeed necessary to handle specific cases related to the protection of EU financial interests. In this regard it would also be important to assess whether for instance the establishment of specialized authorities in the Member States could provide the basis for a sufficiently efficient handling of the relevant cases, and whether possible approximation of national criminal legislation could provide a sufficient tool to improve the handling of cases. Against this background and based on the specific experiences from the Danish Prosecution Service's handling of cases related to the protection of the financial interests of the European Union, the Director of Public Prosecutions is of the impression that the possible added value of anEU institution with investigating and prosecuting powers in this field cannot be assessed properly at this point in time without a thorough analysis as described.
DE	

EE	We find that an additional analysis is needed in order to make a decision, as the conceptions offered today contain several issues to be solved and these need not work successfully in practice. First of all an issue should be solved who shall start to conduct substantive preliminary investigation – some EU institution (e.g. OLAF) or national investigative bodies. However, regardless of the establishment of a specialised European Public Prosecutor's Office the member states have to acknowledge the importance of the protection of the EU"s financial interests. Relevant standards may be established for that purpose and the compliance with these standards could be assessed in course of mutual assessment.
ES	Definitely yes. Given our experience, we consider the only way forward to promote a unified and consistent reaction against PIF related offences would be to establish a EU body in charge of investigations and prosecutions, in order to ensure a common level of reaction when establishing prosecuting priorities and harmonized level of punishment. It would also allow a privileged position to keep statistical control on such a field, thus providing exceptional information in order to refine strategies and political priorities for the future.
FI	I think that the Eurojust Decision adopted in 2008 together with other EU instruments give Member States extensive and effective possibilities to utilise Eurojust. Only once sufficient experiences of the implementation and application of the Eurojust Decision have been obtained can any assessment be made as to the direction Eurojust should develop long-term pursuant to Article 85 of the Treaty on the Functioning of the European Union (TFEU). In addition, OLAF has been set up to protect the EU's financial interests. OLAF is tasked with administrative investigations in Member States (and EU institutions and bodies) and with initiating administrative sanctions where irregularities are detected. OLAF focuses mainly on revealing the irregularities of customs and EU funds that affect the EU budget. Its remit does not include criminal law measures. However, OLAF is required to work in cooperation with Europol and Eurojust so that procedures that can be judged under criminal law are brought to the attention of the Member States" legal enforcement agencies (Europol) and effective legal cooperation of Member States (Eurojust) is safeguarded during the criminal procedure. In practice, there has been little cooperation between these EU bodies in the protection of EU financial interests (and also otherwise). There are certainly numerous reasons for this, such as partly overlapping respective competences and organisational problems. Before setting up a new EU agency, we need to find out why current community legal provisions and bodies have failed to achieve the results intended. The optimal solution would be to improve the effective use of existing instruments to achieve the targets for which it is now planned to set up EPPO. If, by amending EU legislation and/or by improving the effectiveness of OLAF, Europol and Eurojust, EU frauds could be revealed, investigated and the offenders be effectively made to face prosecution and return the proceeds of the crime to the EU budget, there would be no need to set up EPPO. Europol and Eurojust are already competent to deal with all cross-border crimes so that the

	authority of these bodies is very wide-ranging and may not require amendment. If the result of a thorough study shows the main barrier to protecting the EU's financial interests and the cross border prevention/solving of serious offences to be that EU-level actors lack the competence of the legal enforcement and legal authorities and/or that Member States are reluctant to implement criminal liability at the national level in the cases in question, then strengthening the criminal-law jurisdiction of the Community and the establishment of EPPO should be considered.
FR	Les statistiques désormais disponibles à l'adresse http://ec.europa.eu/anti_fraud/documents/reports-olaf/rep_olaf_2010_en.pdf ne permettent pas véritablement de tirer des enseignements utiles quant à la nécessité d'un Parquet européen. Si la France présente un taux de condamnation de 59.2 % à la suite de transmissions de dossiers par l'OLAF, il est exact que ces taux sont particulièrement disparates selon les Etats membres. Les raisons concrètes pour lesquelles certaines dénonciations de l'OLAF n'ont pas abouti à des condamnations ne peuvent être décelées (recevabilité des preuves, inaction ?). En revanche, certaines considérations plus générales pourraient permettre de justifier en des termes généraux la nécessité d'une telle institution. La protection des intérêts financiers de l'Union européenne est une matière complexe. Non seulement elle requiert une grande technicité eu égard à la sophistication de certains montages financiers, mais elle suppose très fréquemment une action au-delà des frontières d'un Etat donné. La fraude aux intérêts financiers communautaires revêt souvent une dimension transnationale et requiert dès lors une action coordonnée. La lutte contre ces phénomènes nécessite donc que soient surmontées les difficultés tenant au morcellement de l'espace pénal européen et à la diversité des systèmes pénaux au sein des 27 Etats membres. Les enquêtes, les poursuites et la répression aussi cohérentes et complètes que possible d'une action frauduleuse transnationale au travers des mécanismes actuels de coopération judiciaire, se révèlent bien souvent extrêmement complexes. Non seulement, ces infractions sont par nature génératrices de conflits « positifs » de compétence, c'est-à-dire que deux ou plusieurs autorités judiciaires ou policières peuvent revendiquer la compétence pour enquêter sur une infraction donnée, mais elles peuvent également engendrer des conflits de compétence « négatifs ». Dans ce dernier cas, aucune des autorités judiciaires nationales qui seraient en droit de poursuivre une opération frauduleuse portant atteinte aux intérêts de l'Union ne revendique sa compétence, avec pour conséquence possible l'impunité totale des auteurs de l'opération. Il ne s'agit pas là d'une hypothèse d'école. Plusieurs facteurs peuvent expliquer les réticences à enquêter sur les atteintes aux intérêts financiers de l'Union et à les poursuivre : -Des considérations relatives à la compétence ratione loci. Les divergences sur le lieu de commission des faits, apprécié différemment selon les Etats membres, peuvent générer un conflit de compétence négatif, chaque Etat se déclarant incompétent territorialement au

	profit d'un autre. -Des considérations d'opportunité, dans les Etats qui comme la France connaissent le principe de l'opportunité des poursuites, en particulier lorsque le préjudice sur le territoire national est jugé d'une faible importance. -Le caractère éloigné du préjudice subi, lorsqu'il ne porte pas directement atteinte aux intérêts de l'Etat membre concerné. -La complexité intrinsèque des enquêtes transnationales relatives à ce type de faits, qui est de nature à dissuader les autorités des Etats membres d'entreprendre des investigations lourdes et coûteuses. -La complexité des infractions elles-mêmes peut, en l'absence des connaissances techniques nécessaires faire obstacle à leur mise en évidence et à leur répression. Au-delà de l'hypothèse du conflit de juridiction, le caractère transnational d'une infraction portant atteinte aux intérêts financiers de l'Union, quand bien même un Etat se reconnaîtrait compétent, est de nature à dissuader certaines autorités judiciaires de diligenter les actes utiles à l'étranger. En dépit des progrès spectaculaires de la coopération judiciaire et de l'affirmation progressive du principe de reconnaissance mutuelle, l'anticipation de certaines difficultés connues des praticiens peut être génératrice d'inaction. Pour toutes ces raisons, la perspective de la mise en place d'un parquet européen pour la PIF peut être accueillie avec une certaine bienveillance, sous réserve, compte tenu de la grande latitude laissée par l'article 86 TFUE, de la nature des propositions que la Commission européenne soumettra aux Etats membres. De façon encore plus générale, le principe de subsidiarité apparaît fournir une justification à la création d'un parquet européen en charge de la lutte contre les atteintes aux intérêts financiers de l'Union. Selon ce principe, l'Union n'intervient que si et dans la mesure où les objectifs de l'action envisagée ne peuvent pas être réalisés de manière suffisante par les États membres et peuvent donc, en raison des dimensions ou des effets de l'action envisagée, être mieux réalisés au niveau communautaire. Dans cette optique, on peut considérer comme légitimant la création d'un Parquet européen l'idée selon laquelle la Communauté est la mieux placée pour défendre ses propres intérêts.
EL	The EPPO is the right way forward in order to combat the offences against the EU financial interests as well as the serious cross-border crime.
HU	If we take the EPPO project as it is today, common sense would dictate a cautious approach. Article 86 of the TFEU is rather vague; some of its provisions are somehow ambiguous; all this gives way to diverging interpretations. In general, the whole idea of creating an EPPO in the present legal, economic and political environment raises more questions than provides answers. Very limited details are known, the “old ideas” from the Corpus Juris and the Green Paper seem to be used. That is why it is quite difficult to detect any

	clear-cut added value. The main pro-EPPO argument consists in the presumption that the EPPO will solve the "historical" problems identified already by the Corpus Juris in the 1990's: - The EU is fragmented into nearly 30 different national legal systems with differing definitions of crime, rules of collecting and admitting evidence, etc. (insufficient national legislation and insufficient actions by national judicial authorities) - The mutual assistance system based on various international instruments is cumbersome, complicated; the execution of foreign requests for assistance is usually of low priority and slow (insufficient cooperation between national authorities); - Consequently, the divergent national legal framework and the resulting organisational and operational barriers to cross-border investigations and prosecutions within the EU mean that the financial interests of the EU are not equally and effectively protected throughout the EU. (Note: OLAF is highly critical towards the national judicial authorities, stating that they do not give the necessary "judicial follow-up" to the OLAF administrative cases. It supplies case examples to the Commission to illustrate this. National Members at Eurojust often agree with the national authorities: it is not their fault that the poor result of the OLAF administrative investigation is not enough to take judicial (prosecutorial) action.) (This could have been the *raison d'être* of the EPPO about 10 years ago. But during the last 15 years a number of new "tools" has improved the situation: * First of all, the new legal instruments giving effect to the principle of mutual recognition (EAW, Freezing Order, EEW, European Investigation Order in the pipeline), which demonstrate that the differences between the national legal systems could be successfully retained. It seems that the EPPO with its exclusive competence(s) will create further fragmentation on the European legal landscape. * New judicial cooperation mechanisms came into existence, radically improving the traditional mutual assistance practice: the European Judicial Network and the Eurojust. Both were just recently reinforced. * The problem of the inadmissibility of evidence was eliminated by the 29 May 2000 Mutual Assistance Convention, a) in particular via the Joint Investigation Team that may investigate and collect evidence in all participating MSs, b) and also by the rule of *forum regit actum.* The mutual admissibility (free movement) of evidence can be dealt with on the basis of Article 82(2) (a) TFEU as well.
IE	
IT	We are convinced that the creation of a specialised EPPO in order to conduct investigations and prosecutions in cases of fraud would be not only an added value, but a necessity in the legal framework of the area of FSJ of the EU. We have to consider that, given article 86 of the TFEU, the EPPO is now a pragmatic possibility. To achieve the goal it's possible to make use of a lot of preparatory works like: the Commission's Green Paper of 2001, the Project of the *Corpus Juris* [1] and lately the work that has been done by the Spanish Presidency of the Union [2] and the Polish Presidency of the Forum of Prosecutors General [3]. We are not still nowhere. The creation of the EPPO is, of course, a significant issue for the EU but, if we bear in mind all the difficulties that we are facing nowadays in tackling crime at a European level, we can and we must strive to create it. The means available at present for horizontal judicial cooperation like Eurojust, Europol, EJN and OLAF – even taking into consideration the

	great achievements obtained in the area of FSJ – aren't capable of offering adequate and definitive solutions to the problems of fraud which damages the Union's financial interests. The EPPO should be established with responsibility entrusted to an European Public Prosecutor, a judicial (in the broader sense of the word) officer, nominated by the highest Authorities of the EU and who shall be chosen "from persons whose independence is beyond doubt" possessing the same qualificationsns established by article 253 of the TFEU. The new European Prosecutor shall act independently like Judges and Advocates-General of the CJEU and like the Prosecutor of the ICC.
LT	See reply to Question 1.
LU	
LV	See reply to Question 1.
MT	This depends on whether countries investigate and prosecute cases of suspected crimes affecting the Communities' interests. This needs to be assessed with reference to specific and factual cases. If cases have not been investigated or prosecuted, or shackled by complacency and reluctance by national authorities, ONLY then should the setting up of the EPPO be considered. Malta has a number of such cases being prosecuted and has investigated a higher number; hence it would also be of value to assess which countries, if any, are in default of their obligations to investigate and prosecute such crimes. If it appears that there is no justification for their defaulting on their obligations, then one should consider addressing the situation with reference to the particular state and not generalise.
NL	

PL	Generally we are of the opinion that the establishment of the EPPO at this point of harmonization of the EU criminal law (especially procedural one) may cause more problems than answers. First of all, it may lead to unnecessary duplication of actions undertaken by national authorities. Secondly, it may result in problems of practical nature concerning distinction of competences between the EPPO and the national prosecution services, rules of cooperation of the EPPO with national authorities and rules relating to the execution of the investigative measures, as well as regulations in regard to bringing to judgment those responsible for crimes against the financial interests of the EU in the territory of different jurisdictions. Therefore, at this stage of development of the European Judicial Area, we would support actions to strengthen cooperation in criminal matters rather than creating a new form of institutional cooperation. Additionally, in the first place the potential of the existing instruments of judicial cooperation should be carefully explored. Having said that, based on national experience in conducting cases concerning crime against financial interests of the EU, we do not see an added value of the EPPO involvement into investigating and prosecuting crimes relating to the expenditure of the EU budget where operational programs are managed by the national administration. There is however a different situation with the direct expenditure of the EU budget managed by the European Commission and crimes affecting financial interests of the EU committed by the officials of the European institutions. Law enforcement authorities of the Member States usually are not able to trace frauds and corruption related to these spheres. Several final case reports transmitted in the recent years to the Polish prosecutors" offices by OLAF concerned suspicions of commitment of crimes related to the direct expenditure and the EU officials. None of these cases had been detected by the Polish authorities and only the OLAF report was the first information in this regard. Following the OLAF reports, Polish prosecutors launched the preparatory proceedings. These proceedings imposed an obligation to convert evidence collected within an administrative investigation to admissible evidence required by law on criminal procedure and required evidence gathering abroad, and close cooperation with the EU institutions.
PT	
RO	A specialized European Public Prosecutor's Office with EU-wide priority competences could increase the efficiency of prosecuting this type of criminality, especially in complex transnational cases.
SE	
SI	
SK	Yes, in my view establishing specialized European Public Prosecutor's Office could be useful for prosecution of serious crimes affecting financial interests of EU. It could have positive effect on impartiality of investigation and on elimination of local influences.
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	The establishment of a specialised European Public Prosecutor's Office from Eurojust with EU-wide priority competences, will bring an added value to the prosecutions in relation to fraud committed against the EU financial interests at the level of the European Union.
IT Francesco Ippolito Supreme Court of Cassation	The establishment of a European Public Prosecutor's Office initially competent on fraud against the financial interests of the EU may undoubtedly represent an added value, since it may facilitate the investigation and repression of the said offences, avoid the risk of duplicating investigations and foster the centralisation of investigations.
EL Anna Damaskou Transparency International	According to OLAF by end 2010 56% of defrauded funds had been recovered. Combating fraud is to a large extent Member States' competence. Abuse of EU budget is a crime of transnational dimensions which causes serious damage to the integrity and the foundations of the EU. In cases of transnational dimensions, EU facilitation and coordination adds value to the detection and prosecution of crimes. OLAF does not recover funds itself – it is a competence of the Member States. Data indicates that, in budget areas managed primarily by the EU, recovery seems to achieve better scores than in areas managed primarily by the Member States. Figures also show that judicial action varies considerably among Member States with regard to the number of cases they handle and the results they produce.
MT Dr. Giovanni Grixti Court of Justice	Under the prevailing system, with the collaboration of OLAF, EUROJUST and various MLA's and considering the undeniable reality of the various continental/common/mixed law systems, the national prosecutor is best poised to deal with these cases. Whether the case be committed by an individual or by an organized criminal setup the national prosecutor is nowadays equipped with a significant arsenal to bring forward and sustain cases involving very intricate and technical methods of fraud including those involving the interests of the EU. No doubt this has been achieved through the incessant training and collaboration with OLAF and EUROJUST, which play a very significant role in this field.

