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LIMITE

MEETING DOCUMENT

From: Presidency

To: Delegations

Subject: Proposal for a Council Regulation on the establishment of the European
Public Prosecutor's Office
- Proposals from the Finnish and Polish delegations

Delegates will find in Annex a revised drafting proposals from the Finnish and Polish delegations on Articles 26a and 20(1).

FI supports the AT/DE proposal to be taken as a basis for further discussions and proposes the following additional Article.

Article 26xx

Member States shall ensure that the European Delegated Prosecutors have available all measures that are available for national authorities under Chapters IV and V of the Directive 2014/41/EU regarding the European Investigation Order in criminal matters¹, or under other legal instruments on mutual recognition or judicial cooperation². Without prejudice to this Regulation, national law implementing the relevant instrument, shall apply mutatis mutandis.

¹ As pointed out in earlier discussions, the EDPs should have available all cross-border measures, which are available to national authorities under Chapters IV and V of the EIO Directive. There are also certain conditions specific to such measures, e.g. to video-conference or temporary transfer (whether or not consent of the person is required, procedural rights, as a right not to testify under laws of both MS etc.) or cross border interception (obligation to notify the other MS in certain situations), which are relevant and should be applied also when the measure has been ordered/requested by the EDP. And since a reference is made only to chapters IV and V and not to the whole directive, this wording would exclude e.g. grounds for refusal included in the EIO Directive. Instead, Article 26a of this regulation would apply. This could be clarified in recitals.

² A reference to other instruments would enable the use of joint investigation teams and cross border summoning of the person (e.g. by sending documents by post to a person who is in another MS, which currently is regulated in the MLA 2000 Convention), which should be available for the EPPO as well. In general, purpose of this additional Article is just to ensure that there will be no legal gaps in cross border situations where there is no corresponding national measure available. If considered necessary, this reference to other instruments could be formulated in a more specific way.

PL proposal on Article 20 par. 1

Article 20

Reporting, registration and verification of information

1. The institutions, bodies, offices and agencies of the Union, and, in accordance with applicable national law, the competent authorities of the Member States shall inform the European Public Prosecutor's Office of any conduct which might constitute an offence within its competence where the conduct caused or is likely to cause damage to the Union's financial interest of more than EUR 10 000,

Where the conduct caused or is likely to cause damage to the Union's financial interest of less than EUR 10 000 and has or is likely to have repercussions at Union level which require an investigation to be conducted by the Office or has been opened following suspicions that an offence has been committed by officials and other servants of the European Union or members of the institutions, the information obligation may be fulfilled through a summary report every six months.

(following paragraphs as in ds 1236/15)