

COURTESY TRANSLATION

ADOPTED TEXT no. **285**

'Small Act'

NATIONAL ASSEMBLY

CONSTITUTION OF 4 OCTOBER 1958

FOURTEENTH LEGISLATURE

2013-2014 ORDINARY SESSION

31 JANUARY 2014

EUROPEAN RESOLUTION

*on the proposal for a Council regulation, of 17 July 2013, on the **establishment of the European Public Prosecutor's Office** (COM[2013] 534 final).*

Is considered as final, pursuant to Rule 151-7 of the Rules of Procedure, the resolution with the following content:

See numbers: **1616,1658** and **1707**

Single Article

The National Assembly,

In the light of Article 88-4 of the Constitution,

In the light of Articles 85 and 86 of the Treaty on the Functioning of the European Union,

In the light of the proposal for a Council regulation, of 17 July 2013, on the establishment of the European Public Prosecutor's Office (COM[2013] 534 final),

In the light of the National Assembly resolution no. 139, of 22 May 2003, to establish a European Public Prosecutor,

In the light of the National Assembly resolution no. 726, of 14 August 2011, to establish a European Public Prosecutor's Office,

1. Recalls the constant support it has given to the establishment of a European Public Prosecutor's Office, essential in strengthening the fight against serious international crime and financial crime affecting the European Union;
2. Welcomes the presentation by the European Commission of the afore-mentioned proposal for a Council regulation, of 17 July 2013;

3. Considers however that some of the details adopted by the European Commission in said proposal should be reconsidered, in order to ensure the efficacy and independence of the European Public Prosecutor's Office;
4. Desires that the competence of the European Public Prosecutor's Office should be extended to the fight against serious international crime, as allowed by paragraph 4 of Article 86 of the Treaty on the Functioning of the European Union;
5. Deems that the European Public Prosecutor's Office should not have exclusive competence, but shared competence with the judicial authorities of the Member States, combined with an obligation for the latter to inform the European Public Prosecutor's Office of any offence likely to enter its field of competence and a general right of evocation allowing it to assume jurisdiction regarding the case in question;
6. Recalls that the European Public Prosecutor's Office should be established, in accordance with paragraph 1 of the same Article 86, from the Eurojust Unit and therefore maintain close ties with the latter, which requires in particular geographic proximity of its headquarters;
7. Desires that the European Public Prosecutor's Office should be set up under a collegial structure – composed of national members embedded in their respective judicial systems and electing among themselves a president –, and not under a single European public prosecutor assisted by deputies and delegates to whom he would send his instructions;
8. Considers that this collegial structure would grant greater legitimacy to the European Public Prosecutor's Office, facilitate its acceptance and the taking into account of the diverse legal traditions of the Member States, and thereby strengthen its efficacy;
9. Deems that this college could be divided into restricted formations or chambers, grouping the national members of the Member States concerned by the case and tasked with taking current operational decisions. Only the most important decisions would be referred to the college, in order to ensure the necessary responsiveness in conducting investigations;
10. Recommends that the appointment and dismissal procedures as well as the staff regulations of the members of the European Public Prosecutor's Office be inspired by those laid down for the members of the Court of Justice of the European Union in Articles 253 to 255 of the Treaty on the Functioning of the European Union and by protocol no. 3 on the statute of the Court of Justice of the European Union appended to said treaty, in order to ensure their independence;
11. Approves the procedural safeguards laid down by the proposal for a regulation, in accordance with the Charter of Fundamental Rights of the European Union;
12. Regrets the insufficiency of the provisions relating to the judicial review of acts of investigation and prosecution of the European Public Prosecutor's Office, which entrust review of the legality of all these acts to domestic courts and restrain the obligation of national courts to ask the Court of

Justice of the European Union for a preliminary ruling on validity;

13. Has doubts, in particular, as to the review procedures of the decision taken by the European Public Prosecutor's Office to refer the case to a trial court and with regard to review procedures of the decision relating to the choice of said court, which will have important consequences for the defendant with regard to the right to an effective legal remedy;

14. Suggests that the provisions relating to the admissibility of evidence and to the rules on prescription periods should be completed. A minimum of harmonisation indeed appears necessary for the correct operation of the European Public Prosecutor's Office;

15. Invites the European Commission to amend its proposal in a way that obtains the participation of the greatest number of Member States in the framework of possible enhanced cooperation, while maintaining a high degree of ambition and integration;

16. Suggests to the French Government to make a reference to the Council of State for its opinion on the afore-mentioned proposal for a Council regulation, of 17 July 2013, before its adoption, so that it states whether this text appears to it to comprise measures infringing principles or rules of constitutional value.

In Paris, 31 January 2014.

The President,

Signed: CLAUDE BARTOLONE

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