RO Stoica Alina Florentina National Anticorruption Directorate	The setting up of a European specialized Prosecutor's Office could ensure a greater efficiency regarding the carrying out of the investigations in cases of frauds committed against the financial interests of the European Union, when the active subjects originate from different European states, and the offences would also be committed within the scope of territorial jurisdiction of several countries.
SK Miroslav Tiza General Prosecution Office of the Slovak Republic	The added value of such Office may be seen provided that consensus shall be achieved without any doubts regarding Member States' opinions concerning territorial jurisdiction, opportunity/legality principle for commencement of criminal prosecution by EPP, admissibility of evidence and also structure, composition and efficiency of functioning of EPP (it is sure that there shall be many others issues as well). In case that we were able to solve all that issues, in such a situation, it would be logical and justified that EPP's jurisdiction applied to wider range of criminal activities not only to those affecting EU's financial interests. Without answering the above specified basic questions, there is only the possibility to adopt a political decision but, it shall be impossible to come
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	In Scotland there is a single prosecuting authority. This provides a degree of clarity as to who is responsible for prosecutions in Scotland. The existing structure is adequate to deal with the protection EU financial interests. What is essential is that there is close and early liaison between the EU national investigators and prosecutors agencies to ensure that cases can be investigated and prosecuted properly.
LT Audrius Juozapavicius The Supreme Court of Lithuania	See below. Answers to questions 4-6 should be regarded as answers to all of the following questions (3 to 11).
DK Knut Gotfredsen Transparency International Denmark Chapter	The establishment of a specialised EPPO with an EU-wide priority competence offers the opportunity to tackle fraud affecting the financial interests of the Union more efficiently, to enhance the cooperation among the various involved EU bodies (OLAF, Eurojust, Europol, EJN) and to revise OLAF's legal framework. A Public Prosecutor at the EU-level will help restore trust in EU institutions and their capacity to deal effectively with fraud, cross-border corruption and corruption-related cases. The reputation of the institutions has suffered considerably, as was demonstrated by the recent European Commission Euro barometer survey.

HU Adam Foldes Transparency International Hunary	While some member associations of the European Association of Judges (EAJ) do not favor the proposal for a European Public Prosecutor, most members believe that there is justification for establishing a European Public Prosecutor's Office specialized in prosecutions in relation to fraud committed against the EU financial interests. Most members of the EAJ believe that such a body can more effectively fight against the misuse of EU money. This is in the common interest of all the EU citizens.
CZ Tomas Hudecek Ministry of Justice	Yes, in cases when the prosecution service is not independent of the government it may take into consideration other aspects than criminal claims of the public or financial interests of the country/EU. In such cases the national prosecution service fails to investigate or raise charges when that would affect affiliates of the governing parties or it may also happen that due to alleged national interests investigation is terminated as happened at the closure of Serious Fraud Office investigation into bribery by BAE Systems in the Al Yamamah arms deal.
CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr KlementSupreme Public Prosecutor's Office	This question is too general. The added value depends on competences, structure and effectiveness of a proposed model. Some effective models have already been proposed in the past (e.g. Corpus Iuris 2000); just a formal establishment of such an office would have no added value on the other hand.
DE Joachim Ettenhofer	It is not necessary to create an EPPO to fight fraud against the financial interests of the EU in an effective way. It would be more useful to simplify and enhance international co-operation. Also the further promotion and wider use of the EJN and of Eurojust and their potential for quick and informal support of international investigations would make things easier.
MT Dr Donatella Frendo Dimech Attorney General's Office	This depends on whether countries investigate and prosecute cases of suspected crimes affecting the Communities' interests. This needs to be assessed with reference to specific and factual cases.If cases have not been investigated or prosecuted, or shackled by complacency and reluctance by national authorities,ONLY then should the setting up of the EPPO be considered. Malta has a number of such cases being prosecuted and has investigated a higher number; hence it would also be of value to assess which countries, if any, are in default of their obligations to investigate and prosecute such crimes. If it appears that there is no justification for their defaulting on their obligations, then one should consider addressing the situation with reference to the particular state and not generalise

FI Petteri Palomaki The District Court of Pirkanmaa	I think there would be added value in that.
DE Kanzlei Cliff Gatzweiler	I think so but there should also be an European Defence Office to guarantee the principle of equality of arms.
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	Tackling EU-fraud, money laundering or corruption is only partly a matter of organisation (on an EU level or not). It has more to do with capacity and, more important, specialised knowledge of the relevant EU law. My observation is in The Netherlands that there is not sufficient knowledge as to that matter. Compulsory education and awareness would do a lot more, than just establishing an EU PPO.
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	Definitely. The greater independence from the local interests that the EU prosecutor has, the greater chance that effective prosecutions will be brought. Yet, the investigation of these offenses requires that the EU prosecutor can instruct accordingly local authorities (police). The know-how of the EU prosecutor can provide an EU comprehensive and consistent policy of protection of EU interests. Moreover, the establishment of such office is the ONLY way to ensure an effective protection of these interests. It will be important that pursuant to article 286 TFEU European rules of procedures are established in order to avoid undesirable unequal protection. Procedural rules are as important as substantial provisions. One without the other will lead to unwanted results.
IE Robert Eagar Sheenan and Partners Solicitors	I think that would be very helpful.
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	The Deutsche Richterbund (German Association of Judges) has no objection to the establishment of a European Public Prosecutor's Office for criminal offences affecting the European Union's financial interests. However, in this context, only an independent Prosecutor, who neither seeks nor receives instructions, is bound by the rule of law, and has the authority to investigate and prosecute in all EU Member States, would be in a position to ensure the consistency of prosecutions across the Union, irrespective of the administrative and political context in the individual Member States. This set-up, which would be offence-driven, impervious to economic and political concerns, and based on the consistent and coherent application of penal provisions, at least in the field of

	financial and administrative crime, is the only means of securing the trust of EU citizens in the area of freedom, security and justice. National criminal prosecution services, owing to their lack of independence, can only achieve this to a limited extent.
Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica México	Any offence prosecuted must be dealt with in accordance with the conditions and restrictions laid down by law, and similarly the specialists responsible for applying it must be subject to the relevant legislation.
 Jana Mittermaier Transparency International EU Liaison Office	The establishment of a specialised EPPO with an EU-wide priority competence offers the opportunity to tackle fraud affecting the financial interests of the Union more efficiently, to enhance the cooperation among the various involved EU bodies (OLAF, Eurojust, Europol, EJN) and to revise OLAF's legal framework. A Public Prosecutor at the EU-level will help restore trust in EU institutions and their capacity to deal effectively with fraud, cross-border corruption and corruption-related cases. The reputation of the institutions has suffered considerably, as was demonstrated by the recent European Commission Euro barometer survey.

Other Respondents (mail)	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	The advantages of, and the need for specialization are felt on almost every professional terrain. The prosecution of crimes is no exception in this respect. I think specialization on the side of the prosecution in relation to crimes that affect EU financial interests by establishing a specialized European Public Prosecutor's Office with EU-wide priority competence in order to conduct prosecutions in relation to fraud committed against the EU financial interests at the level of the Union could prove to be useful in the fight against EU-fraud.
DE Dr. Holger Karitzki Federal Office of Justice	In principle, the possibility should not be excluded that a European Public Prosecutor's Office (EU-PPO) could provide an added value in combating criminal offences to the detriment of the financial interests of the EU. Above all, the aspect of specialisation and concentration on experience as well as material and human resources could potentially contribute to uncovering complicated modes of commission of crimes and conducting criminal prosecutions in a timely and effective manner.
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	Since there is not an idea of the powers and structure of a European Public Prosecutor's Office yet, it is difficult to answer if his creation would be an asset in combating economic and financial crime in the States of the European Union, either only for crimes affecting the interests of the Union or also the interests of the Member State. However, given the expertise of existing bodies, including Eurojust, Europol and Olaf, we don't consider a priority the creation of the Office of the Prosecutor.
European Association of Judges	When some members associations of the European Association of judges (EAJ) do not favour the proposal for a European Public Prosecutor, most members believe that there is justification for establishing a European Public Prosecutor's Office specialized in prosecutions in relation to fraud committed against the EU financial interests. Most members of the EAJ believe that such a body can more effectively fight against the misuse of EU money. This is the common interest of all the EU citizens. In any case the EAJ in general stresses that it is essential for the European prosecutor that he/she and the national prosecutors seconded to the office can handle all legal and administrative affairs related to them completely free from instructions, that the investigations and the legal steps taken by the European prosecutor are only bound by law and that there is effective judicial control. The independence of the European prosecutor from political influence must be safeguarded.

Eurojust	According to several Members of the Forum, the question can hardly be answered as the added value in establishing an EPPO largely depends on its competences, its structure and its effectiveness in a proposed model.Many Members of the Forum consider that additional information; analysis of specific cases and a thorough assessment are needed before making a decision. Since the publication of the*Corpus Juris* project and the Commission's 2001 Green Paper, new instruments and "tools" have been adopted and have led to improvements. The optimal solution to achieve the target would be to improve the effectiveness of existing instruments and bodies such as Eurojust (assessing the application of the revised Eurojust Decision and exploiting the further development of Eurojust pursuant to Article 85 TFEU as an alternative to establishing an EPPO), OLAF and Europol as well as the cooperation between them. They consider that the establishment of an EPPO would entail unnecessary duplication of actions undertaken by national authorities and practical problems in terms of the relationship between the EPPO and national prosecution services. Other Members of the Forum share an opposite opinion and support the establishment of an EPPO as the only way forward in promoting a unified and consistent reaction against PIF related offences. The complexity of the matter, which often requires considerable specialisation, the frequent transnational dimension of PIF crimes, which calls for coordinated action and, in general, a certain reticence at national level to investigate and prosecute in this field (leading to negative conflicts of jurisdiction) are considered valid reasons for the creation of a specialised EPPO at EU level.

Question 4. (a) For what criminal offences should the European Public Prosecutor's Office have jurisdiction in the European Union, i.e only offences affecting the EU's financial interests or also serious cross-border offences? (b) Should this jurisdiction be exclusive or complementary to national prosecutors?

Member states	Replies
AT	a) An answer to the question mainly depends upon the effort made to establish an EPPO. If a European criminal procedure code, a European Public Prosecutor General, a court structure etc are established, it would be quite a waste of resources and money to limit the competence of an EPPO to crimes against financial interests of the EU. In the beginning it would certainly make sense to limit the competences to latter mentioned crimes. Later on the competences of an EPPO could be extended for example to cases of VAT carousel fraud or other cases of cross border (business) crime, trafficking in human beings, organised (cross border) crime or (cross border) drug trafficking. Unfortunately the questionnaire does not refer to EUROJUST as an alternative to establish an EPPO although further development of EUROJUST might be as effective but far less complex and far less expensive. Council Decision 2009/426/JI confers already important competences to the National Members and calls for a certain approximation of the status of the National Members; therefore EUROJUST should become more operational, once the amended. Decision will be applied by all Member States. b) If jurisdiction is complementary to national jurisdiction/prosecution one would risk disputes about the competence. This would especially apply concerning the core competence i.e. the protection of financial interests of the EU.
BE	a) If the European Public Prosecutor's Office treats really all of the EU financial interest offences and the serious cross- border criminality, why not. But it's not useful to have a supranational office to give some instructions or recommendations. b) Complementary and only on request of the National authorities.
BG	

CY	a) The European Public Prosecutor's Office should have jurisdiction only for offences affecting the EU's financial interests. b) This jurisdiction should be complementary. National Prosecutors should be aided upon their request
CZ	The EPPO's competence should cover the following offences: Frauds affecting the financial interests of the EU and assimilated offences; Market-rigging; Money laundering; Conspiracy harmful to the financial interests of the EU; Corruption; Misappropriation of funds; Abuse of the office; Disclosure of secrets pertaining to one's office if this revelation is likely to damage the financial interests of the EU. This jurisdiction should be complementary to national prosecutors.
DK	a) The Director of Public Prosecutions – as it is mentioned under question 3 – would consider that the establishment of an EPPO and the delimiting of its jurisdiction in relation to criminal offences should be evidence based. At the moment, sufficient information is not available in order conclusively to decide on the scope of the possible future mandate for an EPPO. In this regard the Director of Public Prosecutions also considers the stabled and still ongoing assessments and evaluations of the functioning and efficiency of Eurojust and OLAF should be completed in order to give a solid foundation for possible future developments in the criminal justice area. Only if these evaluations clearly uncover that there are crime areas that are not being handled efficiently by Member States in cooperation with existing European bodies, future steps could be considered. b) In light of the principle of subsidiarity and proportionality the Director of Public Prosecutions is of the opinion that functions and questions related to jurisdiction of European bodies in the area of criminal justice and related to criminal investigations and prosecutions on Member States" territory should – as a main rule – be considered as complementary to the powers vested in national authorities.
DE	
EE	If the decision is made in favour of the establishment of the European Public Prosecutor's Office, its jurisdiction should initially contain only criminal matters related to the protection of the EU's financial interests. At the same time, the national Public Prosecutor's Offices should have the same jurisdiction and the bases and the procedure how the matters are divided should be thought over.

ES	a) Given the current wording of article 86 TFEU as regards enhanced cooperation, the most realistic option would be to concentrate on PIF offences. If the added value and increased efficiency is shown at this first stage, then it would be easier to seek unanimity to expand the scope to serious cross-border offences. b) If an EPPO worth of such a name is to be established, it should be through exclusive jurisdiction, otherwise, most of the added value would be lost. The number of frictions and conflicts if a double jurisdiction is admitted could be countless. These frictions will most probably appear even in case exclusive jurisdiction is granted, as it could happen with connected offences (not directly PIF offences but so interlinked with them that it would not be procedurally possible or substantively desirable to deal with them separately) must be looked at carefully, but the "delegate prosecutors" (see infra) may be a good solution. In any case, mecanisms for adequate and smooth relations with national prosecution services should be devised.
FI	The operational effectiveness of the new organization would require it to have as extensive a jurisdiction as possible. In terms of numbers, there would not seem to be so many irregularities of EU financial interests that can be judged under criminal law that require EU intervention for it to be financially sound to set up a new EU body just for this purpose. It would be expedient to determine jurisdiction so that it covers the type of serious cross-border offences that have supranational implications for the common value basis or the reliability of the financial and economic system such as VAT fraud, human trafficking, the drug trade or the financial crime and crime against property (skimming, internet fraud, etc,) committed by organized gangs. Member States are typically reluctant to deal effectively with these acts as "packages" from the aspect of implementing criminal liability and crime protection. The reasons for this include the costs incurred by Member States, the problems of distributing and returning the proceeds of the crime that have been recovered, criminal procedure laws, especially differences in provisions concerning evidence and coercive means, the difference in provisions concerning judicial power and national decisions taken with regard to the allocation of resources. The costs incurred by extensive supranational criminal matters focusing in particular on one Member State can be a barrier to the effective implementation of criminal liability. Even at best, effective treatment of a criminal matter inside the EU would require approximation of procedural provisions under criminal law, which might be a part solution to the current problems even without setting up EPPO.
FR	a) Il est pragmatique et réaliste de considérer que le Parquet européen, s'il venait à être mis en place, devrait nécessairement voir ses compétences limitées à la protection des intérêts financiers de l'Union européenne. Pragmatique, car compte tenu de l'ampleur de la tâche, il est raisonnable de considérer qu'un parquet européen « PIF » pourrait utilement constituer un laboratoire des évolutions futures de son champ de compétence. Réaliste, car aux termes de l'article 86 TFUE, un parquet européen compétent ab initio pour la criminalité grave transnationale supposerait nécessairement l'unanimité des Etats membres, alors qu'un parquet européen « PIF »pourrait être mis en place dans le

	cadre d'une coopération renforcée. La tentation d'instituer d'un parquet européen compétent ab initio pour la PIF et pour la lutte contre la criminalité transnationale grave risquerait, compte tenu de l'ampleur de la tâche, de présenter l'effet pervers d'en retarder l'avènement. Au contraire, la mise en place d'un parquet européen dont les compétences seraient limitées à la PIF permettrait de constituer un « laboratoire » des évolutions futures portées en germe par l'article 86§4 TFUE. b) La compétence du parquet européen devrait être concurrente de celle des parquets nationaux, des raisons d'opportunité pouvant, selon les situations, plaider pour ou contre un traitement d'une affaire donnée au niveau de l'Union.
EL	The EPPO should have jurisdiction in all serious cross-border crimes. The jurisdiction should be by all means complementary. The national authorities should be aided upon their request.
HU	As to the substantive criminal law to be applied by the EPPO, no more can be figure out from Article 86 TFEU than that *crimes affecting the financial interests of the Union* and *offences against the Union's financial interests* will fall initially into its material competence. We know for sure that there will be created nothing similar to the Corpus Juris General Part, which would enumerate and define the offences in a "Federal Criminal Code". We also know, that currently there are extreme discrepancies between the definition of PIF (=Protection of Financial Interest Convention) offences and their punishments in the MSs (see e.g., pages 11-19, Commission Staff Working Paper, SEC (2011) 621 final). All in all, it is not clear which segment of the offences the MSs are supposed to give over into EU competence. It should be pointed out that in Hungary the EU budget enjoys exactly the same criminal law protection against fraud as the Hungarian state budget. Article 310 of the Criminal Code defines the offence of "Budgetary Fraud", which carries a penalty up to 10 years, depending on the damages caused. An explanatory provision in Articles 313/E provides that "budget" also means budget or funds managed by the EU or by other(s) on its behalf. The question relating to the extension of the EPPO competence to "serious crime having cross-border dimension" seems to be a little premature, because it is unlikely that the EPPO will start with 27 MSs and extended jurisdiction. However, it is worth observing that the extension is more difficult in comparison with the initial setting up. Under paragraph 1, if there is no unanimity in the EU Council (ministers), the European Council (head of states and governments) decides by consensus, without formal voting. (Normally, the European Council"s decisions are taken by consensus, which is held to exist when no Member present at the meeting formally opposes the proposal.) Under paragraph 4, unanimous voting is needed from the heads of state and government. The competence of the EPPO will probably be exclusive in the sense that the national authorities should report to the EPPO every offence (above a certain threshold?) falling into its jurisdiction, and that the EPPO decides whether wishes to deal with it or sends it back to national level.

