

Looking back at the Book launch: *Shifting Perspectives on the European Public Prosecutor's Office*

On 9 March 2018, the T.M.C. Asser Instituut organised a book launch event for [Shifting Perspectives on the European Public Prosecutor's Office](#), a volume providing in-depth analyses on the *Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO')*, published by the T.M.C. Asser Press. The volume was edited by Dr Willem Geelhoed (Assistant Professor, University of Groningen), Drs. Leendert Erkelens (Visiting Research Fellow, T.M.C. Asser Instituut), and Prof. Arjen Meij (Visiting Research Fellow, T.M.C. Asser Instituut) and comprises contributions written by well-known experts and practitioners in the field of European Union (EU) criminal law.

Co-editors Drs. Leendert Erkelens and Prof. Arjen Meij opened the book launch event. They drew a link between this event and the two previous conferences on EPPO organised by the T.M.C. Asser Instituut in 2013 and [2016](#) respectively, and highlighted the emphasis of this event on new developments in the functioning of EPPO as well as its relations with other EU agencies and Member States. Then they introduced the panellists and the event's moderator, **Mr. Jos Silvis** (Procurator-General, Supreme Court of the Netherlands).

Mr. Silvis introduced the panel presentations highlighting the topical importance of the new office by reference to two recent events requiring moments of silence, i.e. the murders of journalists investigating fraud and corruption in Malta and in Slovakia.

Ms. Elisa Sason (Policy Officer, Directorate-General Justice, Freedom and Security, European Commission) was the first panellist of the afternoon. She provided an overview of the key components of the regulation as well as the progress of establishing EPPO from the perspective of the European Commission. To her, the EPPO regulation has several key features. It establishes the first European body with criminal investigation and prosecution powers that will fight against crimes impacting the EU budget. Under the regulation, EPPO will be bound by the EU Charter, human rights, and the rule of law. One of the key features of EPPO is its structure combining central and decentralised elements: it will have one European Chief Prosecutor and one European Prosecutor for each participating Member State on the central level, as well as European Delegated Prosecutors in the participating Member States on the decentralised level, with the central level supervising the investigations and prosecutions carried out at the national level. Ms. Sason also provided insight into the progress of setting up the office. So far, 20 Member States have committed to joining the EPPO enhanced cooperation and the Netherlands is discussing its participation. As EPPO cannot take up its functions earlier than 2020, the European Commission is responsible for its establishment and initial operation until it has capacity to establish its own budget, which is scheduled for either 2020 or the beginning of 2021. Concerning human resources, the Commission is in the process of selecting a committee of officials that will exercise its functions in consultation with a group of experts composed of representatives of participating Member States. The selection of key staff such as the European Chief Prosecutor will be conducted on an open call-basis in the first half of 2019; the selection of European Prosecutors will take place around the second half of 2019. EPPO will also work with an electronic case management system and will establish its own rules of procedure. She concluded her presentation by stressing that despite not being able to solve all problems, EPPO can become a great success with dedicated staff, mutual trust, and trust between EPPO and national authorities.

Prof. Katalin Ligeti (Dean of the Faculty of Law, Economics and Finance, Professor of European and International Criminal Law, University of Luxembourg) gave a presentation titled *Institutional Design of EPPO and Its Relations with Other EU Criminal Justice Actors*. She examined the structure and the role of EPPO from an academic perspective. She recognised EPPO's essential role in improving the fight against EU fraud and its symbolic meaning in the EU's progress towards supra-nationalisation. EPPO, however, poses challenges to national sovereignty. As a result of national Eurosceptic interventions, the outcome of the negotiations on the EPPO Regulation was less ambitious than its initial drafts, and EPPO presents manifold questions relating to its multi-level system of prosecution. From the very beginning, the EPPO negotiations aimed at limiting the operational powers at the central level, which led to the introduction of the college structure. The different layers at the central level, including the European Chief Prosecutor,

the deputies, the College, the Permanent Chambers, and the European Prosecutors, were granted a vague division of tasks which gives rise to questions regarding efficiency of investigations. To Prof. Ligeti, it is not yet clear who will be *de jure* and *de facto* in charge at the central level. The success of such a system will to a large extent depend on the European mind-set of the European Prosecutors. She then moved on to examine EPPO's relations to other EU criminal justice actors. While EPPO is independent from both national governments and EU institutions, its appointment procedure is marked by national control; the identity for the European Delegated Prosecutors is also not clear. On the other hand, EPPO is accountable to many institutions: while it's subject to judicial supervision and judicial review, EPPO is also politically accountable towards the European Parliament, the Council, and the Commission. Prof. Ligeti then passed the floor to Prof. John Vervaele to finish the second part of the presentation.

Prof. John Vervaele (Professor of Economic and European Criminal Law, University of Utrecht and College of Europe, Bruges) continued Prof. Ligeti's presentation and discussed EPPO's material scope of competence as well as its powers and the procedures it will use. To him, EPPO operates in the jurisdiction of individual Member States, instead of a single legal area. This poses many problems as the sanction systems of each EU Member State are only partially harmonised. To illustrate this, he used the different approaches to legal persons of the Netherlands, Italy, and Germany as an example. On the other hand, an extension of EPPO's competence will also need a unanimous vote at the Council; most Member States will wait for the evaluation of the first period of EPPO's functioning before discussing the extension of competence. Prof. Vervaele then moved on to discuss EPPO's powers and procedural issues. While EPPO shares investigative powers with national authorities, the architecture of enforcement in each Member State is very different from one another. Moreover, as the European Delegated Prosecutors will work with the help of competent national authorities, it is very difficult to identify one competent authority in any Member State which has the capability to enforce in all areas of economic law, while bringing in several authorities will also bring in multiple sets of rules in only one Member State. Furthermore, large cases are likely to automatically have a trans-border dimension, which makes it necessary for national authorities to cooperate under the lead of the handling Prosecutor. Article 31 of the EPPO regulation, however, requires that the handling Prosecutor assigns a European Delegated Prosecutor located in the Member State where the cooperative measure needs to be carried out to perform the tasks. The relation between EPPO and the European Anti-Fraud Office (OLAF) is also unclear, as OLAF will partially be transferred to EPPO, partially be requested to assist, and partially maintain its original function. Prof. Vervaele finished his presentation by commenting on the procedural safeguards of EPPO. To him, while it is clear that EPPO has to abide to the EU Charter of Fundamental Rights and the directives on harmonisation, procedural safeguards are embedded in national jurisdictions and harmonisation is far from sufficient. The parties in a case, the EPPO, and the authorities have to deal with many different regimes. Hence, opportunities for regime shopping arise.

Following the engaging and thought-provoking panels, **Mr. Frank Bakker**, Publisher at T.M.C. Asser Press, presented the book *Shifting Perspectives on the European Public Prosecutor's Office*. He commended the cooperative spirit and mutual trust displayed by the editors in the process of publishing the book and congratulated them on this very topical publication. He then invited the editors to come forward and handed the first four books to them, which were subsequently handed to the panellists as a gift. All the attendants and panellists were then invited to a reception that marked the special moment for both Prof. Meij and Drs. Erkelens, as the day also witnessed their departure from the T.M.C. Asser Instituut as visiting research fellows.