



Brussels, 14 September 2018
(OR. en)

12101/18

**Interinstitutional File:
2018/0163 (NLE)**

**EPPO 22
EUROJUST 113
CATS 59
FIN 661
COPEN 289
GAF 40
CSC 251**

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	11511/18
Subject:	Draft [Joint] Declaration of [the European Parliament and] the Council concerning the appointment of the European Chief Prosecutor of the European Public Prosecutor's Office

1. In the vacancy notice of the European Chief Prosecutor, which is expected to be published soon, it is pointed out that he/she "... should be able to serve 7 years and retire, at the latest, at the age of 70, on the understanding that if a prolongation beyond the age of 66 years is required this shall be granted automatically by the competent appointing authority".
2. According to Art 14 (1) of the EPPO Regulation, the European Parliament and the Council shall appoint the European Chief Prosecutor by common accord for a non-renewable term of 7 years. In order to address concerns expressed by the Member States, the Commission has pointed out that this "may require an exceptional prolongation of the retirement age (from 66 to 70)" which it "understands would be automatic if it becomes necessary to allow for the completion of the mandate".

3. The publication of the vacancy notice is based on this understanding, that should be appropriately reflected in a Joint Declaration of the European Parliament and of the Council and thereafter in the appointment decision. This understanding has to be expressed at this stage, since the Conditions of Employment do not expressly provide so.
4. The text of the draft Joint Declaration, as sent out in the Annex to this Note, was agreed by delegations in the framework of a silence procedure.
5. The Permanent Representatives Committee invites the Council
 - a) to approve the draft Joint Declaration, as set out in the Annex to this Note and
 - b) to transmit the draft Declaration to the European Parliament, with the invitation of approving it.

DRAFT

**[JOINT] DECLARATION OF [THE EUROPEAN PARLIAMENT AND] THE COUNCIL
CONCERNING THE APPOINTMENT OF THE EUROPEAN CHIEF PROSECUTOR
OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE**

The [European Parliament and] the Council [jointly] declare that, in line with Article 14 of Regulation (EU) 2017/1939 (the EPPO Regulation), they shall appoint a European Chief Prosecutor who must be able to complete the non-renewable term of 7 years before reaching the age of retirement.

In accordance with the second paragraph of Article 96(1) of the EPPO Regulation, the European Chief Prosecutor shall be engaged as a temporary agent of the EPPO under Article 2(a) of the Conditions of Employment of Other Servants (CEOS). In accordance with Article 47(a) CEOS, the age of retirement is "*the end of the month in which the servant reaches the age of 66 or, where applicable, at the date fixed in accordance with the second and third paragraphs of Article 52 of the Staff Regulations*". The latter provisions allow to extend the age of retirement until the age of 70.

In order to guarantee the independence of the European Chief Prosecutor in accordance with Article 6 of the EPPO Regulation and to allow as many candidates possessing the qualifications required for appointment to the highest prosecutorial or judicial offices in their respective Member States to complete the term of 7 years before the age of retirement, the [European Parliament and] the Council hereby declare their intention, in the appointment decision to be taken pursuant to Article 14(1) of the EPPO Regulation, to appoint a European Chief Prosecutor for a full mandate of 7 years. The extensions of the age of retirement that may eventually be required until the age of 70 will be deemed to be granted. It will therefore not be necessary to adopt subsequent decisions to grant such an extension beyond the age of 66 every year, since such renewed yearly decisions would undermine the independence of the European Chief Prosecutor and call into question the full length of the mandate.

The [European Parliament and] the Council welcome that the Vacancy Notice for the European Chief Prosecutor to be published in the Official Journal specifies that candidates shall be able to complete the non-renewable term of 7 years before reaching the age of retirement, which at the latest is the last day of the month in which the Chief Prosecutor reaches the age of 70.