IE	
IT	a) At this stage, it would be better to start only with offences affecting the EU"s financial interest (article 86.1 of TFEU), not only *stricto sensu* PIF crimes (corruption, fraud, money laundering) but also linked offences like abuse of office, trading in influence, misappropriation. It could be very hard (may be *too* hard) to start with all the other possibilities (serious crimes) provided for by point 4 of article 86 of the TFEU and this could mean that nothing will be done due to the enormous difficulties of this goal. In the field of the protection of the EU"s financial interests we already have the PIF Convention, many decisions and framework-decisions, and this legislation could give a clearer definition of the scope and the goal of the future activity of the EPPO, even if a new directive on the PIF crimes would be necessary or, at least, useful. Supposedly the project will face less opposition even from national Parliaments considering that the protection of the EU"s financial interests is a typical task of the Union which cannot be undertaken by the efforts of national judicial systems alone. b) A complementary jurisdiction would be preferable. This solution would be: (i) less expensive; (ii) less invasive and more constructive for national jurisdictions; (iii) more able to face and solve the issues arising from the application of a large number of different trial rules. We also have to consider that *principles of conferral and subsidiarity* are the cornerstones of the EU structure (as to article 5 of the TEU and Protocol No 2) and that they need to be respected at any stage of a common and well integrated policy. An *over-powering* EPPO, having the privilege of an exclusive jurisdiction, might not be seen by national prosecutors as an added tool, but as a competitor or even as an opponent.
LT	See reply to Question 1.
LU	
LV	See reply to Question 1.
+ MT	Any jurisdiction must be complementary. Such jurisdiction should initially be over crimes affecting the EU's financial interests. Any extension of jurisdiction should be introduced in a piecemeal manner allowing for any potential fine-tuning which may be warranted. Subsequently one may consider extending jurisdiction over other crimes.
NL	

PL	The EPPO established with a complementary jurisdiction to the one performed by the Member States, but limited only to offences against the EU financial interests, seems to be a good compromise in the following phase of the integration process. There are several reasons that justify this limitation of competence. First of all, a concept of crimes affecting the financial interests of the EU is genuinely related to the development of the European Union. Convention on the protection of the European Communities' financial interests and its protocols set up a legal framework of crimes against the financial interests of the EU. Subsequently, adoption of these legal instruments resulted in changes in our national criminal codes. The Court of Justice of the European Union has jurisdiction to give preliminary rulings on the interpretation of the convention. Moreover offences detrimental to the financial interests of the EU undermine not only the “European project”. Indirectly they are also harmful to each European taxpayer.
PT	
RO	a) We think that for a start the European Public Prosecutor's Office should only have jurisdiction in case of offences affecting the EU's financial interests and after a few years an analysis should be made on the efficiency of this approach and the possibility of expending it to other crimes. (b) The European Public Prosecutor's Office jurisdiction should be complementary to national prosecutors and should be allowed to focus solely on complex cases that represent a serious threat to EU's financial interests. An exclusive competence may lead to an unmanageable workload, as it is very difficult to estimate the number of cases that may meet the criteria attracting its competence.
SE	
SI	
SK	In my opinion jurisdiction of the European Public Prosecutor's Office ought to be limited only to serious offences affecting the EU's financial interests. It should be exclusive to national prosecutors.
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	The European Public Prosecutor's Office should have jurisdiction in the European Union, on offences affecting the EU's financial interests, but also on serious cross-border offences. This jurisdiction should be complementary to national prosecutors.
IT Francesco Ippolito Supreme Court of Cassation	The jurisdiction of the EUPP Office ought to be extended to other criminal offences strictly linked to those damaging the financial interests of the EU and cross-border offences that damage or jeopardize assets deserving protection at EU level (terrorism, trafficking in arms; in nuclear materials; in drugs). Its jurisdiction ought to be "complementary". This may have the advantage of using the contribution of the national prosecutors as well. The relationship between national and European prosecutors should be clearly set forth and based on effective coordination, according to the model implemented in Italy (DDA and DNA Offices) to avoid conflicts. The EU-PP Office may have exclusive jurisdiction on some criminal offences (e.g. fraud against EU) using by delegation, national structures and staff.
EL Anna Damaskou Transparency International	Under Article 86 TFEU the EPP will be responsible for combating crimes affecting the financial interests of the European Union. However, its competence may be extended to include all serious trans-border crimes, so as to maximize the utility of this unique, multi-equipped entity.
MT Dr. Giovanni Grixti Court of Justice	
RO Stoica Alina Florentina National Anticorruption Directorate	The European Prosecutor's Office should have jurisdiction regarditremely serious offences of an economic nature, which involve active subjects from different European states and for such situations the jurisdiction of the European Prosecutor's Office should be exclusive.

SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Criminal offences affecting the EU's financial interests are listed in the Lisbon Treaty and, it was also stated that enhanced cooperation is necessary also in other areas e.g. serious cross-border organized crime. Last but not least, this is also the question of political orientation/direction of criminal justice within EU. Currently, the EPP project has been raising more questions than answers. Before further works are carried out on its concept, there is a need for adoption of reliable political decision regarding the question of what scope should fall within the EPP's jurisdiction, also in the light of the operation of the future or presumed development of OLAF and Eurojust.
NL Faye cook Crown Office and Procurator Fiscal Service of Scotland	Without an evidence based assessment relating to why existing national procedures and practices are not sufficient to properly protect the financial interests of the European Union, it is difficult to assess whether or not the European Public Prosecutors Office would be able to prosecute cases more effectively than individual Member States.
LT Audrius Juozapavicius The Supreme Court of Lithuania	Having regard to the role of the Supreme Court of Lithuania as the court of the cassation instance for the courts of general jurisdiction, which shall develop a uniform court practice in the interpretation and application of statutes and other legal acts, we are not in the best position for assessment of the need for specialised prosecution bodies at European level ant determination of the specific features of such institution and the details of respective procedures.
DK Knut Gotfredsen Transparency International Denmark Chapter	The EPPO's mandate should go beyond the already existing EUROJUST mandate which has proven to be too limited to tackle corruption in the EU lastingly
HU Adam Foldes Transparency International Hungary	(a) Serious cross-border offences should also be covered. It would be essential when criminal justice authorities that have jurisdiction refuse to investigate or raise charges and private prosecution is not available (victimless crimes such as corruption). EPP would also tackle that issue when national authorities refuse to help their counterparts in prosecuting cross-border offences. (b) Admissibility rules of the Rome Statute of the International Criminal Court (Art 17) could serve as an example and EPP would have a role when the State is unwilling or unable genuinely to carry out the investigation or prosecution.

CZ Tomas Hudecek Ministry of Justice	
CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	The EPPO's competence should cover the following offences: Frauds affecting the financial interests of the EU and assimilated offences; Market-rigging; Money laundering; Conspiracy harmful to the financial interests of the EU; Corruption; Misappropriation of funds; Abuse of the office; Disclosure of secrets pertaining to one's office if this revelation is likely to damage the financial interests of the EU. This jurisdiction should be complementary to national prosecutors.
DE Joachim Ettenhofer	a) The competence of the EPPO should only cover offences affecting the EU's financial interests at least until the EPPO proves to be a success. b) The jurisdiction should be complementary to national prosecutors. If there is also a competence of the national prosecutor to prosecute the offence it would be easier to move a case from the EPPO to the national prosecutor for further dealing with it. This could for example happen in smaller cases which can be handled successfully by the national prosecutor. So the EPPO could focus on bigger and more important investigations.
MT Dr Donatella Frendo Dimech Attorney General's Office	Any jurisdiction must be complementary. Such jurisdiction should initially be over crimes affecting the EU's financial interests. Any extension of jurisdiction should be introduced in a piecemeal manner allowing for any potential fine-tuning, which may be warranted. Subsequently one may consider extending jurisdiction over other crimes.
FI Petteri Palomaki The District Court of Pirkanmaa	It could start with offences affecting the EU´s financial interests, especially fraud. Jurisdiction could be complementary to national prosecutors.

DE Kanzlei Cliff Gatzweiler	Also serious cross-border offences. That is more consequent. Complementary is better because European Prosecutor does not know the national rules.
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	Please see above.
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	Only offenses affecting EU financial interests. And the EU prosecutor should have exclusive jurisdiction over these matters. Extending the reach of EU criminal law beyond these limited offenses will lead to legitimacy concerns, overlapping problems and ineffective enforcement. As the history of US federal criminal law shows, the risk of overcriminalization is a permanent threat to emerging systems of federal (European) criminal. There will be greater opposition if the EU tries to appropriate sectors of enforcement that traditionally have been dominated exclusively by the Member States.
IE Robert Eagar Sheenan and Partners Solicitors	All serious cross-border offences but should be complementary to national prosecutors.
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	Since the competences of the European Public Prosecutor's Office have been limited by Article 86(1) TFEU to combating crimes affecting the financial interests of the Union, it would be prudent, if establishing such an Office, to stay within this remit. In addition to fraud and subvention fraud, offences covered would include bribery and corruption and the receipt of advantages and embezzlement vis-à-vis EU bodies to the detriment of the European taxpayer. All of these offences are set out expressly in the Code of Canon Law, compliance with which is the responsibility of the European Public Prosecutor's Office.

Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica México	No priority should be given on grounds of nationality, as anyone has the fundamental right to receive legal assistance.
BE Jana Mittermaier Transparency International EU Liaison Office	The EPPO's mandate must include serious cross-border crime. Corruption and money-laundering were explicitly acknowledged as serious EU crimes (Art. 83 (1) TFEU). The particularly serious nature and cross-border dimension of both crimes merit an EU-wide crime strategy with "teethes" because: Corruption is a cross-cutting phenomenon with negative impacts beyond the scope of the individual act, often facilitating the erosion of democracy and the rule of law; Cross-border corruption cases are often highly complex, involving a variety of actors from different jurisdictions, resulting in time-consuming investigations; Cross-border investigations are frequently slowed down by lack of, or delayed, responses from foreign authorities; Sanctions and scope of corruption crimes vary significantly in EU.

Other Respondents (mail)	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	I think in principle the competence of the European Public Prosecutor's Office should be limited to offences affecting the EU's financial interests. I think this jurisdiction should be complementary to the competence of the national prosecution offices, especially because I can imagine that in practice EU-fraud can occur in overlap or in concurrence with other (fraud) crimes in such a way that flexibility as to the question of where to prosecute is desirable

DE Dr. Holger Karitzki Federal Office of Justice	We initially refer to the response to question 3. If following an extensive evaluation, a decision is made in favour of establishing a EU-PPO, in our view needs to be considered: Regarding question a): The EU-PPO should have jurisdiction only for criminal offences to the detriment of the financial interests of the EU. Only with regard to such offences would it seem appropriate to provide an EU authority with priority competence over the national criminal prosecution authorities of the EU Member states, and to subject EU citizens to a procedural order with which they may be unfamiliar. It is only in this area that, as a rule, less nation-state interests and rather more interests and rather more interests of the European Union as a whole are affected, and the EU authorities will have specialised at their disposal. In contrast, it is not justifiable –at last currently- to have an EU authority, for example, prosecute cross border fraud to the detriment of two EU states. In such cases, the interest in criminal prosecution as well as the specific know-how usually lies with the affected Member States themselves. As such, involvement by the EU-PPO would lead only to a complication of the proceedings by having more participating actors. Furthermore, it seems doubtful, with a view to protecting the legitimate expectations of those EU citizens who have acted only in their own Member State and subject to « their own » legal order, to subject them to European criminal prosecution with a different code of procedure. Regarding question b): This question cannot currently be answered with finality because it specifically depends upon whether satisfactory answers to questions 7-10 can be found. In deciding that question, in our view the following aspects should be taken into account: On the one hand, to promote more efficient criminal prosecution it might be advantageous for the EU-PPO not to have exclusive jurisdiction, but rather be given supplementary jurisdiction, which runs parallel to the continued jurisdiction of the national criminal prosecution authorities. This would enable efficient investigations from all sides, especially when it is not apparent from the outset which authorities are « closest » to the case. Competing jurisdiction would also allow the EU-PPO to concentrate on the more significant and extensive cases, while standards cases of lesser severity could be prosecuted by the national public prosecutor's offices. The relationship between the Federal Public Prosecutor's Office and the Land Public Prosecutor's Offices is regulated in a similar manner in section 142a of the GVG ; the Federal Public Prosecutor's Office does not prosecute cases of lesser significance. We have had good experience with this model in Germany.

	On the other hand, parallel investigations by the EU-PPO and the national authorities will cause problems at the latest when coercive measures are used against persons who are under investigation. The persons affected would be confronted by measures frim two different legal orders, which could significantly hinder them in exercising their rights. Another effect of « parallel competence » might be that coercive measures could be taken by the public prosecutor's office able to rely on the more extensive legal basis. This means that the persons affected would be subject to the respectively stricter legal order, without this being foreseeable or transparent for them. This situation might also arise if two Member States investigate against the same person for the same crime. However, in such cases classic assurance clauses from mutual legal assistance and mutual recognition, for example the « territoriality principle », avoid conflict and ensure that the legitimate expectations of citizens are maintained. This aspect must be sufficiently taken into account in establishing a EU-PPO. One possibility in this regard would be to create protective clauses.
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	If it is created, the Office of the Prosecutor should have jurisdiction only in the context of the crimes that affect the interests of the European Union.
European Association of Judges	The jurisdiction of the European Public Prosecutor's Office should be limited to offences affecting the EU's financial interest as laid down in art. 86 sect. 1 TFEU. To ensure that the European prosecutor is not overloaded with minor crime, his jurisdiction should be limited to cases in which the – presumed - damage has exceeded a prescribed sum of money.
Eurojust	a) Many Members of the Forum consider that the EPPO should initially have jurisdiction only for offences affecting the EU‟s financial interests. The latter could include stricto sensu PIF crimes as well as assimilated offences such as abuse of office and misappropriation of funds. At a later stage, provided that it has demonstrated its added value, the EPPO could see its jurisdiction extended to serious cross-border offences as provided for by Article 86(4) TFEU. However, according to some Members of the Forum, the EPPO should, from the moment of its establishment, be given extended jurisdiction to also cover other serious cross border offences. Conversely, some Members consider that sufficient information is not available at the moment to decide on the scope of a possible future mandate for an EPPO. In this context the view was expressed that ongoing assessments and evaluations of the functioning of Eurojust and OLAF should be completed in order to identify crime areas that are not being handled efficiently by Member States in cooperation with European bodies. Further development of Eurojust as a good possible alternative to the establishment of the EPPO was also indicated.

	b) Several Members of the Forum consider that the EPPO"s jurisdiction should be complementary to that of the Member States, as this solution would be more flexible and less invasive for national jurisdictions. Other Members would prefer that the EPPO be given exclusive jurisdiction, as they consider that such solution would prevent friction and conflict between the EPPO and national authorities.

Question 5. What would be the preferable design for the European Public Prosecutor's Office's structure, centralised (i.e. with all investigative and prosecutorial acts performed at EU level) or decentralised (i.e. with a certain flexibility to carry out certain investigative or prosecutorial acts at national level under the authority of the European Prosecutor's Office, and why ? Please consider how the various levels of your preferred design would interact in practice.

Member states	Replies
AT	The answer to the question also depends on the applicable procedural law, the court structure etc. A centralized structure would certainly give rise to a lot of practical questions (such as: where would the accused be held in custody, how will public prosecutors of an EPPO be able to interrogate witnesses, or the accused or examine evidence situated in various Member States? Handling of the file in relation to the/which court?) and legal questions (such as: which court will approve orders of the EPPO? Which court shall decide upon the indictment of an EPPO? Who will present the indictment on behalf of the EPPO?). A decentralized structure would bear disadvantages as well. It would for example impede internal agreements, informal flow of information, personal contacts etc. Furthermore it would be nearly impossible to arrange teamwork in various cases. As another alternative a mixture of the both mentioned structures would suffice various needs and combine the respective advantages.
BE	A centralized structure is better. So the EU Prosecutor can manage the investigations from a central point.
BG	
CY	The EPPO should have a decentralized structure. The independence of the Prosecutor General and the Police must be respected both on a national as well as in an EU level. Any action with respect to cases of crimes affecting the EU's financial interests should be taken together and in consultation with national prosecutors. Ideally the EPPO would act via delegates in the Member States or would delegate tasks to national prosecutorial authorities. In this way we ensure that cases are investigated and prosecuted in the Member States, where the criminal acts have been committed.

CZ	A decentralized model could build on and be in close contact with standing different national law enforcement structures. National EPPO units could be coordinated by EPPO on the EU level.
DK	Referring to the answers above to questions 3 and 4 it would be the initial and general view of the Director of Public Prosecutions that working with a decentralised structure would be most efficient and ensure that cases are investigated and prosecuted in the Member States as close as possible to the perpetrators and where the criminal acts have been committed. This also directly implies that the authorities in the Member States should play the leading role in both the investigation and prosecution of crimes. This would follow the well-established procedure that at present exists in the area of criminal justice and in the field of cooperation between Member States and Eurojust, Europol and OLAF.
DE	
EE	If national investigative bodies have to actually conduct preliminary investigation, then in order to avoid the resource and managements conflicts the system should be decentralized.
ES	Since the TFUE attributes to national jurisdictions the adjudication of PIF cases, we believe the only feasible solution would be to act through delegate prosecutors, i.e., double-hatted prosecutors from each given jurisdiction. These prosecutors would act on behalf of and under the direction and hierarchy of the European prosecutor in cases of its competence, while the rest of the time they could continue to perform their ordinary duties as national prosecutors. This would allow them to cope with those connected offences beyond the strict PIF category, without having to artificially divide certain cases in which the competence of the EPPO and national prosecution services may overlap. Besides, this option would significantly reduce the overall costs of establishing the EPPO.
FI	One option would be a decentralized organization, where each Member State appoints an EPPO prosecutor. From Finland's point of view, I would give priority to this option and go even further by suggesting that the national Eurojust member would also be responsible for both Eurojust and EPPO acts. In any case, this option would improve cooperation with Eurojust. In the centralized option, EPPO would be part of Eurojust, i.e. a department, which would have full investigative and prosecutorial powers. See also reply No. 7.
FR	La question de la centralisation du Parquet européen apparaît rejoindre celle de sa forme, collégiale ou non, au point que les deux questions méritent d'être traitées conjointement. « A partir d'Eurojust ». Telle est la description pour le moins succincte du processus

	de création du parquet européen que fait l'article 86 TFUE. Comme l'a souligné le Conseil d'Etat français, il est difficile d'y voir « ce que peut être un parquet y puisant ses origines, mais s'en distinguant suffisamment pour constituer une nouvelle structure au niveau de l'Union européenne ». Il semble qu'« une structure collégiale comprenant un représentant par Etat membre « serait davantage acceptable au regard des considérations relatives à la souveraineté nationale », et bien plus compatible avec la référence à Eurojust. » Naturellement, des processus de décisions idoines devraient être mis en place, l'efficacité dans la prise de décision étant consubstantielle à l'existence d'un parquet européen. A ce mode d'organisation collégial s'oppose la vision d'un Procureur européen « unipersonnel », assisté d'une équipe légère. Le pragmatisme doit conduire à prendre en compte les fortes réticences prévisibles de certains Etats membres à cet égard. Il apparaît raisonnable de considérer qu'en l'état de l'évolution de l'Union le parquet européen doive être initié sur une base collégiale. S'agissant du degré de centralisation, deux solutions sont envisageables : Celle d'un parquet européen centralisé, c'est-à-dire un organe composé d'une seule structure, donnant directement des instructions aux services compétents des Etats membres, et celle d'un Procureur européen représenté par des procureurs européens délégués dans les Etats membres. Il apparaît raisonnable d'opter pour la seconde option, davantage de nature à ménager les susceptibilités nationales et présentant en outre l'avantage de d'une immersion des délégués nationaux dans le corps judiciaire national dont ils seraient issus. La proximité géographique, linguistique et culturelle de ces procureurs délégués avec les services d'enquête nationaux apparaît irremplaçable.
EL	The EPPO should be a central authority, most preferably in Luxembourg, close to the Court of Justice. In addition, each Member State should create a national EPPO dealing only with offences against the financial interests of the EU plus the protection of the euro. This national office could liaise with the central EPPO in order to co-ordinate actions, investigations and prosecutions at national level and in collaboration with EUROJUST.
HU	The structure and design of the EPPO is one of the most difficult set of questions. The general view is that the EPPO should be decentralized, because institutional links to the national investigating and judicial/prosecutorial authorities are indispensable. The EU could not set up EU criminal courts all over Europe, hire legal professionals to act as prosecutors on its behalf, and have a European FBI. And on top all this, these actors would not be able to speak all the official languages. The initial concept is that the "Head Office" in The Hague (?) should be a small one, and the "field work" would be done by national prosecutors having also a European "hat" as deputies of the EPP. By definition, the EPPO is a supranational ("federal") body, since its mission is to protect supranational EU interests. A highly decentralized structure, however, does not seem to be evident for everyone. There are views that from OLAF a European criminal investigating authority should be created, while Europol should serve as a criminal intelligence gathering agency for the EPPO. In any case, the burden of deputising and acting on behalf of the EPPO will rest with national prosecutors. It is evident, that they will be appointed and (partly?) paid by the EPPO, but their status needs further careful reflections. (We know from the Bible that "No one can serve two masters".) In this context, the correct and transparent relationship between the national Prosecutors General and the EPP is also of great importance. Although supranational, the EPP could not be the „boss" of the Prosecutors General in any sense. The powers

	and the independence/autonomy of the national Prosecutors General should remain intact, as laid down in the constitutions and other national legislation. A further sensitive question is the independence of the EPPO, and the guarantees of this independence *vis-à-vis* the European institutions, especially towards the Commission. It is Eurojust from what the EPPO may be established. According to the present legal framework, Eurojust is an intergovernmental (i.e. „non-community" as opposed to the OLAF which is a Directorate General within the Commission), self-governing judicial cooperation body, whose independence is *a sine qua non* for performing its judicial function. It is difficult to imagine how an independent EPPO could be produced from Eurojust, if it loses its *sui generis* structure and will be governed by a Management Board composed of representatives from the Commission and the MSs, in the same way as other „ordinary" agencies are governed, like the European Training Foundation, the Translation Centre, or the Community Plant Variety Office.
IE	
IT	Following on from the opinion that we have given above (question 4), we think that it would be preferable to opt for a decentralized structure. That's because the EPPO's mission will need a high level of integration and cooperation at all national levels, not only through the involvement of Prosecutors (that is obvious) but also of Police and other National Administrative Bodies (Customs, Tax Offices, Registers, etcetera); this aim would be better achieved with a decentralized structure, with a few Deputy European Prosecutors who work directly with the EPP in a Central Unit, and other ones (designated by the national Justice Authorities in each MS) who work, under the EPP's authority, at a national level. These "EPP's delegates" will be able to adapt the general instructions given by the Prosecutor to each national criminal justice system.
LT	See reply to Question 1.
LU	
LV	See reply to Question 1.
+ MT	Decentralization will respect the principles of subsidiarity and proportionality. The independence (often entrenched in a State's Constitution) of the Police and Prosecutor General must be respected both on a national as well as an international level, hence including on the EU level. Any action with respect to cases of crimes affecting the EU's financial interests would be taken together and in consultation with national prosecutors. If any State is viewed as being unjustifiably reluctant to undertake such investigations/prosecutions, the authorities of that State must provide their reasons to their highest national authorities (e.g. Minister for Justice, Parliament) as well as to the EU (Commission who could in turn report to the EU Parliament).

NL	
PL	*Corpus Iuris* might be used as a model way of the structure of the EPPO - with the General European Prosecutor and Delegated European Prosecutors – one in every Member State. European Prosecutors should be independent in their competences from the national authorities (i.e. the Prosecutor General or the Minister of Justice), as well as from the Union's institutions. However, their actions should be placed under judicial control. To strengthen their position, the General European Prosecutor and the Delegated Prosecutors should be appointed for a certain period of time. Cooperation between the EPPO and the national prosecution services ought to be based on a principle of equality and in-dependency. This means that the European Prosecutors would not have the power to interfere in cases conducted by national prosecutors or question their decisions.
PT	
RO	We think that European Public Prosecutor's Office should be in a position to carry out certain investigative acts at national level, for reasons of efficiency and cost effectiveness. A body that would be able to perform by itself all the acts that may be required (e.g. a significant number of simultaneous searches in different countries) would have budgetary needs that may be difficult to ensure and may be not be justified by the results it can achieve.
SE	
SI	
SK	I prefer decentralised structure of the European Public Prosecutor's Office. I hold opinion that this design could be more effective and more flexible in practice.
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	The preferable design for the European Public Prosecutor's Office's structure, is it's decentralization with a certain flexibility to carry out certain investigative or prosecutorial acts at national level under the authority of the European Public Prosecutor's Office.We think that in this way it will be easier to achieve better results in combating serious crimes. This cooperation will ease the work of the prosecutors from the European Public Prosecutor's Office (because we suppose that they will be overburdened), but in the mean time the final goal will be achieved.
IT Francesco Ippolito Supreme Court of Cassation	In the light of the observations set forth in our answer to Question 4 above, it might be critical to design a centralised structure with the prevailing task of coordinating investigations. This model may be more flexible and may not leapfrog the competences of national prosecutors.
EL Anna Damaskou Transparency International	
MT Dr. Giovanni Grixti Court of Justice	
RO Stoica Alina Florentina National Anticorruption Directorate	It would be preferable to set up a centralized European Prosecutor's Office, having subordinated structures in each Member State, integrated parts of the European Prosecutor's Office, these structures being formed of 1-2 European prosecutors who would have similar jurisdiction as those from the central structure and who would promptly carry out the criminal investigation activities at the level of each national state in the case of the offences under the jurisdiction of the European Prosecutor's Office.

SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Question of its preferable design and structure is closely linked to the question of its flexibility and efficiency whilst we should not forgot that in the practice, conflicts may happen in relation to its jurisdiction and/or any other conflicts with unforeseeable (for the moment) procedural consequences. As these issues are complex, we deem necessary to try to simulate different situations with the aim to solve them before establishing the EPP. For this reason, we consider that exhaustive and unhurried analysis of needs and objectives is necessary to be carried out and, afterwards the project should be prepared thoroughly including impact analysis.
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	Whilst there is insufficient evidence at this time for the establishment of an EPP, it would seem more appropriate to have a central EPPO coordinating body with localised individuals who would be in a position to provide advice and guidance in relation to national laws.
LT Audrius Juozapavicius The Supreme Court of Lithuania	It is our conviction that these important issues should be considered first and foremost by the legal experts responsible for the European legislative process both at national and European level in close cooperation with legal scientists and practitioners dealing with the matters of criminal investigation, prosecution, etc
DK Knut Gotfredsen Transparency International Denmark Chapter	Decentralized to ensure buy-in from member states and to observe the proximity principle
HU Adam Foldes Transparency International Hungary	Decentralised bodies may resist better attempts of influence by national governments, therefore they would have more autonomy in their investigations and prosecutions. It would be also crucial that these bodies can perform their functions totally independent of the national investigative authorities / prosecution services.
CZ Tomas Hudecek Ministry of Justice	

CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	A decentralised model could build on and be in close contact with standing different national law enforcement structures. National EPPO units could be coordinated by EPPO on the EU level.
DE Joachim Ettenhofer	A decentralised structure would be preferable because it would be more efficient. For a successful execution of investigation measures the knowledge of local structures, procedures and habits besides the knowledge of the law is vital. And this knowledge is bigger, if the structure of the EPPO is decentralised.
MT Dr Donatella Frendo Dimech Attorney General's Office	Decentralization will respect the principles of subsidiarity and proportionality. The independence (often entrenched in a State's Constitution) of the Police and Prosector General must be respected both on a national as well as an international level, hence including on the EU level. Any action with respect to cases of crimes affecting the EU's financial interests would be taken together and in consultation with national prosecutors. If any State is viewed as being unjustifiably reluctant to undertake such investigations/prosecutions, the authorities of that State must provide their reasons to their highest national authorities (e.g. Minister for Justice, Parliament) as well as to the EU (Commission who could in turn report to the EU Parliament).
FI Petteri Palomaki The District Court of Pirkanmaa	The design of the structure could be decentralized. National prosecutors would be obliged to prosecute if the European Public Prosecutor´s Office made such a decision.
DE Kanzlei Cliff Gatzweiler	Centralised creates less costs, has got a more efficient structure and complementary national prosecutors can enforce the European prosecutorial acts

NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	Please see above
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	Only offenses affecting EU financial interests. And the EU prosecutor should have exclusive jurisdiction over these matters. Extending the reach of EU criminal law beyond these limited offenses will lead to legitimacy concerns, overlapping problems and ineffective enforcement. As the history of US federal criminal law shows, the risk of over criminalization is a permanent threat to emerging systems of federal (European) criminal. There will be greater opposition if the EU tries to appropriate sectors of enforcement that traditionally have been dominated exclusively by the Member States.
IE Robert Eagar Sheenan and Partners Solicitors	
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	The Deutsche Richterbund considers it imperative that the European Public Prosecutor's Office conduct its investigations without outside interference. Accordingly, steps must be taken not only to ensure that the "European Public Prosecutor's Office" in its capacity as "lead authority" can act without outside interference but also that the same guarantees are offered to the State Prosecutors reporting to the European Office. A specific set of rules will need to be drafted for this purpose, to guarantee the State Prosecutors in question independence from their home authorities. The work of the European Public Prosecutor's Office will need to be carried out on the spot. Requests for judicial decisions in connection with investigations, bringing to judgement and und public trial will be referred systematically to the national judge with territorial jurisdiction (Art. 86(2) TFEU). Substantial investigative measures such as participation in searches or hearings of witnesses would also need to take place on the spot. Hence, all Public Prosecutors, who are in charge of specific investigations, must carry out their work on the spot. That being said, the Deutsche Richterbund is in favour of substantially reinforcing the European Public Prosecutor's Office at central level. Any move towards decentralisation would mean that it would have to play the role of a supervisory authority answerable to national public prosecutors. This would be completely at odds with the remit of the institution. It is also unclear how a decentralised public prosecutor's office could 'dovetail' with Germany's individual regional public prosecutor's offices (i.e. at the level of the Länder).

	European-level prosecutions as a responsibility of the Union can only succeed if a horizontal approach to investigations is developed within the European Public Prosecutor's Office. This is only possible if the institution is based at European level and operates at central level.
Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica. México	The legislator should establish the criteria for defining the levels.
BE Jana Mittermaier Transparency International EU Liaison Office	

Other Respondents ***(mail)***	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	I suppose a decentralized design in such a form that national prosecutors will be assigned as EU-fraud prosecutors will prove to be the most effective. These prosecutors are integrated in the national system but will be able to cooperate with the other EU-fraud prosecutors assembled in the EPP Office. Such a design will in my opinion provide the best integration in the national law enforcement systems (policing, prosecution and trial) and will therefore probably lead to the most effective results in the fight against EU-fraud.

DE Dr. Holger Karitzki Federal Office of Justice	We initially make reference to the responses to questions 3 and 4. That said, we would prefer a decentralised system in which investigative acts are carried out in the respective Member States by their own authorities in the name of EU-PPO. This should be done on the basis of the respective national legal order because it would minimise constitutional and organisational problems; see also question 6 and 9. It should also be taken into account that the EU-PPO would itself likely not be capable of providing/receiving mutual legal assistance. Therefore, if mutual legal assistance from third states is required, the authorities of the Member States could make requests based upon their national law without special rules being necessary for the EU-PPO. In practice, this could work as follows: The EU-PPO becomes aware of a suspicion of a criminal offence within its competence and carries out an initial investigation to resolve the suspicion, which does not yet involve coercive measures against individuals. When investigative measures need to be taken in a Member State, such measures would be carried out for the EU-PPO by the national authorities of the Member State concerned. As such, the EU-PPO « commission » the authorities of the Member State (potentially via a central office to be named by the Member States) to carry out the investigation. The national authorities, who then take action for the EU-PPO, maintain their general jurisdiction, status, and competence pursuant to their national law; they are merely « wearing another hat » when they investigate in the name of the EU-PPO. The competent authority of the Member State makes independent decisions regarding the proceedings based upon instruments of mutual recognition. Therefore, the EU-PPO does not need to take on any « coordination function ». The legal remedies available available under national law for comparable domestic cases are applicable. The right to issue instructions, as well as carrying out personnel and substantive supervision, do not lie with the EU-PPO, but rather with the offices competent pursuant to the domestic law of the Member State. If the investigation in that Member State leads to a criminal indictment, the criminal proceedings are to be initiated in the Member State and conducted pursuant to that procedural law. The Member State report to the EU-PPO about important procedural steps such as preferement of charges, courts decisions and termination of proceedings. In our view, a decentralised system would be much easier to intent to justify to the public and to put into practice at the domestic level. In contrast, a centralised system would lead to the EU-PPO having to confront consideral problems in terms of acceptance: A decentralised system would be the easiest to reconcile with the different (criminal) legal orders in the Member States, and though justice to the situation that there is no harmonised criminal procedure law within the EU. A decentralised system would represent the least possible intrusion into the legal position of the persons affected; for example, they would be able to assert legal remedes against investigatory measures, with which they’re familiar from their own legal order, in their native language. Additionnal, deviating legal remedes against the EU-PPO at the EU level (= initiation of criminal proceedings) are

	not necessary (in Germany, under national law there is no legal remede available against the initiation of a criminal proceeding). A decentralised system avoids the consequence which would be difficult to justify domestically that the EU Member States would have to permit investigators from other Member States are an EU authority to carry out investigative activities and potentially given coercive measures against their citizens on their own sovereign territory.
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	The European Public Prosecutor should act, in our opinion, with delegated competence on the Prosecutors of each Member State, only coordinating the investigations carried out by them, in order to defend the economic interests of the European Union, but respecting the territorial jurisdiction of States and optimizing synergies, knowledge and proximity factors for the type of criminal activity that I operates in each State, in view of the legislation inch force and existing structures to fight that type of crime.
European Association of Judges	
Eurojust	The replies given by the Members show that the terms “centralised” and “decentralised” as used in the questionnaire were subject to different interpretations.A small number of Members favour a structure where an EU Prosecutor would manage the investigations and the prosecutions from a unique central point/organ. A vast majority of the Members of the Forum seem to favour a structure where the EPPO would act via delegates in the Member States or would delegate tasks to national prosecutorial authorities. This would ensure that cases are investigated and prosecuted in the Member States as closely as possible to the perpetrators and where the criminal acts have been committed. The same persons could possibly combine their role as EPPO delegates in the Member States with their role as national prosecutorial authorities. Such a solution would allow for a more flexible and effective system, and provide the advantage of being adaptable to each national criminal justice system, while ensuring the indispensable institutional links between the EPPO and the national investigating and judicial authorities. This option would also reduce the overall costs of establishing the EPPO. Another suggestion offered was to have the National Member of Eurojust responsible for both Eurojust and EPPO"s acts to ensure close cooperation between the two. The independence of the EPPO and its relationship with the Prosecutors General are also issues of great importance and need to be carefully considered. Considering the many advantages and disadvantages that the various options would entail, a combined approach, mixing aspects of decentralisation and centralisation, might be envisaged.

Question 6. What investigation powers should the European Public Prosecutor's Office have? (e.g. search & seizure, arrest, interception of telecommunications) ?

Member states	Replies
AT	The EPPO must have the same powers as similar Offices of National Member States. If that wasn't the case how could an EPPO make a request for mutual legal assistance (which would certainly be necessary e.g. concerning bank accounts) to a country outside the EU?
BE	The same investigations powers than the National authorities.
BG	
CY	In our opinion all coercive measures should pertain exclusively to national authorities who may authorize, under their supervision, the taking of such measures jointly with the EPPO.
CZ	A national EPPO Units should have all prosecutorial competences pertaining to national prosecutors.
DK	See answer to question 5. The carrying out of investigative powers on Member State"s territory are closely linked to the general nature of the criminal justice system, its specific structure and questions related to the division of powers between different authorities, i.e. courts, prosecution services and law enforcement authorities, the possible deployment of such powers are best assessed at the national level by Member States" authorities. Therefore the Director of Public Prosecutions is in general of the opinion that powers related to investigative measures should not be given exclusively or in a limited form to a centralised European body, but must be based on a close

	cooperation between the European body and the national authorities.
DE	
EE	Equal with the powers of national bodies.
ES	In principle the widest possible consensus should be sought, taking as a basis the standard prosecutorial role in the participating MS. Therefore, investigating powers not affecting fundamental rights should be vested in the EPPO, with the possibility to go before the judge to obtain authorization for those affecting them. For preliminary stages of investigation, where a competent national jurisdiction may not have been established yet, a special court should be established at the Court of Justice of the EU (via article 257 TFEU). The extent of the difficulties in this regard will vary considerably depending on the MS that participate in the EPPO, being less if these happen to be more homogenous as regards their prosecutorial functions.
FI	In the centralised model, EPPO should have extensive powers of pre-trial investigation and coercive means to ensure its operations were effective. These powers should also be supranational and applicable in each Member State. EPPO would have the power to intervene in a national pre-trial investigation when serious problems in cross border cooperation were noticed. EPPO could intervene in the work of a national prosecutor mainly only when criminal liability would otherwise fail to be carried out and support is especially requested. This would require each Member State to have its own national European prosecutor who works either in the Member State or in EPPO. In Finland, the European prosecutor would also act as head of an investigation in an EPPO case where the targets of the investigation might differ from the national targets. The costs of a criminal case dealt with by EPPO should, at least in part, be met out of EPPO"s budget. In the decentralised option, powers would basically be national and exercised by the national competent legal authorities concerned. EPPO could have a binding right to order the initiation of a national pre-trial investigation and to bring charges if the national authorities were ineffective in an individual matter coming within EPPO"s jurisdiction. This would be possible to implement by further extending the powers of Eurojust's national members.
FR	Compte tenu de l'option retenue ci-dessus, le droit national serait applicable à l'action du parquet européen au niveau national.
EL	The EPPO should have the same investigative powers as the national authorities.

HU	In principle, the EPPO will have all the powers necessary to perform prosecutorial functions.
IE	
IT	The EPPO should have extended investigation powers, including those suggested in this question.
LT	See reply to Question 1.
LU	
LV	See reply to Question 1.
MT	All coercive measures should pertain exclusively to national authorities who may authorize, under their supervision the taking of such measures jointly with the EPPO (If one is envisaging its creation ab initio).
NL	
PL	The EPPO should be able to use available non-coercive measures such as hearing and questioning the persons, collecting documents and information, etc. However, problems may arise in regard to coercive measures such as search/seizure, interception of telecommunications, covert investigations, controlled deliveries, etc. Firstly, there is no common definition of coercive measures (a non-coercive investigative measure in one Member State, may be considered as a coercive one in the other Member State). Secondly, execution of such measures may be out of the competences of the national prosecution services. This might cause very serious, even constitutional, problems as according to national law some powers are granted only to courts and not to prosecutors.
PT	
RO	We think that European Public Prosecutor's Office should have all the investigation powers a prosecutorial body ordinarily has in order to have the means to achieve its goal.
SE	
SI	

SK	I hold opinion that in the interest of effective investigation the European Public Prosecutor's Office should have all possible investigation powers.
UK	

Other respondents ***(website)***	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	The European Public Prosecutor's Office should have all the necessary investigation powers – including search & seizure, arrest, interception of telecommunications, etc.
IT Francesco Ippolito Supreme Court of Cassation	The powers of the EU Prosecutor should be strictly connected to the opted organisational model. Should we opt for a EU Prosecutor's office with coordinating functions, its investigative powers should be limited as much as possible, since most investigative acts may be carried out by the national prosecutors, with the possibility of delegating specific acts to the EU Prosecutor. Personal coercive-type powers should however be excluded. In case of exclusive functions (only in terms of given offences), the scope of the EU Prosecutor's investigative powers should nevertheless be carefully considered, possibly designing a system of delegations for coercive-type functions.
EL Anna Damaskou Transparency International	
MT Dr. Giovanni Grixti Court of Justice	

RO Stoica Alina Florentina National Anticorruption Directorate	The investigative responsibilities of the European Prosecutor's Office should be similar with those of the national prosecutors, established by express legal provisions, consisting of jurisdiction in carrying out searches, ordering ensuring measures, adopting the measure of pre trial detention up to 72 hours, requesting telecommunications interceptions and adopting the preventive measures by the national courts.
SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Since it cannot be expected in near future that unified European criminal justice system comes to existence, it seems that there is logical justification for having precisely defined range of investigations powers, applicable judicial framework and applicable criteria for the trial falling within EPP's jurisdiction. Any question regarding specific issues (criminal acts, etc.) should be discussed in order to clarify positions and views of different EU Member States with the aim to prevent the EPP project reaches the impasse.
UK Crown Office and Procurator Fiscal Service of Scotland	The EPPO should not be in a position to have their own investigatory powers without a localised presence. Recent proposals, for example the European Investigation Order, will enable jurisdictions do deal with requests more efficiently and effectively.
LT Audrius Juozapavicius The Supreme Court of Lithuania	On the other hand, for our part we may suggest, that current Lithuanian courts' practice concerning EU financial interests does not, in our opinion, lead to the conclusion, that the question of the European Public Prosecutor's Office could be qualified as topical in order to insure the efficiency of the Lithuanian criminal justice system in this area. The cases directly concerning EU's financial interests (still not very frequent) to date normally involve local situations without trans-border elements and are successfully tackled by the competent national authorities. Cross-border offences (e. g. smuggling, money laundering) are prosecuted using existing European and international cooperation mechanisms
DK Knut Gotfredsen Transparency International Denmark Chapter	The EPPO's mandate should go beyond the already existing EUROJUST mandate, which has proven to be too limited to tackle corruption in the EU lastingly.

HU Adam Foldes Transparency International Hungary	
CZ Tomas Hudecek Ministry of Justice	All investigation powers that the national criminal justice entities have.
CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	A national EPPO Units should have all prosecutorial competences pertaining to national prosecutors.
DE Joachim Ettenhofer	The EPPO has to have full investigative powers because only in that case it can carry out its tasks with success.
MT Dr Donatella Frendo Dimech Attorney General's Office	All coercive measures should pertain exclusively to national authorities who may authorise, under their supervision, the taking of such measures jointly with the EPPO (If one is envisaging its creation ab initio).
FI Petteri Palomaki The District Court of Pirkanmaa	Investigation powers could stay on the national level.

DE Kanzlei Cliff Gatzweiler	The same as a national prosecutor but remedies for the suspect must also be the same on the national level (national court).
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	The same as the national PPO's have, save the powers which are to be carried out are supervised by a judge.
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	The petition of the EU prosecutor should be granted or dismissed by the national court subject to review before the specialized court within the ECJ (article 257). These petitions should cover all traditional investigation powers.
IE Robert Eagar Sheenan and Partners Solicitors	All of the above with complementary assistance of national investigators.
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	The rights of the European Public Prosecutor's Office in respect of individual cases should be the same as those enjoyed by national public prosecutors under the respective legal systems. There is no legal basis for granting more extensive powers.
Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica México	This would violate a fundamental principle, namely the privacy of communications

BE Jana Mittermaier Transparency International EU Liaison Office	The EPPO's mandate should go beyond the already existing EUROJUST mandate, which has proven to be too limited to sustainably tackle corruption in the EU.

Other Respondents (mail)	Replies
NL J.M Corstens he Supreme Court of the Netherlands	On the subject of the required investigation powers I also think it would be best to strive to a form of integration in the national systems so that in the prosecution of EU-fraud the same investigation powers can be applied as for other, similar, crimes in the national jurisdiction concerned.
DE Dr. Holger Karitzki Federal Office of Justice	This question cannot be answered conclusively until the structure of the EU-PPO has been determined. In principle, all investigatory and coercive measures can be considered. In a specific case, however, the authority of the EU-PPO cannot go beyond the authority that the national authorities would have in comparable domestic cases. The member states can transfer criminal prosecution authority to an EU authority only to the extent held by their own authorities. Otherwise, this would undermine the boundaries of criminal prosecution, which the respective Member States have set for their own authorities –also taking into account the basic rights of the individual affected. Independently of legal problems, within the EU Member States it would be difficult to justify a legal policy that an EU-PPO would have the authority to carry out investigative and coercive measures on the territory of a Member State even if such measures would be prohibited for the domestic authorities.

PT Maria Cândida Almeida Procuradoria-geral de Repùblica	The answer to this question leads back to the answer to the previous question, in fact, the European Public Prosecutor should only have powers of coordination, since the Prosecutors of the member States are the ones who have the effective powers of investigation and to order or request the necessary operations in compliance with the internal legislation of each of the different states.
European Association of Judges	The European Public Prosecutor's Office should be granted the same powers of investigation as a national prosecutor. There is no legal basis under the Lisbon-Treaty to extend these powers. The use of these powers should be subject to judicial control.
Eurojust	To perform its prosecutorial function, the EPPO should have the same investigative powers as the national authorities. Some Members of the Forum stressed that problems, including of constitutional nature, may arise with regard to coercive measures to be performed (or not) by the EPPO. Others underlined that investigative powers should not be given exclusively or in a limited form to a centralised European body, but should be based on close cooperation between the latter and the national authorities.

Question 7. What framework (applicable law, judicial review) should be envisaged for such investigation powers?

Member states	Replies
AT	Concerning the model rules, which have not been presented publicly yet, it can be said that exclusive procedural rules would be the most efficient way to conduct criminal proceedings. Nevertheless, it can" t be denied that – if created as minimum standards – they would lead to unequal treatment of the accused in comparison to national criminal procedure codes.
BE	The same than the National authorities. No more, no less.
BG	
CY	Given that in our opinion these measures should remain within the exclusive competence of national authorities, then they should be regulated by national laws.
CZ	Given that in our opinion these measures should remain within the exclusive competence of national authorities, then they should be regulated by national laws.
DK	See answer to question 6. Thus, the Director of Public Prosecutions finds that the use of investigative powers, in the context provided in question 6 and 7, must be under judicial review by national courts under relevant national legislation in the field of administration of justice etc.

DE	
EE	Judicial review is likely to remain with the national jurisdictions. The trial stage will be completely under the national rules and systems.
ES	A set of procedural rules should be established to regulate the actions of the EPPO. This new procedure should be applied by delegate prosecutor and by national courts when exerting their judicial review functions. In principle, control over EPPO actions should be carried out by domestic courts, with the important exception of those cases in which, as stated in the previous questions, investigations are at such an early stage that no competent national jurisdiction has been established yet. In these cases a special chamber at EU Court of Justice could deal with this function (as provided for in article 257 TFEU).
FI	The establishment of EPPO inevitably raises the issue of the approximation of substantive criminal law and procedural provisions, as well as the question of whether also a European Criminal Court is needed. This would facilitate the organisation of the criminal procedure in practice, not only as regards the norms applicable, but also the language used (ECtHR (European Court of Human Rights), CJEC (Court of Justice of the European Communities)). It would also be possible to guarantee equal legal protection for everyone. Because of the national nature of criminal law today, the most realistic thing would be for jurisdiction in criminal matters to be in the hands of national courts, where the national legal authorities act in compliance with national law.
FR	Compte tenu de l'option retenue ci-dessus, le droit national serait applicable à l'action du parquet européen au niveau national. Toutefois, certaines décisions du parquet européen (notamment les décisions arbitrant des conflits de juridiction) devraient pouvoir faire l'objet d'un recours judiciaire au niveau de l'Union.
EL	A simple and clear regulation defining the investigative powers of the EPPO, the data protection issues and the judicial review of its actions and decisions.
HU	Procedural law: The rules of the national criminal procedure apply. EU model rules are under preparation by an EU project led by Prof. Ligeti (Luxembourg University). The draft of the latter will be discussed by the College of Eurojust on 31 May. The Closing Conference of the project will be held on 15 June in Luxembourg. Mr. Seremet, Prosecutor General of Poland will be one of the speakers of the Conference. Admissibility of evidence: see above. Judicial review in the pre-trial phase: will be performed by a judge of freedom as proposed in the Corpus Juris, etc.; no EU criminal court established in the foreseeable future.

	Trial: before national courts; no EU criminal court will be established in the foreseeable future. The EPPO will not have the task of improving judicial cooperation. It will be tasked with prosecuting PIF offences. Prosecution should be based on the legality principle as much as possible. Cooperation with non-MSs and not participated MSs: the EPPO should become a new "subject" to international criminal law and should be party to the relevant international conventions, treaties etc. to be able to request assistance. (Eurojust as such is not a "prosecution service": it does not issue and execute Letters Rogatory to/by MSs or 3rd states, it only facilitates judicial co-operation actions. There is no plan at all to merge Eurojust with the EPPO.) It is a further questions how the EPPO could use such instruments giving effect to the principle of mutual recognition as the European Arrest Warrant, Freezing Order, the future European Investigation Order.
IE	
IT	In the EPPO investigations, the EPPs (both central and national) should apply new European procedural rules, a simple and easy-to-use "code" of minimum rules. Judicial review is likely to remain with the national jurisdictions. The trial stage will be completely under the national rules and systems.
LT	See reply to Question 1.
LU	
LV	See reply to Question 1.
MT	Given that we are proposing that the measures remain within the exclusive competence of national authorities, national laws should regulate the said measures.
NL	
PL	Since there will be no common European courts, the judicial review should be under the national laws of the Member States.
PT	

RO	The establishing act for the European Public Prosecutor's Office should contain general procedural provisions for its investigative activity, while for the investigative measures that represent limitations of a person's fundamental rights the authorizing procedure should be the one prescribed in the domestic legislation of the state where it would be enforced.
SE	
SI	
SK	Applicable law.
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	All the investigative powers of the European Public Prosecutor's Office should be envisaged in a Decision, adopted by the competent EU institutions. Also the questions, related to the structure, bodies, competence, procedural rights of the parties, methods of investigation, appeals, etc., should be considered in it. The national laws in the relevant procedure codes should have such provisions too, related to the competence of the European Public Prosecutor's Office.
IT Francesco Ippolito Supreme Court of Cassation	The competences and powers of the European Prosecutor should be carefully spelled out by regulatory framework. Should the EU Prosecutor only have coordinating functions, it may suffice to provide for the EU Prosecutor to have the specific competence of preventing and solving possible conflicts between the different national offices involved in the investigations. Things would be completely different should the EU Prosecutor have exclusive or closely complementary competence. In both cases, in fact, central judicial control on the activities of the EU Prosecutor may be required (e.g. a preliminary control chamber attached to the Court of Justice, authorizing and controlling its most important investigative acts).

EL Anna Damaskou Transparency International	
MT Dr. Giovanni Grixti Court of Justice	
RO Stoica Alina Florentina National Anticorruption Directorate	The investigative responsibilities of the European prosecutor should be established expressly in a European normative act.
SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Please see answer no. 3 and subs.
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	The most appropriate framework is national law.
LT Audrius Juozapavicius The Supreme Court of Lithuania	

DK Knut Gotfredsen Transparency International Denmark Chapter	
HU Adam Foldes Transparency International Hungary	In case of regular investigations national judicial bodies should decide/review actions of the EPPO. In case of covert investigations even national judicial bodies should be excluded and EU level judicial authorities should decide/review.
CZ Tomas Hudecek Ministry of Justice	
CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	National criminal procedural law should be used in order to avoid complicated legislative changes (changes of Constitutions etc.)
DE Joachim Ettenhofer	The law of the member state where the investigative measures took place.
MT Dr Donatella Frendo Dimech Attorney General's Office	Given that we are proposing that the measures remain within the exclusive competence of national authorities, national laws should regulate the said measures

FI Petteri Palomaki The District Court of Pirkanmaa	Applicable law, if any.
DE Kanzlei Cliff Gatzweiler	The national law where prosecutorial act is enforced (lex loci). As long as we do not have an European Criminal Code (of Procedure).
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	That could be done by applicable law.
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	As noted previously, judicial review within the specialized court of the ECJ.
IE Robert Eagar Sheenan and Partners Solicitors	The need for some judicial supervision is essential.
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	See above.

Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica México	Any act that contravenes the law should be investigated and punished
BE Jana Mittermaier Transparency International EU Liaison Office	

Other Respondents ***(mail)***	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	See the answer to question 6: the national framework.
DE Dr. Holger Karitzki Federal Office of Justice	We refer to the responses to question 5 and 6. If measures are to be carried out on the sovereign territory of a Member State, the legal and procedural order of that State should apply. The national authorities that carry out measures in the name of the EU-PPO would simply be « wearing another hat » ;see response to question 5. The authority to interfere does not go beyond the authority which the national authorities have in comparable domestic cases. The persons concerned may assert the legal remedies with which they are familial, and in their native language. Given the various legal orders of the Member States, that approach seems to be the most feasible

	and the least burdensome with respect to the legal position of the persons affected.
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	The answer to this question is impaired taking into account what was answered to the previous question.
European Association of Judges	
Eurojust	Some Members of the Forum consider that the EPPO should apply a set of new European procedural rules that would regulate its actions. However, some other Members consider that national criminal procedural law should be used. In particular, judicial review of the EPPO"s actions is likely to remain under national law and to be carried out by domestic courts. In some cases, a possible judicial review at EU level, which would guarantee equal legal protection for everyone and would facilitate the practice as regards, *inter alia*, the language used, is not excluded by some Members of the Forum.

Question 8. By what criteria should the Member State or States of trial be chosen?

Member states	Replies
AT	The decision should solely be based on procedural considerations, such as the location of evidence, seat of the company in question or where the crime was committed etc. So far, no criteria have been agreed upon throughout the EU Member States to decide conflicts of competence which does not only arise in relation with this question but also in *ne bis in idem* cases.
BE	The question is not clear
BG	
CY	As a guideline, the criteria currently used by Eurojust when promoting the resolution of conflicts of Jurisdiction could be of assistance. Furthermore each case should be assessed on a case by case basis taking into account the place where the evidence is, the place of residence of witnesses to be heard, the place where the effects of the crimes have occurred etc.
CZ	The MS should follow the criteria set by Eurojust Guidelines, Annual Report 2003 Annex A (and also by the Framework Decision 2009/948/JHA).
DK	The Director of Public Prosecutions notes that possible conflicts and questions related to jurisdiction is best assessed and solved on a case-by-case basis according to the general procedures as they are enshrined in for instance the Council Framework Decision of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (2009/948/JHA). It could furthermore be assessed whether the model of the possible referral to Eurojust under article 7 of the Council Decision of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (2009/426/JHA) could provide a basis for a future model of solving conflicts of jurisdiction.

DE	
EE	Relevant are existing circumstances, place of commission, location of evidence, etc.
ES	A clear set of rules should be established to avoid the risks of forum shopping. As a guideline, the criteria currently being used by Eurojust when promoting the resolution of conflicts of jurisdictions, could be of help
FI	In its Annual Report for 2003, Eurojust presented Eurojust Guidelines for deciding which jurisdiction should prosecute. The criteria referred to there could well serve as a basis for assessing the most appropriate State of trial.
FR	Selon plusieurs critères cumulatifs qui devraient être articulés par ordre de priorité afin de garantir une prévisibilité suffisante et présenter autant que faire se peut un caractère objectif, de nature à prévenir le forum shopping en fonction des peines effectivement prononcée dans les Etats membres. Ces critères seraient, en présence de critères de compétence dans plusieurs juridictions: - Le lieu de commission des faits - Le lieu où le préjudice est subi - Le lieu où le préjudice est généré - Le lieu d'établissement des auteurs Mais aussi : -La part des investigations réalisée dans l'Etat en question
EL	The criteria would be related to where the majority of the crimes have been committed or in which country the majority of the investigation acts has been conducted. For example, if in one country the investigation has been done for a long time and the file is enriched with plenty of evidence, testimonies and other material, while in another country the investigation is only recent, then it would be only logical to have the trial in the first country. The criteria could be identified amongst those defined by Eurojust when the latter proposes the best place for a crime to be prosecuted.

HU	Similarly to provisions regarding territorial jurisdiction and in order to avoid “forum shopping”, the place where the procedure will be conducted should be designated on the basis of abstract and hierarchical rules. Primarily the place of commission of the criminal offence, secondly the citizenship of the perpetrator could be taken into account. In the absence of these, the member state where the judicial trial should be held could be chosen and decided upon supplementary causes (e.g. the place of damaging, the place of detention, the perpetrator's residence etc.). Procedural regulations concerning the judicial trial phase seem to be in need of standardization to a certain extent as well.
IE	
IT	The choice of the state of judgment (choice of forum) is a very delicate issue. In the follow-up report on the Commission's 2001 Green Paper (page no. 17) we can see how many solutions had been proposed by the participants in that large -scale consultation. We think that the EPP shouldn"t have the power to choose, case by case, the State of trial without “a clear list of binding rules set out in advance, to avert the risk of an EPP making choices of different jurisdictions according to unclear motivations” (point 1.6.3. of the Conclusions of the European Public Prosecutor Working Group, Madrid 2009).
LT	See reply to Question 1.
LU	
LV	See reply to Question 1.
+ MT	On a case by case basis, and hence whilst in a majority of cases the locus delicti should be chosen, this does not exclude other venues if so warranted taking into consideration the country where the evidence is largely to be found, the place of residence of witnesses to be heard, the place where the effects of the crimes have occurred etc.
NL	
PL	Some solutions might be found in the *Framework Decision on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings*. However, to avoid the forum-shopping objection, defined list of criteria of the choice of the relevant jurisdiction should be applied.

PT	
RO	The state of trial should be chosen by the European Public Prosecutor's Office based on the circumstances of the case and the choice should reflect an analysis of the costs and the benefits to the general interests and the persons involved.
SE	
SI	
SK	There are some possible solutions for instance place of crime, citizenship or place of residence. From my point of view jurisdiction of national court should be determined by decision of the European Public Prosecutor's Office.
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	The criteria should be the place (country) where the perpetration of the crime is brought to an end, or where the major damage is caused, or where most of the evidences or witnesses are, etc.
IT Francesco Ippolito Supreme Court of Cassation	The criteria should be closely determined by regulatory framework, in terms of hierarchy, and keeping account of already existing provisions on this matter set forth by some international instruments (e.g. the Convention of the Council of Europe of 15 May 1972 on the transfer of proceedings in criminal matters, or the existing Eurojust guidelines).

EL Anna Damaskou Transparency International	
MT Dr. Giovanni Grixti Court of Justice	
RO Stoica Alina Florentina National Anticorruption Directorate	In order to establish the state participating in the trial of such cases, one should consider the structure of the European Prosecutor's Office which carries out the criminal investigation, the central one or the subordinated structures with headquarters in the Member States. Thus, in case the investigations are carried out by structures subordinated to the European Prosecutor's Office, the jurisdiction belongs to the court from the Member State where the structure of the European Prosecutor's Office is located and if the investigations are carried out by the central European Prosecutor's Office, the jurisdiction belongs to the court of the state where the headquarters of the European Prosecutor's Office will be established.
SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Please see answer no. 3 and subs.
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	This question highlights some of the significant practical problems that the EPP might bring. There are many challenges, which are already faced by prosecutors where jurisdiction is potentially viable in different jurisdictions. Account should be taken of where the witnesses or victims are based, or where the greatest loss was occurred
LT Audrius Juozapavicius The Supreme Court of Lithuania	

DK Knut Gotfredsen Transparency International Denmark Chapter	The particularly serious nature of corruption and its eroding effects for the fundamental principles of EU societies, namely the rule of law and democracy, justify the consideration to establish jurisdiction along internationally recognised rules (see, e.g., UNTOC). In this sense, EU member states shall establish jurisdiction over fraud and corruption cases when the crime is committed: • in the territory of the EU member state; • by a national of that EU member state; • against the taxpayers/society of that EU member state.
HU Adam Foldes Transparency International Hunary	The particularly serious nature of corruption and its eroding effects for the fundamental principles of EU societies, namely the rule of law and democracy, justify the consideration to establish jurisdiction along internationally recognised rules (see, e.g., UNTOC). In this sense, EU member states shall establish jurisdiction over fraud and corruption cases when the crime is committed: In the territory of the EU member state; by a national of that EU member state; against the taxpayers/society of that EU member state.
CZ Tomas Hudecek Ministry of Justice	
CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	The MS should follow the criteria set by Eurojust Guidelines, Annual Report 2003 Annex A (and also by the Framework Decision 2009/248/JHA)
DE Joachim Ettenhofer	As a rule the trial should take place in the member state where the main action of the offence took place but it also has to be taken into account where the evidence (e.g. witnesses) is.
MT Dr Donatella Frendo Dimech Attorney General's Office	On a case by case basis, and hence whilst in a majority of cases the locus delicti should be chosen, this does not exclude other venues if so warranted taking into consideration the country where the evidence is largely to be found, the place of residence of witnesses to be heard, the place where the effects of the crimes have occurred etc.

FI Petteri Palomaki The District Court of Pirkanmaa	The trial should take place in the State where the crime has been committed.
DE Kanzlei Cliff Gatzweiler	The main criteria is the location of the act of the crime (loci delici).
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	The place where the acts have been committed, or the place where de defendants live.
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	Locus comisi delicti.
IE Robert Eagar Sheenan and Partners Solicitors	Ideally the national state of the individual or registered address of the company.
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	These criteria still have to be worked out. They should be based on the traditional reference points of the Member States with territorial jurisdiction, with the place where the offence is committed as a major criterion. The choice of judicial district - and hence the Rules of Court governing the legal procedure - should be open to review by the ECJ.

Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica. México	This should be part of the judicial power
BE Jana Mittermaier Transparency International EU Liaison Office	The particularly serious nature of corruption and its eroding effects for the fundamental principles of EU societies, namely the rule of law and democracy, justify the consideration to establish jurisdiction along internationally recognised rules (see, e.g., UNTOC). In this sense, EU member states shall establish jurisdiction over fraud and corruption cases when the crime is committed: in the territory of the EU member state; by a national of that EU member state; against the taxpayers/society of that EU member state.

Other Respondents (mail)	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	The Dutch criminal code provides several criteria on which competence of the Dutch courts can be based. This ensures the flexibility that is preferable to be able to choose in individual cases where to prosecute a certain crime.
DE Dr. Holger Karitzki Federal Office of Justice	In order to prevent forum shopping, objective criteria must be found which make foreseeable and transparent the decision of the EU-PPO in which Member State criminal investigations, and possibly criminal proceedings, will be carried out. As within the scope of traditional mutual legal assistance and instruments of mutual recognition, for reasons of protecting legitimate expectations the location of the commission of the offence should play a role as well. If citizens of a Member State have acted principally in that State, the focus of the criminal and court proceedings must be there as well. Likewise, criteria as contained in Article 10 of the EU-USA extradition treaty could be relevant, including the severity of the alleged offence, nationally of the victims, interests of the States, and others. Whether a special legal remedy is to be provided against the decision of the EU-PPO to hold proceedings in a certain Member State, and which office/which court would be competent for making a decision in that regard, would remain a matter for future evaluation.

PT Maria Cândida Almeida Procuradoria-geral de Repùblica	Again, we refer to the criterion of "coordination." In this field, different solutions could be agreed, for e.g. the Member State would have jurisdiction in case of defendants in custody, where the most serious crimes were committed, where it was based criminal organization that had triggered the investigation or, ultimately, where it was practiced a greater number of illegal actions.
European Association of Judges	
Eurojust	A clear set of rules to determine the place where the procedure will be conducted should be established to avoid the risk of "forum shopping". The criteria set by Eurojust in its "Guidelines for Deciding „Which Jurisdiction Should Prosecute? " (Published in the Eurojust Annual Report 2003) can be used to identify the criteria for the EPPO. Some solutions might also be found in the Framework Decision 2009/948/JHA on prevention and settlement of conflicts of jurisdiction. The Members of the Forum suggest, *inter alia*, the following criteria (in no order of priority here): the place where the majority of the crime has been committed; the citizenship (or residence) of the perpetrator; the location of evidence; the place where the effects of the crime have occurred; the seat of the company in question; the place where the majority of the investigative acts have been conducted; and the place of residence of witnesses to be heard. The possible referral of cases to Eurojust under Article 7 of the revised Eurojust Decision could provide a basis for a future model for solving conflicts of jurisdiction.

Question 9. How should the barrier raised by the diversity of rules of evidence be overcome?

Member states	Replies
AT	Two ways are possible: Either the harmonisation of procedural rules throughout the EU or procedural rules established exclusively for the EPPO which would make it necessary to set up an exclusive court structure as well.
BE	That's the reason of national trials.
BG	
CY	By the harmonization of procedural rules across the EU. A way forward would be a Directive providing for the minimum standards as regards the collection and admissibility of Evidence throughout the European Union.
CZ	By using national procedural rules (see answer to question 7).

DK	See answers to question 5 and 6. The Director of Public Prosecutions notes that the that national rules of evidence and rules on the use and admissibility of evidence before courts in criminal prosecutions relate directly to fundamental aspects of a Member State's legal criminal justice system. Against this background the Director of Public Prosecutions finds that the Stockholm Programme and the included proposals related to the continued implementation and increased use of the principle of mutual recognition should continue to be the main focus of European legislative initiatives, i.e. the initiative on the European Investigation Order revising the Framework Decision 2008/978/JHA of 18 December 2008 on the European Evidence Warrant. Furthermore, legislative initiatives focusing on the common adaptation of national legislation in the Member States in the area of procedural rights and guarantees for accused or suspected persons as it has been set out in the Resolution of the Council of 30 November 2009 on a Roadmap for strengthening procedural rights of suspected or accused person in criminal proceedings should be continued.
DE	
EE	If European procedural rules will be applied, evidence gathered according to these rules (or according to the standards of the ECHR) must be admissible in each Member State.
ES	The EPPO is precisely the best way to ensure the diversity of rules will not hamper the results of the investigation, because it will gather evidence based on its own authority, which is fully accepted by the national jurisdiction. Therefore, any evidence collected and submitted by the EPPO will be valid throughout the EU (or at least, the participating MS).
FI	Obtaining evidence must be effective, but must always be mindful of the legal protection aspects. The reliability of evidence is very important. These factors are ultimately to be assessed by the State of trial. The EU needs to bring the criminal procedural provisions of Member States closer together. This could apply explicitly to evidence provisions, which must already now, at the national level, take into account the guarantees of the right to a fair trial imposed by the ECtHR, even though the ECtHR does not actually take a stance on procedural provisions. The legal praxis of the ECtHR would also be a natural basis also because the EU Member States have joined the Council of Europe. The EU"s own Charter of the Fundamental Rights of the European Union gives similar guidelines for the fair arrangement of criminal procedure.

FR	Deux solutions sont envisageables: - Approximation des règles de procédure (article 82 TFUE) - Règlements visés par l'article 86, et qui seraient applicable directement aux procédures du parquet européen Il appartiendra à ces règlements de définir des règles gouvernant « l'admissibilité des preuves. La France connaît un régime de « liberté de la preuve », la recevabilité des éléments de preuve étant soumis à l'appréciation des juridictions sans qu'un droit contraignant ne la réglemente en détail. Compte tenu tes termes du TFUE, qui fixe en son article 82 l'objectif d'une approximation des règles de l'admissibilité des moyens de preuve, trois solutions pourraient être envisagées, selon le rapport du Conseil d'Etat : - Définir une liste de modes de preuves admissibles (interceptions téléphoniques, perquisitions, auditions...) - Prévoir que toute preuve légalement recueillie sur le territoire d'un Etat membre serait admissible sur le territoire d'un autre Etat membre (application du principe de reconnaissance mutuelle dans le cadre d'un mécanisme de reconnaissance mutuelle. définir un ensemble de principes généraux applicable au recueil des preuves et dont le respect conditionnerait leur admissibilité. (Conditions d'autorisation du recours aux moyens d'enquête).
EL	The European Investigation Order would be a handful tool.
HU	The barriers deriving from the diversity of rules of evidence could primarily be resolved by the establishment of unified procedural rules of the EU; however, this is unlikely to occur. In the absence of this, the acceptance of the principle of mutual recognition as a general rule may overcome such barriers. (If a piece of evidence has been lawfully obtained pursuant to the law of the place of the proceedings, then the result and the admissibility of the evidence in the procedure may not be objected.)
IE	
IT	Step by step, at times quite quickly, at other times more rapidly, the principle of mutual recognition has become a cornerstone of the FSJ area. Even given the diversity of rules of evidence, we can see how many achievements we can now share. It is nevertheless essential that the means for a wider recognition of evidence be improved, at least in the field of PIF. If European procedural rules will be applied, evidence gathered according to these rules must be admissible in each Member State.
LT	See reply to Question 1.

LU	
LV	See reply to Question 1.
MT	A way forward would be a Directive providing for minimum standards attaching to the collection of evidence and its admissibility across the Union.
NL	
PL	*See initial part of the answer to the question 3*. In Commission's Action Plan Implementing the Stockholm Program, it was foreseen that in 2011 a legislative proposal would be submitted to introduce common standards for gathering evidence in criminal matters in order to ensure its admissibility. However, so far such an initiative has not been presented. Therefore, this very important and sensitive aspect of criminal cooperation has not been provided for at the European level at all. This entails serious consequences also for the protection of the financial interests of the EU – having the creation of the EPPO in view.
PT	
RO	The establishing act for the European Public Prosecutor's Office should contain procedural provisions applicable in all Member States, according to which the evidence administered by the Office as prescribed by its own procedure is admissible in all European courts.
SE	
SI	
SK	By harmonisation of law. I hold opinion that the most important principle is that every evidence obtained in conformity of law by competent body of member state, have to be admissible evidence before court of other member state.
UK	

Other respondents ***(website)***	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	The barrier raised by the diversity of rules of evidence should be overcome by the adoption of relevant acts for unification at European level, and also by the implementation of the already existing acts for MLA and mutual recognition.
IT Francesco Ippolito Supreme Court of Cassation	Any problem linked to differences in the rules on evidence in the various Member States can only be effectively solved by establishing a uniform, even minimum, legal framework on the conditions of admissibility and use of evidence, also by applying the existing instruments for mutual recognition (e.g. European Investigation Order). The diversity of the rules on evidence might be tackled by opting for a EU Prosecutor with predominantly coordinating functions.
EL Anna Damaskou Transparency International	
MT Dr. Giovanni Grixti Court of Justice	
RO Stoica Alina Florentina National Anticorruption Directorate	Regarding the admissibility of the evidence, the admissibility conditions must be expressly established in a normative act.

SK Miroslav Tiza General Prosecution Office of the Slovak Republic	
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	There are obvious difficulties with diverse rules of evidence within Europe. However, issues already arise in cases with a cross border dimension. It is up to the jurisdiction of the country who will prosecute the case to ensure that the evidence which is gathered from different jurisdictions is admissible. Decisions as to which country cases are to be brought to trial should be made at the earliest possible stage to ensure that rules of evidence relevant to that particular country are adhered to.
LT Audrius Juozapavicius The Supreme Court of Lithuania	
DK Knut Gotfredsen Transparency International Denmark Chapter	
HU Adam Foldes Transparency International Hungary	
CZ Tomas Hudecek Ministry of Justice	

CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	By using national procedural rules (see answer to question 7).
DE Joachim Ettenhofer	Evidence gathered in a member state lawfully according to the local law should be allowed to be used in trial in another member state irrespective of the procedural rules for gathering evidence there.
MT Dr Donatella Frendo Dimech Attorney General's Office	A way forward would be a Directive providing for minimum standards attaching to the collection of evidence and its admissibility across the Union.
FI Petteri Palomaki The District Court of Pirkanmaa	By trying to harmonize the legislations of the Member States.
DE Kanzlei Cliff Gatzweiler	Development of an European Criminal Code of Procedure.
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	By an EU directive.

ES Carlos Gomez-Jara Universidad Autonoma de Madrid	Establishing through article 286 TFEU the rules of evidence in the regulation concerning the EU prosecutor.
IE Robert Eagar Sheenan and Partners Solicitors	
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	The European Public Prosecutor's Office must bring the case before a Court in a Member State. This Court should abide by its own national rules of procedure, in particular with regard to the taking of evidence. This means that in the context of its investigations, the European Public Prosecutor's Office will need to be able to anticipate the admissibility of all the evidence gathered, under the legal system in place in the area where the case is being brought to court. For example, if the European Public Prosecutor's Office refers a case to the Regional Court (Landgericht) in Berlin, then evidence must be taken in accordance with German criminal procedural law. In other words, the European Public Prosecutor's Office must carry out its investigation under German law and ensure that the evidence that it wishes to use against the defendant is recognised by the Court in Berlin as being compliant with German law. If it is unclear initially where the case is to be brought to court, the European Public Prosecutor's Office must comply with the rules on evidence of all the Member States in which the case might be brought to court. This not only complicates the investigative work but also increases the risk of 'shopping around' – a state of affairs which is unavoidable as long as there is no fully harmonised European Code of Criminal Procedure. Since the differences in the rules for presenting evidence under the various national legal systems cannot be overcome by the establishment of a European Public Prosecutor's Office, they must in each case be respected in their entirety.
Juan Francisco Matrinez JFMO Servicios en Intermediacion Publica México	

BE Jana Mittermaier Transparency International EU Liaison Office	

Other Respondents (mail)	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	I do not think this is a subject that requires the most attention in this initial stage. The precise wording of the clauses in which this kind of criminal behavior is laid down is important in relation to how easy of difficult it will be to reach a conviction. In addition to that there will be a possibility to unify this to some extent by jurisprudence of the highest European Courts.
DE Dr. Holger Karitzki Federal Office of Justice	See response to question 5. The problems resulting from the fact that there is no uniform criminal law or criminal procedure law within the EU may be solved only with a decentralised model for the EU-PPO, which takes account of the respective legal orders of the Member States.
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	In this field, should apply the principle of reciprocity, wherein the evidence gathered in a member state could be accepted in another Member State, provided that the principles of judicial cooperation in criminal matters were taken into account.
European Association of Judges	A European Prosecutor has to indict an accused before a national court. In hearing evidence, this court is bound by its national code of procedure and the legal framework of the European Union concerning mutual recognition. In obtaining evidence, the European Prosecutor has to ensure that the court which is intended to hear the case will be able to admit the evidence. Although it seems crucial for the effectiveness of the work of the European prosecutor that evidence lawfully obtained in one member is admitted as evidence

	before the court hearing the case, “free movement of evidence” can only be possible where mutual recognition has been established by legislation of the European Union. May be this legislation could be further improved. EAJ doubts that art 86 sect. 3 TFEU is a sound legal
Eurojust	The Members of the Forum mentioned different possible solutions with regard to the rules of evidence: the harmonisation of procedural rules throughout the European Union (in accordance with Article 82 TFEU); the adoption of specific procedural rules established for the EPPO (especially if the first two options are not applicable); and the application of the mutual recognition principle (improved at least in the field of PIF), e.g. the application of the future European Investigation Order. In any case, it is important that evidence gathered by the EPPO in conformity with law will be admissible in each Member State.

Question 10. How could fundamental rights be best protected throughout the criminal investigations undertaken by the European Public Prosecutor's Office?

Member states	Replies
AT	See Question 9.
BE	The fundamental rights are already protected by the national authorities.
BG	
CY	It will be up to the National Courts as well as the European Court of Justice to ensure protection of fundamental rights.
CZ	By observing and application of ECHR as all the EU member states are members of the Council of Europe.
DK	See answers to questions 5 and 6. The protection of fundamental rights – under the main prerequisite that cases should be investigated and prosecuted by national authorities and not directly by the European Public Prosecutor's Office – should therefore take place under the scrutiny of national courts when assessing investigative measures or adjudicating cases when prosecuted before courts.
DE	
EE	The fundamental rights have to be protected by the national authorities.

ES	1. - By the existence of the EPPO itself, established as an independent prosecutorial authority, and the obligation to protect fundamental rights. Every citizen would know in advance his/her case will be treated equally regardless of the competent jurisdiction. 2.- by an EU Court (under article 257) in early or specific stages of the investigation 3.- By national jurisdictions, through national judges of freedom 4. - By national adjudicating courts. 5. - By the unifying criteria set by the EPPO when it comes to appealing the decisions taken by the adjudicating courts.
FI	EPPO must be responsible for complying with all fundamental and human rights in all the criminal investigations it undertakes. Each Member State is responsible for its own investigations undertaken by an official of the Member State concerned. All Member States must already comply with the ECtHR"s fundamental requirements for a fair trial. The best criminal procedural practices created in EPPO"s own operations would be conducive to strengthen the safeguarding of the fundamental rights of EU citizens in criminal investigations also in Member States.
FR	Par la poursuite de l"approximation des règles minimales au visa de l"article 82 TFUE. Par ailleurs, en soi, l"existence du Parquet européen constituerait une solution à la problématique *non bis in idem*.
EL	The National Courts as well as the Court of Justice of the EU could secure the protection of fundamental rights.
HU	The protection of the fundamental rights in the procedure of the EPPO can be guaranteed on the one hand by the creation of safeguarding procedural rules, on the other hand by defining the reviewing (judicial) forum at the level of the EU.
IE	
IT	It will be up to National Courts, even acting as courts of liberty, to protect the fundamental rights of the accused person and of any other people involved in the investigation and prosecution. After the coming into force of EAW, it's possible to compare a lot of practical cases throughout the Union; in addition the experience gained after a decade of activity by Eurojust is a precious tool in order to detect issues, inconsistencies and solutions.

LT	See reply to Question 1.
LU	
LV	See reply to Question 1.
MT	Once investigations are carried out by the national authorities, the national legislative framework would apply with the ultimate forum for seeking redress being reatined by the European Court of Human Rights (and the European Court of Justice should this be warranted if any issue relating to EU law arises).
NL	
PL	Standards foreseen in the ECHR should be taken into account while preparing the draft of a regulation on the EPPO (all Members States are the parties of the ECHR).
PT	
RO	The general procedural rules of the European Public Prosecutor's Office should follow the standards of the ECHR, while the most intrusive investigative acts should be authorized by the domestic courts, according to the national and conventional principles.
SE	
SI	
SK	By creation of position of special judge controlling lawfulness of investigation and compliance with fundamental rights.
UK	

Other respondents ***(website)***	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	Throughout the criminal investigations undertaken by the European Public Prosecutor's Office, the fundamental rights will be best protected by the strict supervision of the procedural rights of the parties, envisaged in the abovementioned act which we think should be adopted (see Question 7), and also the Charter of fundamental rights of the European Union and the Convention for the Protection of Human Rights and Fundamental Freedoms. Obligatory legal defence by a professional lawyer should also be provided for in the abovementioned act.
IT Francesco Ippolito Supreme Court of Cassation	The legal framework setting up the EU Prosecutor's Office should provide for safeguards and procedural powers aiming at ensuring the fundamental rights of the people involved in the investigations.
EL Anna Damaskou Transparency International	It has been proposed that the EPP should be coupled either with a national judge or with a special court chamber, whose responsibility would be to ensure fundamental rights protection.
MT Dr. Giovanni Grixti Court of Justice	
RO Stoica Alina Florentina National Anticorruption Directorate	During the criminal investigations, the fundamental rights will be ensured by reference to the European Convention on Human Rights.

SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Please see answer no. 3 and subs.
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	All prosecutions in Scotland must be compliant with the European Convention on Human Rights. In addition, the EU Charter of Fundamental rights is already protecting Europe's citizens. With the ambitious plans of the Stockholm programme and the Directives, which have been proposed under the Roadmap relating to procedural rights of individuals, there are already certain minimum rights, which are available throughout Europe. The level of protection envisaged in the Directives is already met in Scotland.
LT Audrius Juozapavicius The Supreme Court of Lithuania	
DK Knut Gotfredsen Transparency International Denmark Chapter	
HU Adam Foldes Transparency International Hungary	Court of Justice of the European Union should provide for the unity of the application of the criminal investigations of the EPPO. EPPO should have rules of procedure that provide for the best provisions of transparency, integrity and accountability from national legal systems applicable to prosecution services. Suspects and other parties of criminal procedures should have easy (timely and geographically) access to remedies.
CZ Tomas Hudecek Ministry of Justice	

CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	By observing and application of ECHR as all the EU member states are members of the Council of Europe.
DE Joachim Ettenhofer	If the EPPO should operate under the rule of the national law of the member state, where the investigation measures are carried out, then the regulations of this law are applicable for the protection of fundamental rights.
MT Dr Donatella Frendo Dimech Attorney General's Office	Once investigations are carried out by the national authorities, the national legislative framework would apply with the ultimate forum for seeking redress being reatined by the European Court of Human Rights (and the European Court of Justice should this be warranted if any issue relating to EU law arises).
FI Petteri Palomaki The District Court of Pirkanmaa	European Convention on Human Rights must be observed, naturally.
DE Kanzlei Cliff Gatzweiler	The suspect always has got a weak position in the investigative phase. His position should not be more weakened through an European Public Prosecution. As a basis he needs minimum the same protection (remedies) as on a nation level (national investigation). The defence lawyer has to get access to the European file.
NL Michel jurgens Court of Appeal, Criminal Section, Amsterdam	Supervising by a judge from a "European Investigating Judge Office",which should of course be established.

ES Carlos Gomez-Jara Universidad Autonoma de Madrid	By allowing judicial review before a specialized court of the ECJ.
IE Robert Eagar Sheenan and Partners Solicitors	The involvement of defence lawyers is essential from the start of the process even at the point of search
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	In the opinion of the Deutschen Richterbundes it is not only the “fundamental rights“ of the defendant and the accused that need to be guaranteed / protected but also his right to a fair trial and his rights of defence, as enshrined in the individual legal orders of the Member States. It is therefore essential that the trial be organised as quickly as possible and in accordance with objective criteria modelled on the way things are done in a trial in a Member State. It is from these legal orders that the rights of defence of the accused in the investigatiion and particularly the accused on trial are established. Investigations in another Member State should therefore not lead to a loss of rights; the minimum standards which have been and mist cobtin ue to be worked out for mutual recognition must in this area form the basis. In this respect the European Public Prosecutor's Office is in the same position as any national prosecutor who in the framework of Rechtshilfe or mutual recognition must provide evidence for another member State. This is set out in the second line of Art. 86(2) TFEU which puts the European Public Prosecutor's Office on an equal footing in Court with a national public prosecutor. Furthermore, it will be the duty of a European network of lawyers to ensure that suspects and defendants in the respective Member States can be represented by experienced criminal lawyers.
Juan Francisco Matrinez JFMO Servicios en Intermediacion Pùblica México	Quite simply, respecting fundamental rights means being defended, not being held incommunicado, having the right to legal defence, being able to produce the necessary evidence in one's defence, being judged under the principles of legality and transparency.

BE Jana Mittermaier Transparency International EU Liaison Office	

Other Respondents ***(mail)***	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	By integration of the prosecution of this sort of crimes in the national systems in which fundamental rights are already protected.
DE Dr. Holger Karitzki Federal Office of Justice	Reference is made to the response to question 5.
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	Fundamental rights must always be ensured, at various levels, respecting the European Convention of Human Rights, under the auspices of the European Court of Human Rights and the European Court of Justice.

European Association of Judges	With the accession of the European Union to the European Convention on Human Rights there will be the guarantee that the rights of the accused will be protected under this convention. Any victim of a violation of the Convention by the European Prosecutor can bring a complaint against the Union before the Strasbourg Court under the same conditions as those applying to complaints brought against Member States.
Eurojust	Fundamental rights could be protected in different ways and at different levels: by the national authorities, according to the standards set in the ECHR; through national judges of freedom and national adjudicating courts; by the Court of Justice of the EU or the European Court of Human Rights in accordance with their respective competence; by the creation of safeguarding procedural rules; by the creation of a special (EU) judge controlling lawfulness of investigation and compliance with fundamental rights; and, in general, by the existence of the EPPO itself, established as an independent prosecutorial authority, and the obligation to protect fundamental rights.

Question 11. What relationships (in terms of hierarchy, functioning and usual workflow) should the European Public Prosecutor's Office have with other European bodies involved in the protection of EU financial interests and/or criminal matters, such as OLAF, Eurojust, and the European Institutions (in particular the European Parliament, the European Commission, and the Council of the European Union ?

Member states	Replies
AT	Depending on the structure it should – in relation to the Council and the Parliament – meet requirements of a system of checks and balances. If one thinks of an European Public Prosecutor General rights of control etc shall be extensive. Eurojust was set up to improve judicial cooperation between the Member States. New duties would lead to an adjustment of the current Council Decision; a coexistence of both would be preferred. A topic which so far has not been mentioned or discussed is the obligation of an EPPO to bring every case before or court versus its competence to dismiss cases on grounds of opportunity. The latter mentioned would require some sort of legal remedy against this decision or accountability of the European Public Prosecutor General. OLAF could be directed in its criminal investigations by the EPPO according to its vocation as a law enforcement agency.
BE	See answer question 4 b. The EU prosecutor has to be a subsidiary prosecution authority.
BG	
CY	OLAF should be the "executive arm" of the EPPO, acting as an investigative body under the direction of the EPPO and integrated in the new body. Eurojust should coexist with the EPPO and its coordinating role should be redefined accordingly especially in light of Article 85 TFEU. Eurojust and the EPPO should closely coordinate their work. The EPPO should remain accountable to the EU institutions, similarly to the manner in which EJ is so accountable. Accountability to the European Parliament should be retained.
CZ	If the EPPO is to have any executive powers then links to EP, Commission or the Council should be minimal; the basic division of powers shall be respected.

DK	It is the view of the Director of Public Prosecutions that this question relates primarily to a general question on the structure of and the relationship between different European Union bodies, which is not to be assessed particularly on the basis of professional prosecutorial experience. Against this background the Director of Public Prosecutions does not have any contribution to this question.
DE	
EE	OLAF can be the executive arm of the European Public Prosecutor's Office. The European Parliament, the Commission and the Council, each one with its own competence, could have supervising power over the European Public Prosecutor's Office, but always respecting the new office's independence.
ES	Appointment of the EPPO should be made by the Council (qualified majority) based on COM"s proposal and with the assent of the EP, this would visualize the full institutional support to the figure of the EPPO. Eurojust could provide logistical and administrative support to the central EPPO Eurojust may allow the EPPO to sit at the College for cases of its jurisdiction, and to discuss possible conflicts of jurisdiction. (these two features would follow the special relationship with Eurojust that can be seen in the wording of art. 86 when stating that the EPPO should be established "from Eurojust") OLAF would act as Financial Police, under the direction of the EPPO (changing the current position) Extra links should be established with the national prosecution Offices in order to create mechanisms to facilitate and ensure smooth relations (possibly via the amendment of the mandate of the Consultative Forum and the establishment of a subgroup composed of the representatives of the participating MS"s prosecution services).
FI	The European Council and European Parliament, at the proposal of the European Commission, would presumably decide the budget to be allocated for EPPO"s operations. Whereas the bodies in question must not influence EPPO"s operative function, the Council and Parliament could set criminal policy targets. In addition, they could, together with the European Ombudsman, oversee the legality of EPPO"s operations. On top of this, a separate Board elected by Member States or the Council or Parliament should oversee the effectiveness of EPPO"s operations. When considering a criminal case, it is essential for EPPO to act independently and impartially. Eurojust will play a significant role in the establishment and operations of EPPO. Full use must be made of Eurojust"s expertise in coordinating pre-trial investigations and charges. See reply No. 2. Cooperation must be effective, especially with OLAF, but also with Europol.

FR	- Le Collège d'Eurojust et son président semblent pouvoir constituer l'architecture du parquet européen. Eurojust demeurerait parallèlement l'organe de coordination qu'il est actuellement, à compétence plus large. - Le Parquet européen pourrait, à l'instar d'Eurojust, rendre compte annuellement de ses activités au Conseil et au Parlement européen. Sous la réserve d'une nécessaire réforme, l'OLAF peut avoir vocation à participer activement aux enquêtes menées par le Parquet européen, sous l'autorité de ce dernier.
EL	The EPPO should gradually take over EUROJUST's tasks. With regard to OLAF, the latter could act as an investigative body attached to the EPPO. As for the EU institutions, the EPPO should over the years become a true European Prosecution Body with jurisdiction in all organised cross-border crime cases that involve more than 1 Member State as well as the offences against euro and the EU financial interests.
HU	Eurojust will not cease to exist or be absorbed after the establishment of the OPP. The underlying concepts and the functions do considerably differ. Anticipated relationship * with the Council (national ministers of justice): some think that the EPPO should be accountable to the Council * with the Commission: it is the executive branch of power within the EU; guaranteed independence is desirable for the EPPO to avoid any political interference * European Parliament: the EPP will be "accountable" to the Parliament. This could not mean that the EPP would be accountable to it for his/her decisions taken in individual criminal cases * ECJ: disciplinary authority over the EPP + decides on whether the conditions for the EPP"s removal are established, + and the like.
IE	
IT	If the jurisdiction of the EPP were to be limited – as is highly recommended at this stage – to the prosecution of crimes affecting the EU"s financial interests, the issues arising from the interpretation of art. 86 of the TFEU ("... *from Eurojust*") would be less hard than it might seem at a glance. As for the Eurojust 2002 Decision – and even with the amendments introduced by the 2009 Decision – Eurojust is an essential player in horizontal cooperation, a role that will be undertaken by Eurojust in the new framework established by article 85 of the TFEU, as amended by the Lisbon Treaty. Let us think of it as two concentric circles: a) In the smaller one the EPPO, with direct judicial powers of prosecution but with its jurisdiction strictly limited to the so-called PIF crimes:

	b) In the larger one Eurojust, with its wide-ranging competences in all the fields of article 85 of TFEU, a provision that should possibly be implemented in parallel with the creation of EPPO. The two institutions will have to be truly independent of each other yet, at the same time, closely coordinated in their work. With OLAF there will be few problems: OLAF should be the executive arm of the EPPO, fully integrated in the new body. The EP, the Commission and the Council, each one with its own competence, could have supervising power over the EPP and the EPPO, but always respecting the new office's independence. We can also envisage a Court of Justice's competence in order to deal with all claims arising from potential conflicts between the EPPO and other EU institutions.
LT	See reply to Question 1
LU	
LV	See reply to Question 1
+ MT	Whilst the TFEU envisages the EPPO evolving from within Eurojust, leaving the possibility that EJ either supports the EPPO or even is completely transformed into the EPPO itself, the EPPO will remain accountable to the institutions, similarly to the manner in which EJ is so accountable. OLAF will be vital as the investigative arm passing on cases to the EPPO [if this is to be created, or directly] to national authorities. Accountability to the European Parliament should be retained whatever model is ultimately opted for.
NL	

PL	OLAF, from an administrative point of view, is part of the European Commission, but it is operationally independent in regard to its investigative functions. Although of administrative nature, OLAF"s investigations may lead to criminal proceedings at the Member States" level. The office of the EPPO will be created from Eurojust, but the Treaty does not mention OLAF directly. In such circumstances a question of a future role of OLAF remains open. On the one hand, OLAF - if given full independence outside the European Commission - could be granted the power to conduct highly specialised customs, fiscal and financial investigations under the authority of the EPPO. On the other hand, all OLAF"s administrative investigations that reveal circumstances liable to result in criminal proceedings could be transmitted to the EPPO. Whenever the EPPO would not decide to open its own investigation into the case received from OLAF, it could transfer the case to the judicial authorities of the Member State concerned. Establishment of the EPPO from Eurojust means establishment of the new institutional landscape within the EU, in which also the coordinative role of Eurojust should be redefined. It is also important to stress that the new Council Decision on strengthening of Eurojust and amending Council Decision setting up Eurojust gives this body more operational powers. When it is fully implemented by the Member States, undoubtedly it should improve international cooperation in criminal matters. The EPPO would act on the junction with the European Parliament, the Commission and the Council, but as an independent actor. Nevertheless there should be created some mechanisms of "supervision" of the EPPO, f.e. annual report which would be presented to the Council and the Commission.
PT	
RO	The European Public Prosecutor's Office could be accountable to the European Parliament and its management could be appointed by the European Commission. OLAF should be one of its main referrers of cases and could also assist it in specific investigations by providing technical expertise.
SE	
SI	
SK	The European Public Prosecutor's Office should be absolutely independent. The head of the office should by appointed by the European Council on proposal of the European Commission on the basic of agreement of the European Parliament. Relation with other European Institutions should be exercised on the basic of cooperation.
UK	

Other respondents (website)	Replies
BG Kamen Mihov Prosecutor's Office of the Republic of Bulgaria	The European Public Prosecutor's Office should be an independent body with it's own structure and administration. Although it should be established from Eurojust, it should exist alongside with it, carrying out it's own functions. The distribution of workflow should be preliminary determined. The European Public Prosecutor's Office should actively cooperate with the other EU bodies, agencies ant the institutions.
IT Francesco Ippolito Supreme Court of Cassation	Relationships with other European bodies should be based on criteria of effective cooperation at an operational level.
EL Anna Damaskou Transparency International	OLAF, due to its narrow mandate, would encounter a significant overlap of competencies with the institution of the Prosecutor, as well as with Eurojust. One scenario is the adsorption of OLAF by the EPP, making it a kind of financial police. The sole operation of an EPP would mean that investigations and prosecutions will be transferred to Union level, while the investigatory functions of OLAF would probably need to be distinguished in those of administrative and those of criminal nature. The competences of the EPP vis-à-vis those of Eurojust will need to be carefully delimitated, as their functions differ: Eurojust aims to facilitate judicial coordination and cooperation, while the EPP's aim will be to centralize at the Union level the investigation and prosecution in criminal matters.
MT Dr. Giovanni Grixti Court of Justice	

RO Stoica Alina Florentina National Anticorruption Directorate	The relationship between the European Prosecutor's Office and other bodies involved in protecting the financial interests of the European Union should be of collaboration and not of subordination or authority
SK Miroslav Tiza General Prosecution Office of the Slovak Republic	Cooperation of the above mentioned authorities should be directed towards better workflow processes and communication between them, regulation of relationships, functioning and should lead to increased efficiency of their activity and to reduction of the so-called „Euro-fragmentation" connected with associated bureaucracy.
UK Faye Cook Crown Office and Procurator Fiscal Service of Scotland	
LT Audrius Juozapavicius The Supreme Court of Lithuania	
DK Knut Gotfredsen Transparency International Denmark Chapter	

HU Adam Foldes Transparency International Hungary	European Commission and the European Parliament should provide for its resources. The EPPO should be set up in line with the standards of the Venice Commission "THE INDEPENDENCE OF JUDGES AND PROSECUTORS: PERSPECTIVES AND CHALLENGES", CDL-UDT (2011)008, http://www.venice.coe.int/docs/2011/CDL-UDT%282011%29008-e.pdf.
CZ Tomas Hudecek Ministry of Justice	
CY Ch. Mavrommatis Cyprus Police	
CZ Michal Fiala, Petr Klement Supreme Public Prosecutor's Office	If the EPPO is to have any executive powers then links to EP, Commission or the Council should be minimal; the basic division of powers shall be respected.
DE Joachim Ettenhofer	The EPPO has to be independent from other European bodies and institutions in carrying out investigations and prosecuting offences. But of course there should be a close co-operation with OLAF, Eurojust, Europol, EJN etc. to achieve best results.
MT Dr Donatella Frendo Dimech Attorney General's Office	Whilst the TFEU envisages the EPPO evolving from within Eurojust, leaving the possibility that EJ either supports the EPPO or even is completely transformed into the EPPO itself, the EPPO will remain accountable to the institutions, similarly to the manner in which EJ is so accountable. OLAF will be vital as the investigative arm passing on cases to the EPPO [if this is to be created, or directly] to national authorities. Accountability to the European Parliament should be retained whatever model is ultimately opted for.
FI Petteri Palomaki The District Court of Pirkanmaa	It could be in close contact to the European Commission

DE Kanzlei Cliff Gatzweiler	Same the national Prosecutor's Office has in national law. The European Parliament should stay independent.
Michel jurgens Court of Appeal, Criminal Section, Amsterdam	Only by way of information flow.
ES Carlos Gomez-Jara Universidad Autonoma de Madrid	EU prosecutor should be a body within Eurojust, but with certain degree of independence from the EU institutions.
IE Robert Eagar Sheenan and Partners Solicitors	
DE Dr Peter Schneiderhan Deutscher Richterbund (German Judges Association)	The European Public Prosecutor's Office must be established as an independent body. As such, it is bound only by the rule of law when deciding which criminal cases to pursue. It is obliged to act upon any information on potential criminal activity received from the European Institutions, in particular from the Commission, and more especially, OLAF. This is nothing other than a basic tenet of the rule of law. The European Institutions do not, however, enjoy hierarchical superiority in connection with their requests for the launching of investigations.
Juan Francisco Martinez JFMO Servicios en Intermediacion Pùblica, México	The parliament should reconcile the necessary interests to protect the rights of citizens and so lay the foundations for responsible work in the eyes of the latter.

BE Jana Mittermaier Transparency International EU Liaison Office	

Other Respondents ***(mail)***	Replies
NL G.J.M Corstens The Supreme Court of the Netherlands	Sufficient safeguards need to be put in place to protect individuals against potential (political) misuse of the authority to prosecute. Different countries have developed different safeguards against improper political influence. A certain independence from the executive is required. One might think of a possibility to appeal to the European court of justice in case of conflict between the executive and the European public prosecutor. There has to be a hierarchy between the European public prosecutor and OLAF (the latter being subordinate to the first). A strong form of integration of the European public prosecutor in Eurojust is desirable in order to prevent chaos in the fight against organized crime.
DE Dr. Holger Karitzki Federal Office of Justice	
PT Maria Cândida Almeida Procuradoria-geral de Repùblica	We have no opinion about the choice of the European Public Prosecutor. It is understood that if it becomes reality, it should only have powers of coordination, with the support of bodies such as Eurojust, Europol and Olaf.

European Association of Judges	Article 86 of the TFEU provides that the EU-PPO would proceed from Eurojust. This in turn basically determines the status of the EU-PPO. Still to be assessed is wether and, if so, how to provide for independence from taking instruction on the part of the EU-PPO with respect to COM, and potentially wether and how to expressly govern parliamentary supervision.
Eurojust	With regard to the relationship of the EPPO with the EU institutions: The Members of the Forum consider that the EPPO could be appointed by the Council, on the basis of a Commission proposal and with the assent of the European Parliament. Always respecting the fundamental independence of the EPPO, each institution, within its own competence, could have a supervising role over the EPPO that, for instance, could be "accountable" to the European Parliament and the Council. The Council and the European Parliament could set criminal policy targets. Each year, the EPPO could present its activity report to the institutions (following the example of the Eurojust Annual Report). The European Court of Justice could be the disciplinary authority over the EPPO and could have competence to deal with claims arising from potential conflicts between the EPPO and other EU institutions. Furthermore, it was suggested that a separate Board, elected by the Member States or the Council or the European Parliament, should oversee the effectiveness of the EPPO"s operations. With regard to its relationship with Eurojust: The Members of the Forum consider that, maintaining its larger competence, Eurojust should coexist with the EPPO and its coordinating role should be redefined accordingly, also in light of Article 85 TFEU. Some Members of the Forum think that, concerning the meaning of the establishment of the EPPO "from Eurojust", Eurojust could provide logistical and administrative support to the central EPPO, and allow the EPPO to sit at the College for cases within its jurisdiction. Although independent from each other, Eurojust and the EPPO should closely coordinate their work. Eurojust should play a significant role in both the establishment and operations of the EPPO. Finally, some Members of the Forum consider that the EPPO should gradually take over Eurojust's tasks. With regard to its relationship with OLAF: The Members of the Forum consider that OLAF should be the "executive arm" of the EPPO, acting as investigative body under the direction of the EPPO and integrated in the new body.